



# Application to Modify a Development Consent

DA Modification Number:   DA02  

## 1. Before you lodge

You can use this form to apply to modify a development consent given by the Minister for Planning. If the changes you propose mean the development will not be substantially the same as that originally approved, please do not use this form. You will need to submit a new development application.

### Disclosure statement

Persons lodging applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations)

### Lodgement

**To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to us.** When your application has been assessed, you will receive a notice of determination.

To complete this form, please place a cross in the appropriate boxes  and complete all sections.

## 2. Details of the applicant

NAME

Mr  Ms  Mrs  Dr  Other

First name

Jacqueline

Family name

Vozzo

Company/organisation

Penrith Lakes Development Corporation Ltd

ABN

46000133951

STREET ADDRESS

Unit/street no.

89-151

Street name

Old Castlereagh Road

Suburb or town

Castlereagh

State

NSW

Postcode

2749

POSTAL ADDRESS (or mark 'as above')

PO Box 457

Suburb or town

Cranebrook

State

NSW

Postcode

2749

CONTACT DETAILS

Daytime telephone

0247348104

Fax

0247301462

Mobile

0401894268

Email

Jacqueline.Vozzo@pldc.com.au

How would you prefer to be contacted?

mobile

### 3. Identify the land

Unit/street no. (or lot no. for Kosciuszko ski resorts)

89-151

Street or property name

Old Castlereagh Road

Suburb, town or locality

Castlereagh

Postcode

2749

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash ( / ) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma eg 123/579, 162/2.

Please see attached Lot and DP schedule

- (1) (Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact Land & Property Information (LPI), a division of the Department of Finance, Service and Innovation, for updated details.
- (2) Note: If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers may not always apply.

### 4. Details of the original development consent

Describe what the original consent allows

DA02 permits VENM and ENM importation on land included in the consent. VENM and ENM importation is permitted up to thirteen (13) million tonnes at a maximum rate of three (3) million tonnes per year.

What is the development application no.?

DA02

What is the date of consent?

24/02/1987

What was the original estimated cost of development (including GST)?

### 5. Describe the modification you propose to make

Please indicate the type of modification you propose to make by placing a cross in the appropriate box  below.

You need to submit with your application form a full description of the expected impacts of the modifications proposed, including relevant plans, drawings and compliance with relevant controls.

A modification to correct a minor error, misdescription or miscalculation

Describe the error, misdescription or miscalculation

(Refer to section 96(1) of the *Environmental Planning and Assessment 1979* (EP&A) Act)

- A modification that will have minimal environmental impact

Describe the modification and its expected impact  
(Refer to section 96(1A) of the EP&A Act)

This Modification Application seeks to modify the existing consent (DA02) to permit the importation of WestConnex M4-M5 Link and Sydney Metro tunnel spoil. The tunnel spoil for both projects are classified under an Environment Protection Authority (EPA) Resource Recovery Order and a Resource Recovery Exemption.

- Any other modification

Describe the modification and its expected impact  
(Refer to section 96(2) of the EP&A Act)

Will the modified development be substantially the same as the development that was originally approved?

- No  Please submit a new development application.  
Yes  Please provide evidence that the development will remain substantially the same.  
(If you need to attach additional pages, please list below the material attached).

Justification provided in the attached letter "Penrith Lakes Scheme – S4.55 (1A) Modification Application" dated 4 July 2019 and its associated attachments.

## 6. Number of jobs to be created

Please indicate the number of jobs this will create. This should be expressed as a proportion of full time jobs over a full year. (e.g. a person employed full-time for 6 months would equal 0.5 of a full-time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full-time for 2 weeks, which equals approximately 0.08 of an FTE job.)

Construction jobs (full-time equivalent)

20

Operation jobs (full-time equivalent)

5

## 7. Application fee

For development that involves a building or other work, the fee for your application is based on the estimated cost of the development.

Clause 258 of the Environmental Planning and Assessment Regulation 2000 and the table attached to that clause set out how to calculate the fee for an application for modification of a consent.

If your development needs to be advertised to the public you may also need to include an advertising fee. Clause 258 of the regulations includes details on these fees.

Note: Contact us if you need help to calculate the fee for your application.

Estimated cost of the development

\$300,000.00

Total fees lodged

## 8. Political donation disclosure statement

Persons lodging a development application are required to declare reportable political donations (including donations of or more than \$1000) made in the previous two years. Disclosure statements are to be submitted with your application.

**Have you or any person with a financial interest in the application or any persons associated with the application made a political donation?**

No

Yes

**Have you attached a disclosure statement to this application?**

No

Yes

Note: for more details about political donation disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

## 9. Signatures

**The lessee(s) of the land this application relates to must sign the application.**

As the lessee(s) of the above property, I/we consent to this application:

Signature



Name

Jacqueline Vozzo

Date

4 July 2019

Capacity in which you are signing

Chief Executive Officer

Signature

Name

Date

Capacity in which you are signing

## 10. Applicant's Signature

**The applicant must sign the application.**

Signature



Name

Jacqueline Vozzo

Date

4 July 2019

## 11. Privacy policy

The information you provide in this application will enable us, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted. If your application is for designated development or advertised development, it will be available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected information provided in your application. Please ensure that the information is accurate and advise us of any changes.

## 12. Contact details

### **Alpine Resorts Team**

Shop 5A, 19 Snowy River Avenue  
PO Box 36, JINDABYNE NSW 2627  
Telephone: 02 6456 1733  
Email: [alpineresorts@planning.nsw.gov.au](mailto:alpineresorts@planning.nsw.gov.au)

### **Head Office**

320 Pitt Street, SYDNEY 2000  
GPO Box 39, SYDNEY NSW 2001  
Telephone: 1300 305 695  
Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

Note: contact details of other Sydney Metropolitan and Regional Offices, go to [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)



### 3. Identify the land

Unit/street no. (or lot no. for Kosciuszko ski resorts)

89-151

Street or property name

Old Castlereagh Road

Suburb, town or locality

Castlereagh

Postcode

2749

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash ( / ) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma eg 123/579, 162/2.

Please see attached Lot and DP schedule

- (1) (Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact Land & Property Information (LPI), a division of the Department of Finance, Service and Innovation, for updated details.
- (2) Note: If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers may not always apply.

### 4. Details of the original development consent

Describe what the original consent allows

DA03 permits VENM and ENM importation on land included in the consent. VENM and ENM importation is permitted up to thirteen (13) million tonnes at a maximum rate of three (3) million tonnes per year.

What is the development application no.?

DA03

What is the date of consent?

27/06/1995

What was the original estimated cost of development (including GST)?

### 5. Describe the modification you propose to make

Please indicate the type of modification you propose to make by placing a cross in the appropriate box  below.

You need to submit with your application form a full description of the expected impacts of the modifications proposed, including relevant plans, drawings and compliance with relevant controls.

A modification to correct a minor error, misdescription or miscalculation

Describe the error, misdescription or miscalculation

(Refer to section 96(1) of the *Environmental Planning and Assessment 1979* (EP&A) Act)

- A modification that will have minimal environmental impact

Describe the modification and its expected impact  
(Refer to section 96(1A) of the EP&A Act)

This Modification Application seeks to modify the existing consent (DA03) to permit the importation of WestConnex M4-M5 Link and Sydney Metro tunnel spoil. The tunnel spoil for both projects are classified under an Environment Protection Authority (EPA) Resource Recovery Order and a Resource Recovery Exemption.

- Any other modification

Describe the modification and its expected impact  
(Refer to section 96(2) of the EP&A Act)

Will the modified development be substantially the same as the development that was originally approved?

- No  Please submit a new development application.  
Yes  Please provide evidence that the development will remain substantially the same.  
(If you need to attach additional pages, please list below the material attached).

Justification provided in the attached letter "Penrith Lakes Scheme – S4.55 (1A) Modification Application" dated 4 July 2019 and its associated attachments.

## 6. Number of jobs to be created

Please indicate the number of jobs this will create. This should be expressed as a proportion of full time jobs over a full year. (e.g. a person employed full-time for 6 months would equal 0.5 of a full-time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full-time for 2 weeks, which equals approximately 0.08 of an FTE job.)

Construction jobs (full-time equivalent)

20

Operation jobs (full-time equivalent)

5

## 7. Application fee

For development that involves a building or other work, the fee for your application is based on the estimated cost of the development.

Clause 258 of the Environmental Planning and Assessment Regulation 2000 and the table attached to that clause set out how to calculate the fee for an application for modification of a consent.

If your development needs to be advertised to the public you may also need to include an advertising fee. Clause 258 of the regulations includes details on these fees.

Note: Contact us if you need help to calculate the fee for your application.

Estimated cost of the development

\$300,000.00

Total fees lodged

## 8. Political donation disclosure statement

Persons lodging a development application are required to declare reportable political donations (including donations of or more than \$1000) made in the previous two years. Disclosure statements are to be submitted with your application.

**Have you or any person with a financial interest in the application or any persons associated with the application made a political donation?**

No   
Yes

**Have you attached a disclosure statement to this application?**

No   
Yes

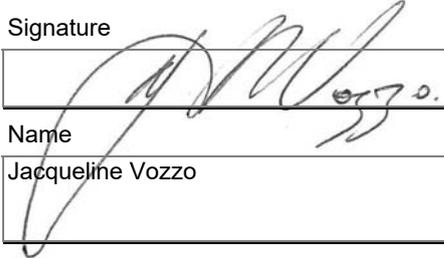
Note: for more details about political donation disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

## 9. Signatures

**The lessee(s) of the land this application relates to must sign the application.**

As the lessee(s) of the above property, I/we consent to this application:

Signature

Name

Jacqueline Vozzo

Date

4 July 2019

Capacity in which you are signing

Chief Executive Officer

Signature

Name

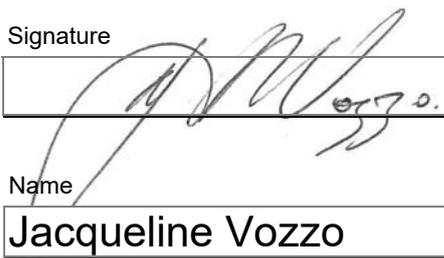
Date

Capacity in which you are signing

## 10. Applicant's Signature

**The applicant must sign the application.**

Signature

Name

Jacqueline Vozzo

Date

4 July 2019

## 11. Privacy policy

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Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

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DA Modification Number:   DA04  

## 1. Before you lodge

You can use this form to apply to modify a development consent given by the Minister for Planning. If the changes you propose mean the development will not be substantially the same as that originally approved, please do not use this form. You will need to submit a new development application.

### Disclosure statement

Persons lodging applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations)

### Lodgement

**To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to us.** When your application has been assessed, you will receive a notice of determination.

To complete this form, please place a cross in the appropriate boxes  and complete all sections.

## 2. Details of the applicant

NAME

Mr  Ms  Mrs  Dr  Other

First name

Jacqueline

Family name

Vozzo

Company/organisation

Penrith Lakes Development Corporation Ltd

ABN

46000133951

STREET ADDRESS

Unit/street no.

89-151

Street name

Old Castlereagh Road

Suburb or town

Castlereagh

State

NSW

Postcode

2749

POSTAL ADDRESS (or mark 'as above')

PO Box 457

Suburb or town

Cranebrook

State

NSW

Postcode

2749

CONTACT DETAILS

Daytime telephone

0247348104

Fax

0247301462

Mobile

0401894268

Email

Jacqueline.Vozzo@pldc.com.au

How would you prefer to be contacted?

mobile

### 3. Identify the land

Unit/street no. (or lot no. for Kosciuszko ski resorts)

89-151

Street or property name

Old Castlereagh Road

Suburb, town or locality

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Postcode

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Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash ( / ) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma eg 123/579, 162/2.

Please see attached Lot and DP schedule

- (1) (Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact Land & Property Information (LPI), a division of the Department of Finance, Service and Innovation, for updated details.
- (2) Note: If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers may not always apply.

### 4. Details of the original development consent

Describe what the original consent allows

DA04 permits VENM and ENM importation on land included in the consent. VENM and ENM importation is permitted up to thirteen (13) million tonnes at a maximum rate of three (3) million tonnes per year.

What is the development application no.?

DA04

What is the date of consent?

9/09/1998

What was the original estimated cost of development (including GST)?

### 5. Describe the modification you propose to make

Please indicate the type of modification you propose to make by placing a cross in the appropriate box  below.

You need to submit with your application form a full description of the expected impacts of the modifications proposed, including relevant plans, drawings and compliance with relevant controls.

A modification to correct a minor error, misdescription or miscalculation

Describe the error, misdescription or miscalculation

(Refer to section 96(1) of the *Environmental Planning and Assessment 1979* (EP&A) Act)

- A modification that will have minimal environmental impact

Describe the modification and its expected impact  
(Refer to section 96(1A) of the EP&A Act)

This Modification Application seeks to modify the existing consent (DA04) to permit the importation of WestConnex M4-M5 Link and Sydney Metro tunnel spoil. The tunnel spoil for both projects are classified under an Environment Protection Authority (EPA) Resource Recovery Order and a Resource Recovery Exemption.

- Any other modification

Describe the modification and its expected impact  
(Refer to section 96(2) of the EP&A Act)

Will the modified development be substantially the same as the development that was originally approved?

- No  Please submit a new development application.  
Yes  Please provide evidence that the development will remain substantially the same.  
(If you need to attach additional pages, please list below the material attached).

Justification provided in the attached letter "Penrith Lakes Scheme – S4.55 (1A) Modification Application" dated 4 July 2019 and its associated attachments.

## 6. Number of jobs to be created

Please indicate the number of jobs this will create. This should be expressed as a proportion of full time jobs over a full year. (e.g. a person employed full-time for 6 months would equal 0.5 of a full-time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full-time for 2 weeks, which equals approximately 0.08 of an FTE job.)

Construction jobs (full-time equivalent)

20

Operation jobs (full-time equivalent)

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## 7. Application fee

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Estimated cost of the development

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Total fees lodged

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**Have you or any person with a financial interest in the application or any persons associated with the application made a political donation?**

No   
Yes

**Have you attached a disclosure statement to this application?**

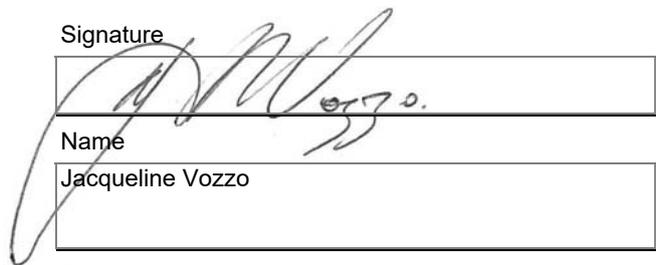
No   
Yes

Note: for more details about political donation disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

## 9. Signatures

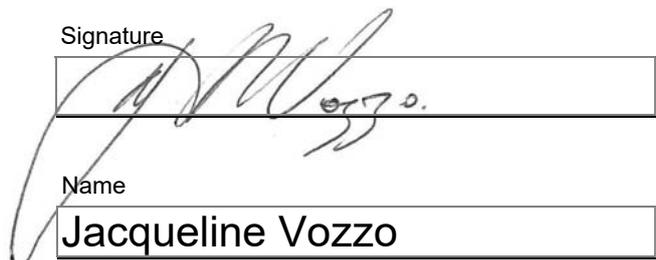
**The lessee(s) of the land this application relates to must sign the application.**

As the lessee(s) of the above property, I/we consent to this application:

Signature 	Signature <input type="text"/>
Name Jacqueline Vozzo	Name <input type="text"/>
Date 4 July 2019	Date <input type="text"/>
Capacity in which you are signing Chief Executive Officer	Capacity in which you are signing <input type="text"/>

## 10. Applicant's Signature

**The applicant must sign the application.**

Signature 	Date 4 July 2019
Name Jacqueline Vozzo	

## 11. Privacy policy

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PO Box 36, JINDABYNE NSW 2627  
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### **Head Office**

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GPO Box 39, SYDNEY NSW 2001  
Telephone: 1300 305 695  
Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

Note: contact details of other Sydney Metropolitan and Regional Offices, go to [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

PLDC_Ref	LOT_DP	Address
2	470\\558416	14-278 Old Castlereagh Road
4	1\\63308	14-278 Old Castlereagh Road
5	43\\752021	14-278 Old Castlereagh Road
6	1\\73955	14-278 Old Castlereagh Road
7	1\\120891	14-278 Old Castlereagh Road
8	1\\120872	14-278 Old Castlereagh Road
9	44\\1130206	14-278 Old Castlereagh Road
10	300\\752021	14-278 Old Castlereagh Road
11	460\\1130241	14-278 Old Castlereagh Road
12	1\\60859	14-278 Old Castlereagh Road
13	1\\87060	14-278 Old Castlereagh Road
14	2\\87060	14-278 Old Castlereagh Road
16	1\\219895	14-278 Old Castlereagh Road
17	21\\530256	14-278 Old Castlereagh Road
18	45\\545813	14-278 Old Castlereagh Road
19	44\\545813	14-278 Old Castlereagh Road
20	42\\546220	14-278 Old Castlereagh Road
21	23\\530256	14-278 Old Castlereagh Road
22	3\\219895	14-278 Old Castlereagh Road
23	1\\436198	14-278 Old Castlereagh Road
24	1\\1148035	Old Castlereagh Road, Castlereagh
25	4\\2223	14-278 Old Castlereagh Road
26	3\\1148035	Old Castlereagh Road, Castlereagh
27	2\\348979	14-278 Old Castlereagh Road
28	2981\\128099	14-278 Old Castlereagh Road
29	4\\1148035	Old Castlereagh Road, Castlereagh
30	1\\2223	14-278 Old Castlereagh Road
31	6\\1148035	Old Castlereagh Road, Castlereagh
32	2\\236125	14-278 Old Castlereagh Road
33	1\\236125	14-278 Old Castlereagh Road
36	A\\374807	14-278 Old Castlereagh Road
37	B\\374807	14-278 Old Castlereagh Road
38	1\\128036	14-278 Old Castlereagh Road
39	2\\128036	14-278 Old Castlereagh Road
40	56\\78686	14-278 Old Castlereagh Road
41	X\\421674	14-278 Old Castlereagh Road
42	Y\\421674	14-278 Old Castlereagh Road
43	57\\668807	14-278 Old Castlereagh Road
60	101\\1043500	Farrells Lane, Castlereagh
65	247\\752021	Cranebrook Road
70	1\\229462	Castlereagh Road, Castlereagh
71	2\\229462	108-110 Wrights Lane
72	B\\394967	Castlereagh Road, Castlereagh
74	1\\653149	112 Wrights Lane
86	8\\1212402	1643-1655 Castlereagh Road
94	61\\581860	Farrells Lane, Castlereagh
1	1\\1191173	Castlereagh Road, Castlereagh
1	2\\1181667	Castlereagh Road, Castlereagh
1	3\\1181667	Castlereagh Road, Castlereagh

101	1\\129802	Castlereagh Road, Castlereagh
133	1\\419190	Castlereagh Road, Castlereagh
134	1\\200839	14-278 Old Castlereagh Road
135	2\\200839	14-278 Old Castlereagh Road
136	302\\752021	14-278 Old Castlereagh Road
137	303\\752021	14-278 Old Castlereagh Road
138	325\\752021	14-278 Old Castlereagh Road
139	304\\752021	14-278 Old Castlereagh Road
140	305\\752021	14-278 Old Castlereagh Road
141	306\\752021	14-278 Old Castlereagh Road
142	307\\752021	14-278 Old Castlereagh Road
143	337\\752021	14-278 Old Castlereagh Road
144	338\\752021	14-278 Old Castlereagh Road
145	308\\752021	14-278 Old Castlereagh Road
146	321\\752021	14-278 Old Castlereagh Road
147	309\\752021	14-278 Old Castlereagh Road
148	310\\752021	14-278 Old Castlereagh Road
151	3\\847895	McCarthys Lane
152	481\\849952	14-278 Old Castlereagh Road
153	482\\849952	1404A Castlereagh Road
154	2\\735602	312 Old Castlereagh Road
155	1\\735602	314-316 Old Castlereagh Road
156	2\\196573	297-305 Old Castlereagh Road
157	1\\196573	297-305 Old Castlereagh Road
158	82\\1129226	82 McCarthys lane Castlereagh
159	1\\882358	Farrells Lane, Castlereagh
161	1\\882355	Castlereagh Road, Castlereagh
170	5\\232270	Old Castlereagh Road, Castlereagh
173	1\\882354	Jacksons Lane
174	1\\47720	14-278 Old Castlereagh Road
175	1\\45727	14-278 Old Castlereagh Road
177	2\\882361	Wrights Lane Castlereagh
178	1\\882353	14-278 Old Castlereagh Road
180	1\\1094333	McCarthys Lane
181	1\\88252	Purcells lane
182	2\\882358	Whales Tail
184	Road\\1094333	McCarthys Lane
186	28\\234746	Old Castlereagh Road, Castlereagh
187	27\\234746	Old Castlereagh Road, Castlereagh
194	3\\232270	Old Castlereagh Road, Castlereagh
195	4\\1212402	McCarthys Lane
199	2\\1013504	89-151 Old Castleragh Road
200	3\\1013504	LTS 3-9 Castlereagh Road
201	4\\1013504	LTS 3-9 Castlereagh Road
202	5\\1013504	LTS 3-9 Castlereagh Road
203	6\\1013504	LTS 3-9 Castlereagh Road
204	7\\1013504	LTS 3-9 Castlereagh Road
205	8\\1013504	LTS 3-9 Castlereagh Road
206	9\\1013504	LTS 3-9 Castlereagh Road
211	14\\1013504	Farrells Lane, Castlereagh

212	15\\1013504	Carters Lane
213	16\\1013504	LTS 16-18 MacCarthys Lane
214	17\\1013504	LTS 16-18 MacCarthys Lane
215	18\\1013504	LTS 16-18 MacCarthys Lane
216	19\\1013504	89-151 Old Castleragh Road
217	16\\793163	47-65 Old Castleragh Road
218	14\\793163	47-65 Old Castleragh Road
219	12\\793163	39-45 Old Castleragh Road
220	10\\793163	7-37 Old Castleragh Road
221	8\\793163	7-37 Old Castleragh Road
222	6\\793163	7-37 Old Castleragh Road
223	4\\793163	7-37 Old Castleragh Road
224	11\\859890	7-37 Old Castleragh Road
227	11\\1014419	Castlereagh Road, Castlereagh
239	68\\1111742	68 Castlereagh Road Castlereagh
241	111\\1143931	Castlereagh Road, Castlereagh
246	632\\1157500	Castlereagh Road, Castlereagh
247	64\\1111742	Castlereagh Road, Castlereagh
248	63\\1111742	Church Lane Castlereagh
250	108\\1143931	Castlereagh Road, Castlereagh
251	107\\1143931	Castlereagh Road, Castlereagh
263	4\\1180164	Castlereagh Road, Castlereagh
272	2\\1107181	East Lakes
273	1\\1107181	East Lakes
275	17\\1107181	Castlereagh Road, Castlereagh
277	13\\1107181	Castlereagh Road, Castlereagh
278	14\\1107181	Castlereagh Road, Castlereagh
279	15\\1107181	Castlereagh Road, Castlereagh
280	115\\1143931	Castlereagh Road, Castlereagh
281	116\\1143931	Castlereagh Road, Castlereagh
282	117\\1143931	Castlereagh Road, Castlereagh
283	20\\1107181	Castlereagh Road, Castlereagh
284	118\\1143931	Castlereagh Road, Castlereagh
285	22\\1107181	Castlereagh Road, Castlereagh
286	119\\1143931	Castlereagh Road, Castlereagh
287	120\\1143931	Castlereagh Road, Castlereagh
289	121\\1143931	Castlereagh Road, Castlereagh
290	122\\1143931	Castlereagh Road, Castlereagh
291	78\\1111742	Castlereagh Road, Castlereagh
292	79\\1111742	Castlereagh Road, Castlereagh
293	123\\1143931	Castlereagh Road, Castlereagh
294	124\\1143931	Castlereagh Road, Castlereagh
295	125\\1143931	Castlereagh Road, Castlereagh
296	83\\1111742	Castlereagh Road, Castlereagh
297	126\\1143931	Castlereagh Road, Castlereagh
298	85\\1111742	Castlereagh Road, Castlereagh
299	127\\1143931	Castlereagh Road, Castlereagh
300	87\\1111742	Castlereagh Road, Castlereagh
301	128\\1143931	Castlereagh Road, Castlereagh
302	89\\1111742	Castlereagh Road, Castlereagh

303	21\\1092147	153 Old Castlereagh Road, Castlereagh
304	20\\1092147	153 Old Castlereagh Road, Castlereagh
305	1\\1092607 (2\\1212402)	Castlereagh Road, Castlereagh
306	MR155\\1092607	Upper Castlereagh Group
307	1\\1212402	Old Castlereagh Road, Castlereagh
308	MR155\\232270	Old Castlereagh Road, Castlereagh
309	MRNo155\\232270	Castlereagh Road, Castlereagh
310	101\\1113830	Castlereagh Road, Castlereagh
311	100\\1113830	10 Castlereagh Road, Castlereagh
312	2\\589913	4 Singles Ridge Road Yellow Rock
313	3\\589913	4 Singles Ridge Road Yellow Rock
314	4\\589913	4 Singles Ridge Road Yellow Rock
315	461\\1130241	461 Castlereagh Road
317	421\\1130241	14-278 Old Castlereagh Road
318	540\\1131982	14-278 Old Castlereagh Road
319	541\\1131982	14-278 Old Castlereagh Road
320	11\\1188657	14-278 Old Castlereagh Road
321	12\\1188657	14-278 Old Castlereagh Road
322	2\\1148035	Old Castlereagh Road, Castlereagh
323	5\\1148035	Old Castlereagh Road, Castlereagh
324	7\\1148035	Old Castlereagh Road, Castlereagh
400	1\\1180164	1585 Castlereagh Road, Castlereagh
401	2\\1180164	1585 Castlereagh Road, Castlereagh
402	3\\1180164	1585 Castlereagh Road, Castlereagh
407	8\\1180164	1585 Castlereagh Road, Castlereagh
408	1\\1180473	Castlereagh Road, Castlereagh
409	2\\1180473	Castlereagh Road, Castlereagh
410	3\\1180473	Castlereagh Road, Castlereagh
411	1\\1181666	259 West Wilchard Road
412	2\\1181666	Castlereagh Road, Castlereagh
413	3\\1181666	148-151 West Wilchard Road
414	4\\1181666	23 Castlereagh Road Castlereagh
415	5\\1181666	Castlereagh Road, Castlereagh
416	6\\1181666	24 Castlereagh Road Castlereagh
417	7\\1181666	Castlereagh Road, Castlereagh
418	8\\1181666	25 Castlereagh Road Castlereagh
419	9\\1181666	1185-1187 Castlereagh Rd
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428	2\\1191173	29 Castlereagh Road Castlereagh
429	3\\1191173	26 Castlereagh Road Castlereagh
430	4\\1191173	27 Castlereagh Road Castlereagh
431	5\\1191173	28 Castlereagh Road Castlereagh
432	6\\1191173	30 Castlereagh Road Castlereagh

# Political donations disclosure statement



NSW GOVERNMENT  
Department of Planning

Office use only:

Date received: \_\_\_/\_\_\_/\_\_\_

Planning application no. \_\_\_\_\_

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

## Explanatory information

### Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

### How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

### What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

**Warning:** A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

## Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

**gift** means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

**gift** means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

**local councillor** means a councillor (including the mayor) of the council of a local government area.

**relevant planning application** means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
  - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
  - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
  - d) an application for development consent under Part 4 (or for the modification of a development consent), or
  - e) any other application or request made under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
  - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
  - h) any other application or request that is excluded from this definition by the regulations.

**relevant period** is the period commencing 2 years before the application or submission is made and ending when the application is determined.

**relevant public submission** means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

**reportable political donation** means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

### 86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
  - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
  - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
    - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
    - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

**a person has a financial interest** in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

**persons are associated with each other** if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.





4 July 2019

Ms Michelle Niles  
Senior Planner  
NSW Department of Planning and Environment  
GPO Box 39  
Sydney, NSW 2001



**BY EMAIL:** [michelle.niles@planning.nsw.gov.au](mailto:michelle.niles@planning.nsw.gov.au) (copy by mail)

Dear Michelle

### **Penrith Lakes Scheme – S4.55 1(A) Modification Application**

Penrith Lakes Development Corporation (PLDC) are applying for a S4.55 1(A) modification to the existing development consents to import Virgin Excavated Natural Material (VENM) and Excavated Natural Material (ENM) to parts of the land within the Penrith Lakes Scheme.

This Modification Application seeks to modify the existing consents (DA02, 03 & 04) to permit the importation of WestConnex M4-M5 Link and Sydney Metro tunnel spoil. The tunnel spoil for both projects are classified under an Environment Protection Authority (EPA) Resource Recovery Order and a Resource Recovery Exemption.

PLDC currently has approval to import up to 13 million tonnes of VENM and ENM at a maximum rate of 3 million tonnes per year. This Modification Application does not seek to change any of the existing consented quantities or import rates.

This Modification Application seeks only to modify the existing development consents associated with the Scheme (DA02, 03 & 04) to allow the importation of WestConnex M4-M5 Link and Sydney Metro tunnel spoil which is not considered VENM or ENM. The requested modification would result in a change to the wording of DA02 Condition 49C, DA03 Condition 41C and DA04 Condition 48C to read:

*"The importation of VENM, ENM, WestConnex M4-M5 Link tunnel spoil and Sydney Metro tunnel spoil shall be limited to 13 million tonnes at a maximum rate of 3 million tonnes per year."*

If you have any further questions regarding the Modification Application, please contact myself on 02 4734 8131.

Kind regards

A handwritten signature in black ink, appearing to read "Arthur Ashburn".

Arthur Ashburn  
Manager, Civil Works & Site Operations  
**Penrith Lakes Development Corporation Limited**

Attachment 1 – S4.55 1(A) Statutory Requirements Assessment  
Attachment 2 – Enviroview Site Audit Advice (IA 0301-1903-02)  
Attachment 3 – ERM Material Approval Request (0448886\_PJ1094)

Penrith Lakes Development Corporation Ltd

Old Castlereagh Road, Castlereagh NSW 2749	PO Box 457, Cranebrook NSW 2749	T: 02 4729 0044 F: 02 4730 1462	E: <a href="mailto:info@pldc.com.au">info@pldc.com.au</a> W: <a href="http://www.penrithlakes.com.au">www.penrithlakes.com.au</a>	ACN 000 133 951 ABN 46 000 133 951
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## S4.55 1(A) MODIFICATION – STATUTORY REQUIREMENTS ASSESSMENT

### 1.0 LEGISLATION

Subsection 1(A) of Section 4.55 of the Environmental Planning & Assessment (EP&A) Act applies to modifications involving minimal environmental impact and states:

*“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) It is satisfied that the proposed modification is of minimal environmental impacts, and*
- (b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) It has notified the application in accordance with:
 
  - i. The regulations, if the regulations so require, or*
  - ii. A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of application for modification of a development consent, and**
- (d) It has considered any submission made concerning the proposed modification within any period prescribed by regulations or provided by the development control plan, as the case may be.”*

Table 1 provides a comparison of this Modification Application with the criteria which are required to be met for the application to be submitted under Section 4.55 1(A) of the EP&A Act. Table 1 shows that section 4.55 1(A) is a suitable pathway for the Modification Application.

**Table 1: Summary of S4.55 1(A) criteria and the impact of the Modification Application**

S4.55 1(A) Criteria	Modification Application for Import of Tunnel Spoil
Minimal environmental impact	The Environmental Risk Assessment presented in Section 3 as well as the attached letters from Enviroview Pty Ltd and ERM Services Australia indicates negligible environmental impacts.
Substantially the same project	<ul style="list-style-type: none"> <li>Nature of the project stays the same to fulfil the landform requirements approved by Department of Planning and Environment</li> <li>Same site location</li> <li>No change to import quantities and rates</li> <li>No changes to operational days or hours</li> <li>No changes to access routes</li> <li>Same truck movements as existing</li> <li>No changes to environmental management procedures</li> </ul> <p>Further information in Section 2 below.</p>
Regulations / Development Control Plan	No Development Control Plan for the Scheme so therefore these criteria do not apply.
Submissions	Submissions received on other modification applications for the Scheme have been considered and responses will be provided to any submissions made on this application.

## 2.0 COMPARISON OF APPROVED PROJECT AND MODIFICATION APPLICATION

The table below (Table 2) provides a comparison between the existing approved importation at the Scheme and this Modification Application. The table shows that the proposed modification results in minimal changes compared with the currently approved Scheme and confirms that the modification would be substantially the same development as last modified.

**Table 2: Comparison of Approved and Proposed Projects**

Item	Approved Scheme	Proposed Modification	Difference
Source	Various source locations in Sydney Metropolitan Area.	Various source locations in Sydney Metropolitan Area.	None
Timing	Commenced Jan 2019 and will continue for approximately 1 to 2 years.	Commenced Jan 2019 and will continue for approximately 1 to 2 years.	None
Type of fill	VENM and ENM	VENM, ENM and WestConnex M4-M5 Link and Sydney Metro Tunnel Spoil.	Import of tunnel spoil classified in accordance with EPA Resource Recovery Order and Resource Recovery Exemption.

Item	Approved Scheme	Proposed Modification	Difference
Amount of fill	Thirteen million tonnes at a maximum import rate of three million tonnes per year.	Thirteen million tonnes at a maximum import rate of three million tonnes per year.	None
Location of fill at site	Selected areas throughout DA2, DA3, DA4, to produce the approved landform levels for the Northern Lot 4 Urban Precinct area.	Selected areas throughout DA2, DA3, DA4, to produce the approved landform levels for the Northern Lot 4 Urban Precinct area.	None
Haulage route	Prescribed haulage routes depending on source of fill.	Prescribed haulage routes remain the same depending on source of fill.	None
Access Points	Approved access points at McCarthys Lane, Lugard St and Old Castlereagh Rd.	Approved access points at McCarthys Lane, Lugard St and Old Castlereagh Rd.	None
Noise	Traffic haulage route to avoid exceedances of criteria.	Traffic haulage route to avoid exceedances of criteria.	None
All other environmental issues	Management measures in place.	Management measures in place. No change to the environmental management measures are proposed.	None

### 3.0 ENVIRONMENTAL RISK ASSESSMENT

This Risk Assessment (Table 4) provides a summary of the potential environmental impact associated with the importation of WestConnex M4-M5 Link and Sydney Metro Tunnel Spoil into the Scheme. The risk assessment assigns a level of significance to each issue based on the extent and likelihood of:

- Potential impact with consideration of mitigation or management measures; and,
- Potential community or regulatory concern.

To aid in the assessment of the potential impacts and to ensure consistency between environmental topics, significance criteria have been defined which follow the framework shown in Table 3. These have been used to guide the evaluation of potential environmental impacts unless otherwise stated.

**Table 3: Significance Criteria**

Significance	Impact Classification	Criteria
High	Impact a major problem	<p>These effects are likely to be important considerations at a local scale but if adverse, are potential concerns to the continuation of the project.</p> <p>Mitigation measures and detailed design work are unlikely to remove all the effects upon the affected communities or interests. Residual effects would remain.</p>
Moderate	Impact moderate but can be easily mitigated	<p>These effects, if adverse, while important at a local scale, are not likely to be key decision making issues. Nevertheless, the cumulative effects of such issues may lead to an increase in the overall effects upon a particular area or on a particular resource.</p> <p>They represent issues where effects would be experienced but mitigation measures and detailed design work may ameliorate/enhance some of the consequences upon affected communities or interests. Some residual effects would still arise.</p>
Low	A small and acceptable impact	<p>These effects may be raised as local issues, but are unlikely to be of importance in the decision making process. Nevertheless, they are of relevance in enhancing the subsequent design of the project and consideration of mitigation or compensation measures.</p>
Negligible	Minimal Change	<p>No effects or those that are beneath levels of perception, within normal bounds of variation or within the margin of forecasting error.</p>

The environmental issues that are addressed in the risk assessment are under the following headings:

- Traffic and Access
- Noise and Vibration
- Air Quality
- Water Quality
- Soils, Geology and Contamination
- Flora and Fauna
- Waste
- Indigenous Heritage
- Non-Indigenous Heritage
- Landscape and Visual
- Flooding

Table 4: Environmental Risk Analysis

Issue	Potential Environmental Impact
<b>Traffic and Transport</b>	<p>The importation of tunnel spoil would continue at the same scale and frequency as PLDC's existing development consent for the importation of VENM and ENM.</p> <p>Truck entry points and approved haulage routes will be retained. In addition, the Construction Traffic Management Plan and the measures set out within would remain in force.</p> <p><b>Negligible environmental significance</b></p>
<b>Noise and Vibration</b>	<p>Continued movement of Heavy Vehicles will continue to generate noise, however, it is considered that noise and vibration impacts would be the same as those under the existing development consent.</p> <p>Existing management measures will be maintained to ensure EPL conditions relating to noise continue to be met.</p> <p>There have been no noise complaints received by PLDC in recent years.</p> <p><b>Negligible environmental significance</b></p>
<b>Air Quality</b>	<p>Continued movement of Heavy Vehicles will contribute to local pollutant concentrations, however, it is considered that air quality impacts would be the same as the existing situation from 2015 to 2019 where importation will occur at the same scale and frequency.</p> <p>Existing management measures will be maintained to ensure EPL conditions relating to dust and air quality management continue to be met.</p> <p>PLDC have received minimal dust complaints in the past relating to dust coming off landform areas within the Scheme in times of high winds. PLDC has implemented procedures to guard against future complaints. For example – in periods of high winds, reduced site activities &amp; additional water carts, asphalt sealing of exit roads, topsoil &amp; grassing of completed landform areas and capping of haul roads with crushed sandstone.</p> <p><b>Negligible environmental significance</b></p>
<b>Water Quality</b>	<p>As a result of the proposed modification there is no potential for additional sediment to enter the waterway system.</p> <p>Management measures, including those included in previous consent conditions will continue to be put in place. If these measures are implemented and adhered to, effects of the modification would be negligible.</p> <p>There have been no pollution incidents relating to water quality recorded by PLDC.</p> <p><b>Negligible environmental significance</b></p>

Issue	Potential Environmental Impact
<b>Soil, Geology and Contamination</b>	<p>Controls have been put in place as part of the existing operations to ensure that the fill meets the geotechnical and contamination criteria for the site. Stringent testing of soil prior to transport from the source will ensure that it is unlikely that contaminants would be introduced to the Scheme site from the tunnel spoil. Where existing control measures continue to be implemented there will be no effect on soils and geology, and no risk of contamination.</p> <p>Refer attached letters from Enviroview Pty Ltd and ERM Services Australia for additional information.</p> <p><b>Negligible environmental significance</b></p>
<b>Flora and Fauna</b>	<p>The existing flora and fauna values of the site are greatly reduced from original pre settlement levels. The site contains few native species of flora and is highly disturbed.</p> <p>Importation of material is required for the rehabilitation of the Scheme and revegetation will occur once the development is finished, the effects of the proposed modification contributes to a positive impact compared to the historical/existing situation.</p> <p><b>Negligible environmental significance</b></p>
<b>Waste</b>	<p>The proposed modification to import tunnel spoil does not produce additional waste, thus the impact of the proposed modification with respect to waste management at the Scheme is considered to be negligible.</p> <p><b>Negligible environmental significance</b></p>
<b>Indigenous Heritage</b>	<p>Oral histories of the area talk about the escarpment and the associated lagoons as forming an important meeting or gathering place for different clans of the Darug People. Evidence from archaeological studies carried out by PLDC in partnership with the Aboriginal community, supports the idea that large gatherings occurred in this area.</p> <p>Due to extensive market garden farming and quarrying prior to PLDC activities on site the topsoil layer has been significantly disturbed greatly compromising the integrity of archaeological discoveries.</p> <p>This proposal will not result in the disturbance of any additional top soils. However, if any new or unknown Indigenous sites or relics are uncovered during the proposed activities, work affecting those sites or relics will cease immediately and the material will be assessed by Aboriginal stakeholders and OEH, in accordance with current consent conditions (Aboriginal Heritage Impact Permit (AHIP number 1131345)).</p> <p><b>Negligible environmental significance</b></p>

Issue	Potential Environmental Impact
<b>Non-Indigenous Heritage</b>	<p>Retained within the Penrith Lakes Scheme are a number of conservation zones which range from local to national significance. These sites are indicative of early colonial (1806 – 1900's) contact and non-Indigenous heritage. There are no non-indigenous heritage sites within the Northern Lot 4 Urban Precinct area where the imported tunnel spoil will be used.</p> <p>Impacts on non-indigenous heritage items from vehicles transporting material to and around site are not predicted to change from existing levels. Management measures as well as the appropriate curtilages will remain in place, and heritage items within the scheme are not predicted to be adversely affected.</p> <p><b>Negligible environmental significance</b></p>
<b>Landscape and Visual</b>	<p>The landscape of the site has been altered over time through extraction activities, filling of the areas, lake formation and the construction of roads and other infrastructure. Following extraction for mining purposes, the excavated areas are filled and revegetated with suitable species. The importation of material is required to achieve levels previously consented as part of the approved Two Year Plans.</p> <p>The proposal will not result in any change of the proposed and approved landform.</p> <p><b>Negligible environmental significance</b></p>
<b>Flooding</b>	<p>The proposed modification does not propose any change to existing approved landform levels or formation and therefore will not have any environmental affect on flooding.</p> <p><b>Negligible environmental significance</b></p>

The Modification Application is considered to have a negligible effect for all environmental topics assessed. Where existing management measures are required as part of the Environment Protection Licence (No. 2956) and current DA, these will continue to be implemented.

3<sup>rd</sup> July 2019

Arthur Ashburn  
Penrith Lakes Development Corporation  
PO Box 457  
CRANE BROOK NSW 2749

Via email: Arthur.Ashburn@pldc.com.au

Dear Mr Ashburn,

**RE: Interim Site Audit Advice – Use of Sydney Metro and M4-M5 Link tunnel spoil, Penrith Lakes Scheme.**

James Davis of Enviroview Pty Ltd has been engaged to provide the services of a NSW EPA Contaminated Land Accredited Site Auditor, to conduct a Site Audit in relation to the land within the Penrith Lakes Scheme, Castlereagh NSW with regard to the suitability for future residential and open space recreational land use.

The purpose of this interim advice is to provide comments from the Site Auditor regarding the use of materials on the site as fill that are the subject of the following specific resource recovery exemptions:

- The Sydney Metro tunnel spoil exemption November 2018 (28 November 2018)
- The M4-M5 Link tunnel spoil exemption 2019 (17 April 2019)

It is the opinion of the Site Auditor that the use of tunnel spoil materials subject to the resource recovery exemptions as engineered fill to be applied to land is acceptable with regard to the suitability of the site for the future land use as residential with access to soil and recreational and open space use.

The use of the tunnel spoil must be in accordance with the exemption conditions and meet all material requirements required under the relevant order, issued by the NSW Environment Protection Authority under clause 93 of the *Protection of the Environment Operations (Waste) Regulation 2014* (Waste Regulation).

Written statements of compliance must be provided for materials to be received from the supplier. The environmental consultant must have reviewed these prior to the material being accepted on site. The environmental consultant will need to provide confirmation that the material supplied is consistent with the material that is subject to the order in accordance with importation protocol (DLA, April 2016).

Thank you for your time regarding this matter. If you require additional information or clarification, please do not hesitate to contact me.

Yours sincerely



James Davis  
**NSW EPA Contaminated Land Site Auditor**  
**Enviroview Pty Ltd**

Friday, 14<sup>th</sup> June 2019

0448886\_PJ1094



Mr Arthur Ashburn

Penrith Lakes Development Corporation,

89-151 Old Castlereagh Road,

Castlereagh, NSW 2749

Dear Sir,

## WestConnex M4-M5 Link Tunnel and Sydney Metro Tunnel Spoil – Material Approval Request

ERM Services Australia (ERM) was requested by Arthur Ashburn of Penrith Lakes Development Corporation (PLDC) to provide a review of the suitability of spoil from the WestConnex M4-M5 Link Tunnel and Sydney Metro Tunnel for importation to the Penrith Lakes Scheme.

Penrith Lakes Development Corporation (PLDC) has development consent to import Virgin Excavated Natural Material (VENM) and Excavated Natural Material (ENM), as defined by the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 2014 respectively, into the Penrith Lakes Scheme.

The tunnel spoil excavated from the M4-M5 Link Tunnel and Sydney Metro Tunnel are not considered VENM, however the NSW Environment Protection Authority (EPA) has issued orders and exemptions to allow these materials to be applied to land or used as engineered fill. The specific Exemption and Orders have been provided in **Appendix 1**.

A specific material exemption for tunnel spoil has been issued by the EPA that applies to naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) with the following conditions:

- a. has been generated from the WestConnex M4-M5 Link Tunnel Project extending from Haberfield to St Peters or Sydney Metro and Southwest Project extending from Chatswood to Sydenham (excluding estuarine sediments and slurry material from the Baranagaroo Site and Beneath Sydney harbour respectively);

- b. has been excavated by the use of machinery;
- c. contains no more than 0.2% (M4/M5) or 0.5% (Sydney Metro) w/w shotcrete;
- d. has not been contaminated with manufactured chemicals or process residues (except for shotcrete);
- e. does not meet the definition of virgin excavated natural material in the POEO Act; and
- f. may have been processed by intermediate waste facilities licensed by the EPA.

Neither tunnel spoils exemptions include material that has been mixed with glass fibre plastic reinforced rods and bolts; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.

The material is noted to be generated from virgin excavations by the use of machinery. During the processing of this material, grout reinforced with metal and or plastic staples are used to line the tunnel excavation. As a result of this process residual shotcrete and staples may be present within the excavated soils and therefore cannot be classified as VENM.

The EPA spoil orders and exemptions pertaining to the M4-M5 Link Tunnel and Sydney Metro Tunnel spoil are outlined below:

- *The M4-M5 Link Tunnel Spoil Order 2019;*
- *The M4-M5 Link Tunnel Spoil Exemption 2019;*
- *The Sydney Metro Tunnel Spoil Order 2018; and,*
- *The Sydney Metro Tunnel Spoil Exemption 2018.*

This letter seeks approval from NSW Department of Planning and Environment (DPE) for the modification of the existing development consent conditions to allow for the importation of tunnel spoil material to the Penrith Lakes Scheme. The material will be treated as VENM in terms of its use as engineered fill within the Scheme.

PLDC has an Importation Protocol which stipulates the quality control measures to be undertaken for the importation of material and criteria / requirements that need to be fulfilled prior to the importation of VENM / ENM (refer **Appendix 2**). The tunnel spoil material would be required to meet the conditions set out within Table 3b of the Importation Protocol and site risk assessment as set out in Section 3.2 – *VENM Classification Sampling Requirements* prior to being accepted

into the Penrith Lakes Scheme. The material will also be subject to the equivalent QA/QC checks as imported VENM materials.

As the material will meet the health risk assessment requirements of the current PLDC Importation Protocol, the use of the tunnel spoil will not impact on the final land use suitability of the PLDC Site. The material will potentially have minor inclusions of shotcrete (<0.2 % w/w), however it is not considered these inclusions will detrimentally affect the PLDC site in terms of health/environmental risks or impact the validity of the material from an engineering perspective.

The material to be generated from the M4-M5 Link Tunnel and Sydney Metro Tunnel material exemption conditions state the material is suitable for use as engineered fill. As the conditions for the import of VENM and ENM material into the PLDC site is for use as engineered fill, PLDC intend to use the tunnel material as VENM materials on the PLDC site. The material will be required to meet the quality parameters of the PLDC Importation Protocol, and as such ERM recommend the acceptance of tunnel spoil into the PLDC Site and do not foresee any future health risks or changes to the site suitability as a result of accepting these materials.



# **Appendix 1 – Tunnel Boring Material Exemption and Orders – The Sydney Metro Tunnel 2018 and M4-M5 Link Tunnel Spoil 2019.**



## **Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014**

### **The Sydney Metro tunnel spoil order November 2018**

#### **Introduction**

This order, issued by the Environment Protection Authority (EPA) under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), imposes the requirements that must be met by suppliers of Sydney Metro tunnel spoil to which 'the Sydney Metro tunnel spoil exemption November 2018' applies. The requirements in this order apply in relation to the supply of Sydney Metro tunnel spoil for application to land as engineering fill, or for use in earthworks, or for use as an alternative raw material in the manufacture of bricks.

#### **1. Waste to which this order applies**

- 1.1. This order applies to Sydney Metro tunnel spoil. In this order, Sydney Metro tunnel spoil means approximately 1.22 million tonnes of naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) that:
- (a) has been generated from the Sydney Metro and Southwest Project extending from Chatswood to Sydenham (excluding estuarine sediments and slurry material sourced from the Barangaroo Site and beneath Sydney Harbour respectively);
  - (b) has been virgin excavated by the use of machinery;
  - (c) contains no more than 0.5% w/w shotcrete;
  - (d) has not been contaminated with manufactured chemicals or process residues (except for shotcrete);
  - (e) does not meet the definition of virgin excavated natural material in the POEO Act; and
  - (f) may have been processed by intermediate waste facilities licensed by the EPA.

Sydney Metro tunnel spoil does not include material that has been mixed with glass fibre plastic reinforced rods and bolts; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.

#### **2. Persons to whom this order applies**

- 2.1. The requirements in this order apply to any person who supplies Sydney Metro tunnel spoil that has been generated, or recovered by John Holland CPB Contractors Ghella Joint Venture (JHCPBG JV).
- 2.2. This order does not apply to the supply of Sydney Metro tunnel spoil to a consumer for land application or at a premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled

activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **3. Revocation**

- 3.1. 'The Sydney Metro tunnel spoil order 2018' which commenced on 9 August 2018 is revoked from 28 November 2018.

### **4. Duration**

- 4.1. This order commences on 29 November 2018 and is valid until 9 August 2020 or until revoked by the EPA by notice in writing at an earlier date.

### **5. Generator requirements**

The EPA imposes the following requirements on any generator who supplies Sydney Metro tunnel spoil.

#### **General requirements**

- 5.1. Sampling and validation of Sydney Metro tunnel spoil must be undertaken in accordance with sections 5.5 and 5.6 of the application submitted to the EPA by ADE Consulting Group on behalf of JHCPBG JV dated 25 May 2018.

#### **Notification**

- 5.2. On or before each transaction, the generator must provide the following to each person to whom the generator supplies the Sydney Metro tunnel spoil to:
- a written statement of compliance certifying that all the requirements set out in this order have been met;
  - a copy of the 'Sydney Metro tunnel spoil exemption November 2018'; and
  - a copy of the 'Sydney Metro tunnel spoil order November 2018'.

#### **Record keeping and reporting**

- 5.3. The generator must keep a written record of the name and address of each person to whom the generator supplied Sydney Metro tunnel spoil and quantity supplied for a period of six years.
- 5.4. The generator must provide, on request, the most recent characterisation and sampling results for Sydney Metro tunnel spoil supplied to any consumer of Sydney Metro tunnel spoil.
- 5.5. The generator of Sydney Metro tunnel spoil must make information available to the EPA upon request.

### **6. Processor requirements**

The EPA imposes the following requirements on any processor who supplies Sydney Metro tunnel spoil that has been processed:

- 6.1. The processor must only process Sydney Metro tunnel spoil by crushing, grinding, separating and screening.

#### **Notification**

- 6.2. On or before each transaction, the processor must provide the following to each person to whom the processor supplies the Sydney Metro tunnel spoil to:

- a written statement of compliance certifying that all the requirements set out in this order have been met;
- a copy of the 'Sydney Metro tunnel spoil exemption November 2018'; and
- a copy of the 'Sydney Metro tunnel spoil order November 2018'.

### **Record keeping and reporting**

- 6.3. The processor must keep a written record of the name and address of each person to whom the processor supplied Sydney Metro tunnel spoil and quantity supplied for a period of six years.
- 6.4. The processor must provide, on request, the most recent characterisation and sampling results for Sydney Metro tunnel spoil supplied to any consumer of Sydney Metro tunnel spoil.
- 6.5. The processor of Sydney Metro tunnel spoil must make information available to the EPA upon request.

## **7. Definitions**

In this order:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land;
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means:

- a person who applies, or intends to apply, Sydney Metro tunnel spoil to land; and
- a person who uses, or intends to use, Sydney Metro tunnel spoil in connection with a process involving thermal treatment.

**generator** means a person who generates Sydney Metro tunnel spoil for supply to a processor or consumer. The generator in this order is JHCPBG JV.

**metal staples** means small pieces of metal that resemble the shape of staples, with each staple having an approximate dimension of 35 mm x 0.5 mm.

**plastic staples** means small pieces of polypropylene with an approximate dimension of 65 mm x 1 mm.

**processor** means a person who processes Sydney Metro tunnel spoil into a material in its final form for supply to a consumer.

**shotcrete** means cement grout reinforced with metal staples and/or plastic staples used to line the tunnel of Sydney Metro and Southwest Project.



28.11.18

**Director Waste Policy, Innovation and Strategy**  
**Environment Protection Authority**  
 (by delegation)

## Notes

The EPA may amend or revoke this order at any time. It is the responsibility of the generator to ensure it complies with all relevant requirements of the most current order.

In gazetting or otherwise issuing this order, the EPA is not in any way endorsing the supply or use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this order are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this order nor the accompanying exemption guarantee that the environment, human health or agriculture will not be harmed.

Any person or entity which supplies Sydney Metro tunnel spoil should assess whether the material is fit for the purpose the material is proposed to be used for, and whether this use may cause harm. The supplier may need to seek expert engineering or technical advice.

Regardless of any exemption or order provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The supply of Sydney Metro tunnel spoil remains subject to other relevant environmental regulations in the POEO Act and Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of this order, is guilty of an offence and subject to prosecution.

This order does not alter the requirements of any other relevant legislation that must be met in supplying this material, including for example, the need to prepare a Safety Data Sheet. Failure to comply with the conditions of this order constitutes an offence under clause 93 of the Waste Regulation.



## **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

### **The Sydney Metro tunnel spoil exemption November 2018**

#### **Introduction**

This exemption, issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), exempts a consumer of Sydney Metro tunnel spoil from certain requirements in relation to the application of that waste to land or use as a raw material, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Sydney Metro tunnel spoil order November 2018'. This exemption applies to Sydney Metro tunnel spoil that is, or is intended to be, applied to land as engineering fill, or for use in earthworks, or for use as an alternative raw material in the manufacture of bricks.

#### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to Sydney Metro tunnel spoil. In this exemption, Sydney Metro tunnel spoil means approximately 1.22 million tonnes of naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) that:
- (a) has been generated from the Sydney Metro and Southwest Project extending from Chatswood to Sydenham (excluding estuarine sediments and slurry material sourced from the Barangaroo Site and beneath Sydney Harbour respectively);
  - (b) has been virgin excavated by the use of machinery;
  - (c) contains no more than 0.5% w/w shotcrete;
  - (d) has not been contaminated with manufactured chemicals or process residues (except for shotcrete); and
  - (e) does not meet the definition of virgin excavated natural material in the POEO Act; and
  - (f) may have been processed by intermediate waste facilities licensed by the EPA.

Sydney Metro tunnel spoil does not include material that has been mixed with glass fibre plastic reinforced rods and bolts; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.

#### **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies or intends to apply Sydney Metro tunnel spoil as set out in 1.1.

### **3. Revocation**

- 3.1. 'The Sydney Metro tunnel spoil exemption 2018' which commenced on 9 August 2018 is revoked from 28 November 2018.

### **4. Duration**

- 4.1. This order commences on 29 November 2018 and is valid until 9 August 2020 or until revoked by the EPA by notice in writing at an earlier date.

### **5. Premises to which this exemption applies**

- 5.1. This exemption applies to the premises at which the consumer's actual or intended application of Sydney Metro tunnel spoil is carried out.

### **6. Exemption**

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of Sydney Metro tunnel spoil to land as engineering fill, or use in earthworks, or for use as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of bricks at the premises:
  - section 48 of the POEO Act in respect of the scheduled activities described in clauses 39, 40 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 6.2. The exemption does not apply in circumstances where Sydney Metro tunnel spoil is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **7. Conditions of exemption**

The exemption is subject to the following conditions:

- 7.1. At the time Sydney Metro tunnel spoil is received at the premises, it must meet all material requirements for Sydney Metro tunnel spoil which are required under 'the Sydney Metro tunnel spoil order November 2018'.
- 7.2. Sydney Metro tunnel spoil can only be:
  - 7.2.1. applied to land as engineering fill, or use in earthworks, or
  - 7.2.2. used as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of bricks.
- 7.3. The consumer must keep a written record of the following for a period of six years:
  - 7.3.1. the quantity of Sydney Metro tunnel spoil received; and
  - 7.3.2. the name and address of the supplier of Sydney Metro tunnel spoil received.
- 7.4. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 7.5. The consumer must ensure that any application of Sydney Metro tunnel spoil to land must occur within a reasonable period of time after receipt.

## 8. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land;
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means:

- a person who applies, or intends to apply, Sydney Metro tunnel spoil to land; and
- a person who uses, or intends to use, Sydney Metro tunnel spoil in connection with a process involving thermal treatment.

**generator** means a person who generates Sydney Metro tunnel spoil for supply to a processor or consumer. The generator in this order is John Holland CPB Contractors Ghella Joint Venture (JHCPBG JV).

**metal staples** means small pieces of metal that resemble the shape of staples, with each staple having an approximate dimension of 35 mm x 0.5 mm.

**plastic staples** means small pieces of polypropylene with an approximate dimension of 65 mm x 1 mm.

**processor** means a person who processes Sydney Metro tunnel spoil into a material in its final form for supply to a consumer.

**shotcrete** means cement grout reinforced with metal staples and/or plastic staples used to line the tunnel of Sydney Metro and Southwest Project.



28.11.18

**Director Waste Policy, Innovation and Strategy**  
**Environment Protection Authority**  
**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption.

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not Sydney Metro tunnel spoil is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of Sydney Metro tunnel spoil remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.



# **Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The M4-M5 Link tunnel spoil order 2019**

### **Introduction**

This order, issued by the Environment Protection Authority (EPA) under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), imposes the requirements that must be met by suppliers of M4-M5 Link tunnel spoil to which 'the M4-M5 Link tunnel spoil exemption 2019' applies. The requirements in this order apply in relation to the supply of M4-M5 Link tunnel spoil for application to land as engineering fill, or for use in earthworks, or for use as an alternative raw material in the manufacture of bricks, or applied to land within the road corridor for public road related activities including road construction, maintenance and installation of road infrastructure facilities.

### **1. Waste to which this order applies**

1.1. This order applies to M4-M5 Link tunnel spoil. In this order, M4-M5 Link tunnel spoil means approximately 3 million cubic meters of naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) that:

- (a) has been generated from the WestConnex M4-M5 Link Tunnel Project extending from Haberfield to St Peters;
- (b) has been excavated by the use of machinery;
- (c) contains no more than 0.2% w/w shotcrete;
- (d) has not been contaminated with manufactured chemicals or process residues (except for shotcrete);
- (e) does not meet the definition of virgin excavated natural material in the POEO Act; and
- (f) may have been processed by intermediate waste facilities licensed by the EPA.

M4-M5 Link tunnel spoil does not include material that has been mixed with glass fibre plastic reinforced rods and bolts; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.

### **2. Persons to whom this order applies**

2.1. The requirements in this order apply to any person who supplies M4-M5 Link tunnel spoil that has been generated, or recovered by Lendlease Samsung Bouygues Joint Venture ('LSBJV').

2.2. This order does not apply to the supply of M4-M5 Link tunnel spoil to a consumer for land application or at a premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **3. Duration**

- 3.1. This order commences on 17 April 2019 and is valid until 17 April 2021 unless revoked by the EPA by notice in writing at an earlier date.

### **4. Generator requirements**

The EPA imposes the following requirements on any generator who supplies M4-M5 Link tunnel spoil.

#### **Notification**

- 4.1. On or before each transaction, the generator must provide the following to each person to whom the generator supplies the M4-M5 Link tunnel spoil to:
  - a written statement of compliance certifying that all the requirements set out in this order have been met;
  - a copy of the 'M4-M5 Link tunnel spoil exemption 2019'; and
  - a copy of the 'M4-M5 Link tunnel spoil order 2019'.

#### **Record keeping and reporting**

- 4.2. The generator must keep a written record of the name and address of each person to whom the generator supplied M4-M5 Link tunnel spoil and quantity supplied for a period of six years.
- 4.3. The generator of M4-M5 Link tunnel spoil must make information available to the EPA upon request.

### **5. Processor requirements**

The EPA imposes the following requirements on any processor who supplies M4-M5 Link tunnel spoil that has been processed:

- 5.1. The processor must only process M4-M5 Link tunnel spoil by crushing, grinding, separating and screening.

#### **Notification**

- 5.2. On or before each transaction, the processor must provide the following to each person to whom the processor supplies the M4-M5 Link tunnel spoil to:
  - a written statement of compliance certifying that all the requirements set out in this order have been met;
  - a copy of the 'M4-M5 Link tunnel spoil exemption 2019'; and
  - a copy of the 'M4-M5 Link tunnel spoil order 2019'.

#### **Record keeping and reporting**

- 5.3. The processor must keep a written record of the name and address of each person to whom the processor supplied M4-M5 Link tunnel spoil and quantity supplied for a period of six years.
- 5.4. The processor of M4-M5 Link tunnel spoil must make information available to the EPA upon request.

### **6. Definitions**

In this order:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land;
- ploughing, injecting or mixing into the land; or

- filling, raising, reclaiming or contouring the land.

**consumer** means:

- a person who applies, or intends to apply, M4-M5 Link tunnel spoil to land; and
- a person who uses, or intends to use, M4-M5 Link tunnel spoil in connection with a process involving thermal treatment.

**generator** means a person who generates M4-M5 Link tunnel spoil for supply to a processor or consumer. The generator in this order is LSBJV.

**metal staples** means small pieces of metal that resemble the shape of staples, with each staple having an approximate dimension of 35 mm x 1 mm.

**processor** means a person who processes M4-M5 Link tunnel spoil into a material in its final form for supply to a consumer.

**shotcrete** means cement grout reinforced with metal staples used to line the tunnel of the WestConnex M4-M5 Link project.

**DATE** 17/04/2019



**Director Resource Recovery Policy  
Environment Protection Authority  
(by delegation)**

## Notes

The EPA may amend or revoke this order at any time. It is the responsibility of the generator to ensure it complies with all relevant requirements of the most current order.

In gazetting or otherwise issuing this order, the EPA is not in any way endorsing the supply or use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this order are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this order nor the accompanying exemption guarantee that the environment, human health or agriculture will not be harmed.

Any person or entity which supplies M4-M5 Link tunnel spoil should assess whether the material is fit for the purpose the material is proposed to be used for, and whether this use may cause harm. The supplier may need to seek expert engineering or technical advice.

Regardless of any exemption or order provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The supply of M4-M5 Link tunnel spoil remains subject to other relevant environmental regulations in the POEO Act and Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of this order, is guilty of an offence and subject to prosecution.

This order does not alter the requirements of any other relevant legislation that must be met in supplying this material, including for example, the need to prepare a Safety Data Sheet. Failure to comply with the conditions of this order constitutes an offence under clause 93 of the Waste Regulation.



# **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The M4-M5 Link tunnel spoil exemption 2019**

### **Introduction**

This exemption, issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), exempts a consumer of M4-M5 Link tunnel spoil from certain requirements in relation to the application of that waste to land or use as a raw material, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the M4-M5 Link tunnel spoil order 2019'. This exemption applies to M4-M5 Link tunnel spoil that is, or is intended to be, applied to land as engineering fill, or for use in earthworks, or for use as an alternative raw material in the manufacture of bricks, or applied to land within the road corridor for public road related activities including road construction, maintenance and installation of road infrastructure facilities.

### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to M4-M5 Link tunnel spoil. In this exemption, M4-M5 Link tunnel spoil means approximately 3 million cubic meters of naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) that:
  - (a) has been generated from the WestConnex M4-M5 Link Tunnel Project extending from Haberfield to St Peters;
  - (b) has been excavated by the use of machinery;
  - (c) contains no more than 0.2% w/w shotcrete;
  - (d) has not been contaminated with manufactured chemicals or process residues (except for shotcrete);
  - (e) does not meet the definition of virgin excavated natural material in the POEO Act; and
  - (f) may have been processed by intermediate waste facilities licensed by the EPA.

M4-M5 Link tunnel spoil does not include material that has been mixed with glass fibre plastic reinforced rods and bolts; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.

### **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies or intends to apply M4-M5 Link tunnel spoil as set out in 1.1.

### **3. Duration**

- 3.1. This exemption commences on 17 April 2019 and is valid until 17 April 2021 unless revoked by the EPA by notice in writing at an earlier date.

### **4. Premises to which this exemption applies**

- 4.1. This exemption applies to the premises at which the consumer's actual or intended application of M4-M5 Link tunnel spoil is carried out.

### **5. Exemption**

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of M4-M5 Link tunnel spoil to land as engineering fill, or use in earthworks, or for use as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of bricks at the premises:
- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39, 40 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where M4-M5 Link tunnel spoil is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **6. Conditions of exemption**

The exemption is subject to the following conditions:

- 6.1. At the time M4-M5 Link tunnel spoil is received at the premises, it must meet all material requirements for M4-M5 Link tunnel spoil which are required under 'the M4-M5 Link tunnel spoil order 2019'.
- 6.2. M4-M5 Link tunnel spoil can only be:
- 6.2.1. applied to land as engineering fill, or use in earthworks; or
  - 6.2.2. applied to land within the road corridor for public road related activities including road construction, maintenance and installation of road infrastructure facilities; or
  - 6.2.3. used as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of bricks.
- 6.3. The consumer must keep a written record of the following for a period of six years:
- 6.3.1. the quantity of M4-M5 Link tunnel spoil received; and
  - 6.3.2. the name and address of the supplier of M4-M5 Link tunnel spoil received.
- 6.4. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 6.5. The consumer must ensure that any application of M4-M5 Link tunnel spoil to land must occur within a reasonable period of time after receipt.

## 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land;
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means:

- a person who applies, or intends to apply, M4-M5 Link tunnel spoil to land; and
- a person who uses, or intends to use, M4-M5 Link tunnel spoil in connection with a process involving thermal treatment.

**generator** means a person who generates M4-M5 Link tunnel spoil for supply to a processor or consumer. The generator in this order is Lendlease Samsung Bouygues Joint Venture ('LSBJV').

**metal staples** means small pieces of metal that resemble the shape of staples, with each staple having an approximate dimension of 35 mm x 1 mm.

**processor** means a person who processes M4-M5 Link tunnel spoil into a material in its final form for supply to a consumer.

**shotcrete** means cement grout reinforced with metal staples used to line the tunnel of the WestConnex M4-M5 Link project.

A handwritten signature in black ink, appearing to be 'M. J. Pitt', written in a cursive style.

**Director Resource Recovery Policy  
Environment Protection Authority  
(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption.

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not M4-M5 Link tunnel spoil is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

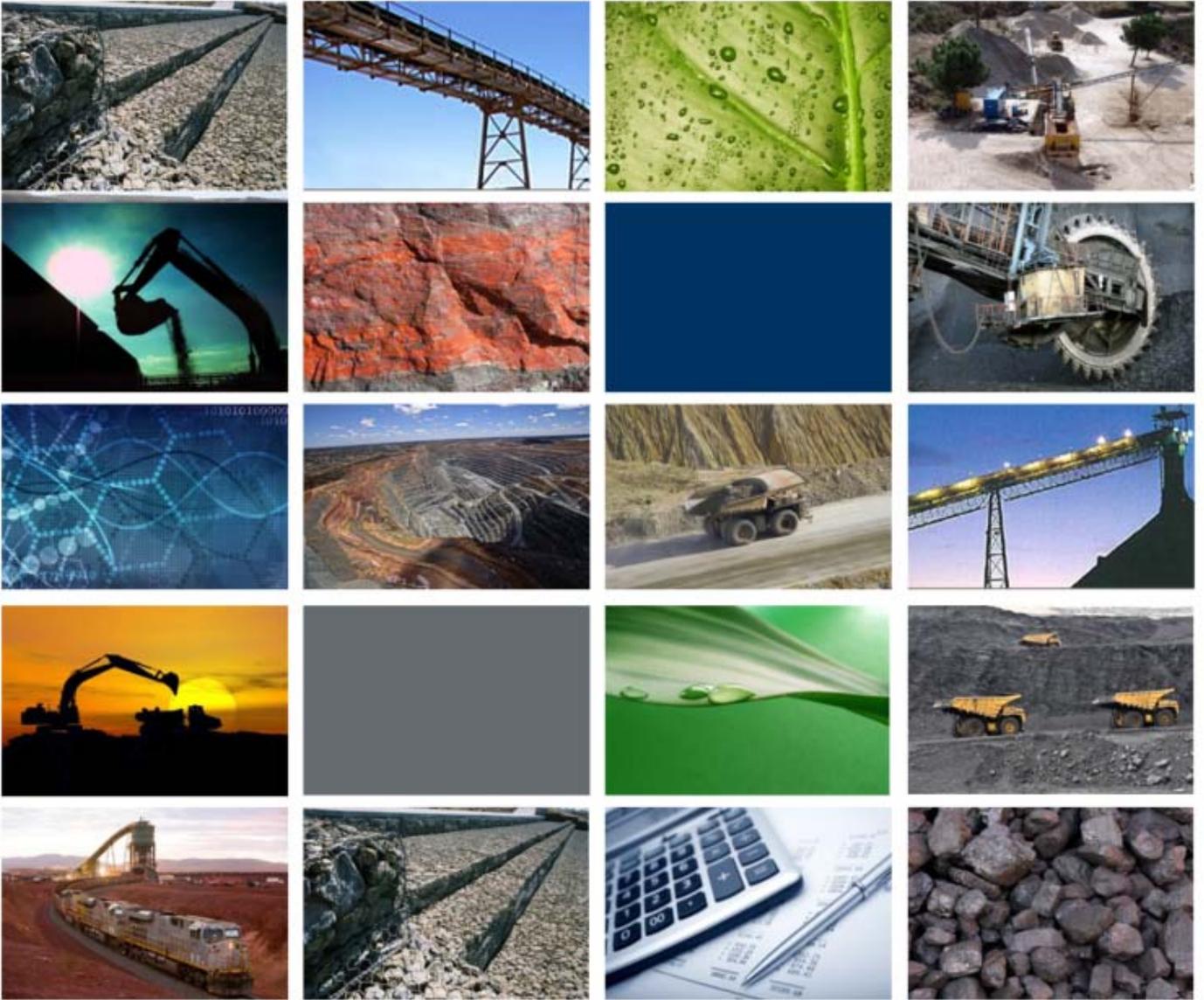
Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of M4-M5 Link tunnel spoil remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

# Appendix 2 – PLDC Importation Protocol



# Penrith Lakes Importation Protocol

89-151 Old Castlereagh Road,  
Castlereagh, NSW, 2749

Penrith Lakes Development Corporation  
August 2018  
Project No.: 0448886

**Project name:** Penrith Lakes Importation Protocol  
**Document control number:** PJ0949  
**Prepared for:** PLDC

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#### Document history

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				Name	Date	
V6.0	01	PLDC			Jan/2014	PLDC Document 140123
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# 1 Introduction

## 1.1 General

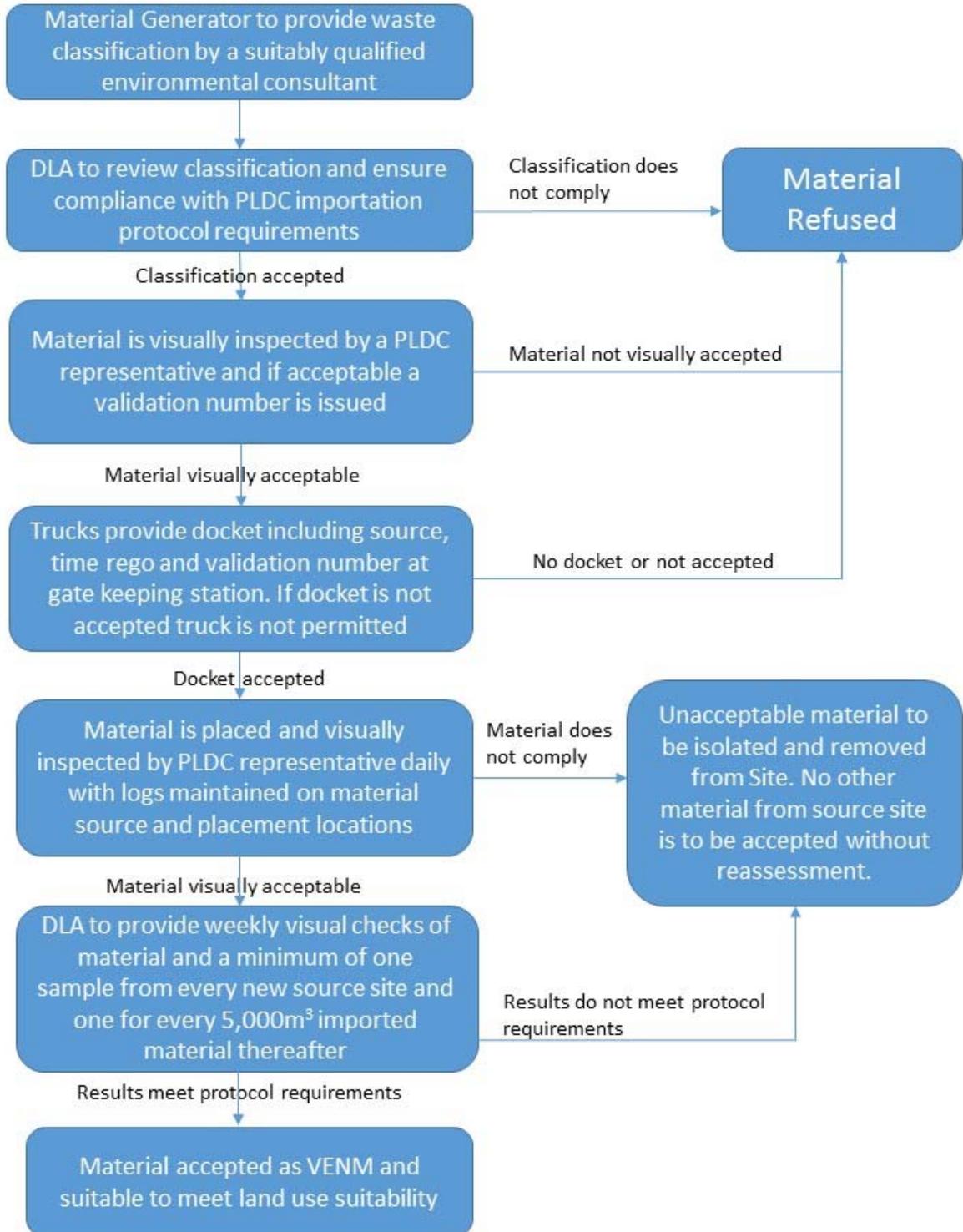
ERM Services Australia (ERM) was commissioned by Penrith Lakes Development Corporation (PLDC) to produce an Importation Protocol for the Penrith Lakes Site.

This Importation Protocol provides details on the acceptance requirements for material providers, material inspection procedures, and quality control procedures required for material importation.

***At all times the acceptance of materials at the Site is at the discretion of PLDC. In exercising this discretion, PLDC will rely fully on the certification of each delivery of material to the Site and is not bound to exercise any independent judgement about or undertake any independent testing or analysis of that material in any exercise of that discretion.***

## 1.2 Overview of Material Importation Process

A flow chart has been provided below summarising the importation process.



## 2 Material Definitions

### 2.1 VENM

The Protection of the Environment Operations Act 1997 defines VENM as:

*‘natural material (such as clay, gravel, sand, soil or rock fines) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals or process residues, as a result of industrial, commercial, mining or agricultural activities, and that does not contain any sulfidic ores or soils or any other waste’.*

No other criteria for VENM have been approved. By definition, VENM cannot be ‘made’ from processed soils. Excavated material that has been stored or processed in any way cannot be classified as VENM.

### 2.2 ENM

The Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 defines ENM as:

*‘naturally occurring rock and soil (including but not limited to materials (such as sandstone, shale, clay and soil) that has:*

- a) Been excavated from the ground, and*
- b) Contains at least 98% (by weight) natural material, and*
- c) Does not meet the definition of Virgin Excavated Natural Material in the Act.*

*Excavated material does not include material located in a hotspot; that has been processed; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.’*

---

# 3 Information Requirements for Application to PLDC

## 3.1 Material Generator Requirements

### Site details of where the material is sourced:

- Site Address (Street, Suburb),
- Description of previous land uses and current land use (e.g. residential, service station, supermarket etc) and details of any demolition work at every site where the material is sourced,
- Brief description of proposed works (e.g. excavation of basement car park, footings tunnel etc) which has provided or will provide the material; and
- Previous site investigations where available.

### Material details:

- Material type (e.g. clay, shale, sandstone etc) and approximate quantity,
- Certification to PLDC that the material is VENM or ENM as defined by the POEO Act 1997 and the POEO Waste Regulation 2014 respectively,
- Source of material on the supply site and approximate depth(s) (e.g. all material below 300mm depth) and area the material will be extracted from if the material is in-situ; and
- If the material is to be stockpiled prior to classification or export the handling of this material must be supervised and signed off by a suitably qualified contaminated lands consultant. If the material is to be classified as stockpiled VENM, the material must be certified to have been sourced from the site the material is stockpiled on and sampled based on the total volume of stockpiled material.

### Environmental assessment report and supporting information:

- Statement in report certifying material to be received is VENM or ENM,
- Map of sample locations and boundary of the extent of the material classified,
- Full description of material(s) to be delivered – either described in the report or with bore logs/test pit logs attached,
- Laboratory reports and certificates for the material to be delivered should be attached as part of the certification report (including laboratory quality control),

- Review of the location of the Site within the Acid Sulfate Soil Risk Map indicating the potential presence of acid sulfate soils. Further analysis for acid sulfate soils is required if the site is identified as potential acid sulfate soils and/or pH values are reported <5, and
- Certification that the Site is outside of Naturally Occurring Asbestos Map area (no known naturally occurring asbestos has been identified in the Sydney Basin).

Field Screening, Sampling and Analysis of materials:

- Description of any Field Screening undertaken (if any) of the source site,
- Certification that no foreign materials were identified in the materials,
- Samples tested for the material to be delivered must be discrete (not composite samples) in accordance with Australian Standards Guide to the investigation and sampling of sites with potentially contaminated soils AS 4482.1 – 2005 (Non-volatile and semi volatile) and AS 4482.2 – 1999 (Volatile samples); and
- Samples of the material to be delivered must be appropriately preserved and forwarded to a NATA registered laboratory, previously approved by PLDC.

## 3.2 VENM Classification Sampling Requirements

Sample numbers for importation as VENM should be collected at the rate outlined in Table 3a. Samples should be collected based on the volume of material to be classified for importation to PLDC. Stockpiled materials must be demonstrated to have originated from the source site. Insitu samples are required to be collected from the surface of the material to be classified. Any identified areas of environmental concern must be removed from the Site and validation samples meeting the importation protocol presented.

Note, additional sample collection rates from the source site for classification may be requested if sufficient data cannot be obtained from the site history and inspection, or if there is a potential (evident in the site history or site inspection) that the material may require further investigation.

**Table 3a – VENM Sample Rate**

Volume of material to be imported to PLDC	Sample numbers
up to 1,000 m <sup>3</sup>	4 samples
up to 2,000 m <sup>3</sup>	5 samples
up to 4,000 m <sup>3</sup>	6 samples
up to 8,000 m <sup>3</sup>	7 samples
up to 15,000 m <sup>3</sup>	8 samples
up to 30,000 m <sup>3</sup>	9 samples
up to 50,000 m <sup>3</sup>	10 samples
<p>1 additional sample required per additional 20,000 m<sup>3</sup>.</p> <p>The above sample numbers must be provided in addition to the background site details required in Section 3.1.</p> <p>Further samples may be requested by PLDC representative following review of the information and/or evidence of potential contamination from neighbouring sites or identified areas of environmental concern.</p>	

Sampling rates adopted for the material importation of VENM materials are less than those provided in:

- EPA ENM Order 2014;
- NEPM 2013 guidelines for stockpiled soil; and
- Vic EPA 2010 sampling protocols.

A reduced sampling rate from the aforementioned sampling standards is considered appropriate for the certification of VENM soils for importation onto the Site because:

- Detailed investigation into the site history is included as part of the assessment of the source site to determine any potential risks of contamination from past land uses;
- An assessment of potential contamination risks to site soils from surrounding land uses are assessed as part of the initial VENM certification process;

- A desktop study of the site is undertaken to review the relatively recent land use activities, as well as enabling a review of the contaminated land register for issues with the site, or around the site area;
- A detailed inspection of the site is undertaken by a PLDC representative confirming that no fill materials are present on the site prior to exportation;
- Sampling is undertaken on the surface of the exposed VENM to ensure that if any overlying fill material has not impacted the underlying VENM;
- The site inspection and VENM soils are observed to be naturally in-situ – meaning that potential for contamination is reduced, as only natural soils can be present below VENM in-situ exposed surfaces;
- A review of the quality of the data is undertaken as part of the site assessment, resulting in consistency in soil properties to demonstrate homogeneous natural background concentrations;
- The volume of material from each site source is greater than 1,000 m<sup>3</sup>, thereby reducing variability in soil types and profiles that have a potential to be impacted or blended with non VENM materials during transport; and,
- Detailed inspection of the soils arriving at the fill site is undertaken confirming the constancy of material quality on a visual basis. Any variation in material quality can therefore be immediately noted and acted on in more detail.

Due to the precautions and processes being implemented for the importation and characterisation of VENM soils to the fill site, it is justifiable that a reduced sampling regime can be adopted, as multiple overlapping systems and checks are in place to identify any discrepancies in potential soils contamination. If any of the above processes and strategies cannot be satisfactorily completed or resolved, the material will then be deemed not suitable and will either be rejected, or will be subject to a more detailed sampling regime.

As each site to be considered for the supply of VENM for the filling works must generate a minimum of 1,000 m<sup>3</sup> of VENM, the minimum sampling requirements for any site would be the collection of 4 samples as per **Table 3a** above. In line with this, minimum sampling rates for VENM import soils will be samples in accordance with **Table 3a** above, with any part over the specified numbers, broken down and repeated.

In the event that a larger volume of VENM is imported from a source site than originally estimated, additional sampling will be required. Sampling may be conducted at the Site after the material has been unloaded and is stockpiled in a holding area. Material should remain

stockpiled until such a time that analysis can confirm that the material is of a similar chemical composition to the material previously imported. Sample rates of additional material should be in accordance with **Table 3a**.

All samples must be delivered to the laboratory in the correct preservation medium and analysed within the relevant holding times. Discrete sampling (not composite) will be undertaken on all samples.

Samples collected for material to be imported onsite will be analysed for the following:

- Priority heavy metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc);
- Organochloride Pesticides (OCPs);
- Petroleum Hydrocarbons (TRH);
- Benzene, Toluene, Ethylbenzene, Xylene, Naphthalene;
- Polycyclic Aromatic Hydrocarbons (PAHs);
- Polychlorinated Biphenyls (PCBs);
- Soil pH, and
- Asbestos (presence/absence).

### 3.3 VENM Importation Criteria

For the material to be deemed suitable for importation onsite, the analytes must present concentrations below the limits presented in **Table 5c** below.

**Table 3b: VENM Screening Criteria**

Compounds	Average Concentration (mg/kg)	Maximum Concentration (mg/kg)	Reference Note
<b>Inorganics</b>			
Arsenic (total)	20	40	1
Cadmium	0.5	3	2
Chromium (total)	75	100	3
Copper	55	200	4

Lead		50	100	5
Mercury (inorganic)		0.5	1	6
Nickel		15	60	7
Zinc		120	300	8
Foreign Materials		None Present	None Present	
Aesthetics		No odour, no staining	No odour, no staining	
pH		5.0-9.0	4.5 to 10	
ASS / PASS		None	--	
Asbestos		None	--	9
<b>Organics</b>				
Benzo(a)pyrene		--	0.5	10
Polycyclic Aromatic Hydrocarbons		1	1	10
Organochloride (OCPs)	Pesticides	0.1	0.1	11
Polychlorinated (PCBs)	Biphenyls	0.1	0.1	11
Benzene		0.2	0.2	11
Toluene		0.5	0.5	11
Ethylbenzene		1	1	11
Total Xylene		1.5	1.5	11
Naphthalene		1	1	11
Petroleum Hydrocarbons F1 (C <sub>6</sub> -C <sub>10</sub> )		25	25	11
Petroleum Hydrocarbons F2 (C <sub>10</sub> -C <sub>16</sub> )		50	50	11
Petroleum Hydrocarbons F3 (C <sub>16</sub> -C <sub>34</sub> )		100	100	11
Petroleum Hydrocarbons F4 (C <sub>34</sub> -C <sub>40</sub> )		100	100	11

1. Arsenic average of 20 mg/kg and maximum of 40 mg/kg based on the POEO Regulation (2014) for ENM.
2. Cadmium average of 0.5mg/kg and maximum of 1 mg/kg based on the POEO Regulation (2014) for ENM.
3. Chromium average of 75 mg/kg based on the POEO Regulation (2014) for Maximum average concentrations for ENM, maximum value of 100 mg/kg based on the NEPM (2013) HIL for Chromium VI for standard residential.

4. Copper average of 55 mg/kg based on the NEPM (2013) EILs for concentrations in typical soils within the Blacktown soil landscape with pH>5.5 and Cation Exchange Capacity >6cmol/kg, maximum value of 200mg/kg based on the POEO Regulation (2014) for absolute maximum concentrations for Copper in ENM.
5. Lead average concentration of 50mg/kg based on the POEO Regulation (2014) for Maximum average concentrations for ENM, maximum value of 100mg/kg based on absolute maximum Lead concentrations for ENM in the POEO Regulation (2014).
6. Mercury average of 0.5mg/kg based on the POEO Regulation (2014) for Maximum average concentrations for ENM, maximum concentration based on the NEPM (1999) EILs of 1 mg/kg for Mercury.
7. Nickel average of 15 mg/kg based on the NEPM (2013) EILs for typical soils within the Blacktown soil landscape with a Cation Exchange Capacity >6cmol/kg, maximum value of 60mg/kg based on the POEO Regulation (2014) for absolute maximum concentrations for Nickel in ENM.
8. Zinc average based on the NEPM (2013) EILs of 120 mg/kg for typical soils within the Blacktown soil landscape with Cation Exchange Capacity >6cmol/kg, maximum value of 300mg/kg based on the POEO Regulation (2014) for absolute maximum concentrations for Zinc in ENM.
9. Asbestos must not be present in the classified VENM materials. Any overlying fill suspected of containing asbestos must be removed and validated with soil sampling and visual clearance prior to being accepted.
10. PAH concentrations outside these criteria must be demonstrated to be naturally occurring prior to acceptance. As B(a)P is produced during heat treatment the limit is the Practical Quantitation Limit (PQL)
11. Criteria based on the VENM source material having a concentration below the PQL for the specified compound. Any exceedances of these criteria will require further investigation and evidence that the compound is naturally occurring.

### 3.4 ENM Classification Sampling Requirements

Requirements for ENM classifications are detailed specifically in the Excavated Natural Material Order 2014 – provided in **Appendix A**. All materials that are assessed as ENM for inclusion into the PLDC Site must at a minimum address all sampling and analysis requirements of the order.

The **Sampling Requirements** listed in **Tables 1, 2 and 3** of the order provide details on sampling requirements for ENM Classification. Any waste classification for ENM materials are to demonstrate compliance with the applicable sampling methodology (either stockpiled or insitu) with discrete samples collected from each sampling location.

Note, additional sample collection rates may be requested if sufficient data cannot be obtained from the site history and inspection, or if there is a potential (evident in the site history or site inspection) that the material may require further investigation.

### 3.5 ENM Sampling Criteria

Requirements for ENM classifications are detailed specifically in the Excavated Natural Material Order 2014 – provided in **Appendix A**. All materials that are assessed as ENM for inclusion into the PLDC Site must at a minimum address all sampling and analysis requirements of the order. These criteria are listed as **the Chemical and Other Material Requirements** in **Table 4** of the order.

All criteria must be addressed and meet the requirements of the ENM Order 2014.

## 4 Importation Approvals

Prior to the receipt of VENM or ENM, each source site (discrete property location) will be subject to a detailed site inspection by a PLDC representative to:

- confirm the supplied documentation is consistent with the materials on site; and
- no issues exist which have the potential to impact the VENM or ENM classification.

Inspections by PLDC representative/s do not remove the overall responsibility of the source site to provide VENM or ENM to the Site. Where non-conformances are identified at the source site, they must be rectified and reinspected by a PLDC representative prior to importation commencing/re-commencing.

Where the documentation and site inspection confirm the VENM or ENM classification, a validation number will be issued for the site which must be utilised for all transport of materials to PLDC. No validation number – No entry to Site.

### 4.1 Delivery and Placement Inspections

Only pre-validated and approved materials are to be imported to the site and will be subject to a thorough inspection to confirm the VENM or ENM classification.

A gatekeeper is to be present at the entry gate to the Site at all times when the gate is unlocked and open to traffic. No deliveries to the Site are to be made when the gatekeeper is not present at the gate. The gatekeeper will be responsible for recording and inspecting all deliveries of imported material to the site. This includes video surveillance for inspections of loads prior to entering the Site.

Written records to be kept by the gatekeeper for each truck load that will include:

- The time of truck arrival;
- Provided site validation number;
- The truck licence number;
- The VENM source site;
- The quantity of material delivered; and
- A description of the delivered material.

Full time supervision will be provided by both PLDC and the civil contractor managing the placement and compaction of the material. This will involve continuous visual assessment of the quality of materials being imported, with any concerns reported immediately to the PLDC site supervisor. The PLDC supervisor will also provide daily visual assessment of the material importation procedure and quality of materials.

Any loads identified to be inconsistent with the VENM classification or material type approved for the source site will be rejected and must be removed from site by the relevant Filling Supplier. If this material is placed in the fill area prior to being identified, the material is to remain in stockpile and isolated to prevent this material spreading with the remaining site.

If any soils are identified as not suitable, i.e. contain odours, staining, foreign materials or do not comply with the material description form the specific site, the load will be isolated and reloaded into the importing truck for removal.

Visual inspection and quality assessments will be conducted by a suitably qualified environmental consultant. This will include an inspection of material placement areas active at the time of inspection. Soil samples will also be collected from every source site importing on that day with a proposed 1 sample for every 5000m<sup>3</sup> of materials imported for the week.

## 4.2 Non-Compliance

For any material identified to be imported that is non-compliant an incident report will be completed, outlining, but not limited to the following:

- Filling Suppliers transport contractor;
- Truck configuration;
- Truck and trailer registration;
- Material type;
- Reason for non-compliance; and
- Actions taken.

The identification of non-compliant material will likely occur in two areas – during initial inspection at the gate area, where the truck will be denied authorisation to offload the material, or immediately following the dumping of the material by the spotter on inspection duty.

Where material has been offloaded and identified as non-compliant, the truck will be recalled and the material re-loaded into the truck for removal. Removal of any rejected materials will be at the cost of the Filling Supplier.

Any rejected/contaminated materials delivered to the Penrith Lakes Site must be removed by the contractor within 24 hours of notification at the cost of the contractor.

Where any issues are identified for a source site, PLDC will cease accepting any materials from that site until the issue is rectified by the source site. A site inspection by a PLDC representative may be undertaken to satisfy themselves that the source site is operating free of issues that could potentially affect the Penrith Lakes Site. Site inspections performed by PLDC representatives do not constitute an approval/acceptance that the material being delivered is either VENM or ENM.

ENM must not be placed within 2.0m of the landform finished surface level. ENM is to only be placed in locations approved by the PLDC supervisor.

All material brought to the Site must be suitable for signoff as either VENM or ENM by the Penrith Lakes NSW EPA Accredited Contaminated Lands Site Auditor to allow a Site Audit Statement to be issued for placement areas stating that the land is suitable for its intended use

## 5 Imported Soil QA/QC

Visual quality control checks are the responsibility of all contractors handling the materials. This includes machine operators and supervisors. Any non-conformances or concerns shall be reported to the PLDC supervisor immediately and investigated to ensure all fill meets the importation protocol requirements.

The Environmental Consultant will also provide visual assessments of materials being imported, inspect gate keeper records and importation volumes, verify only approved materials are being imported as well as conduct representative sampling of the material at the tip face. Samples will be collected from all sites providing materials on the day with a minimum of one sample per providing Site and an additional sample for every 5,000m<sup>3</sup> imported from the preceding week. Materials that are sampled must demonstrate compliance with the land use suitability of the Site (*'Residential A'* guidelines, NEPM 2013).

Any materials that are deemed to not meet the land use suitability that have already been placed on the Site are to be isolated, removed and disposed of at the cost of the supplying contractor. The Environmental Consultant must provide a clearance that the non-compliant material has been removed and the footprint validated.

# Appendix A

## The Excavated Natural Material Order 2014

---



# **Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The excavated natural material order 2014**

### **Introduction**

This order, issued by the Environment Protection Authority (EPA) under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), imposes the requirements that must be met by suppliers of excavated natural material to which 'the excavated natural material exemption 2014' applies. The requirements in this order apply in relation to the supply of excavated natural material for application to land as engineering fill or for use in earthworks.

### **1. Waste to which this order applies**

- 1.1. This order applies to excavated natural material. In this order, excavated natural material means naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) that has:
- a) been excavated from the ground, and
  - b) contains at least 98% (by weight) natural material, and
  - c) does not meet the definition of Virgin Excavated Natural Material in the Act.

Excavated natural material does not include material located in a hotspot; that has been processed; or that contains asbestos, Acid Sulfate Soils (ASS), Potential Acid Sulfate soils (PASS) or sulfidic ores.

### **2. Persons to whom this order applies**

- 2.1. The requirements in this order apply, as relevant, to any person who supplies excavated natural material, that has been generated, processed or recovered by the person.
- 2.2. This order does not apply to the supply of excavated natural material to a consumer for land application at a premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **3. Duration**

- 3.1. This order commences on 24 November 2014 and is valid until revoked by the EPA by notice published in the Government Gazette.

## 4. Generator requirements

The EPA imposes the following requirements on any generator who supplies excavated natural material.

### Sampling requirements

- 4.1. On or before supplying excavated natural material, the generator must:
  - 4.1.1. Prepare a written sampling plan which includes a description of sample preparation and storage procedures for the excavated natural material.
  - 4.1.2. Undertake sampling and testing of the excavated natural material as required under clauses 4.2, 4.3, and 4.4 below. The sampling must be carried out in accordance with the written sampling plan.
- 4.2. The generator must undertake sampling and analysis of the material for ASS and PASS, in accordance with the NSW Acid Sulfate Soil Manual, Acid Sulfate Soils Management Advisory Council, 1998 and the updated Laboratory Methods Guidelines version 2.1 – June 2004 where:
  - 4.2.1. the pH measured in the material is below 5, and/or
  - 4.2.2. the review of the applicable Acid Sulfate Soil Risk Maps (published by the former Department of Land and Water Conservation and available at <http://www.environment.nsw.gov.au/acidsulfatesoil/riskmaps.htm>) indicates the potential presence of ASS.
- 4.3. For stockpiled material, the generator must:
  - 4.3.1. undertake sampling in accordance with Australian Standard 1141.3.1-2012 Methods for sampling and testing aggregates – Sampling – Aggregates (or equivalent);
  - 4.3.2. undertake characterisation sampling by collecting the number of samples listed in Column 2 of Table 1 with respect to the quantity of the waste listed in Column 1 of Table 1 and testing each sample for the chemicals and other attributes listed in Column 1 of Table 4. For the purposes of characterisation sampling the generator must collect:
    - 4.3.2.1. composite samples for attributes 1 to 10 and 18 in Column 1 of Table 4.
    - 4.3.2.2. discrete samples for attributes 11 to 17 in Column 1 of Table 4.
    - 4.3.2.3. The generator must carry out sampling in a way that ensures that the samples taken are representative of the material from the entire stockpile. All parts of the stockpile must be equally accessible for sampling.
    - 4.3.2.4. for stockpiles greater than 4,000 tonnes the number of samples described in Table 1 must be repeated.
  - 4.3.3. store the excavated natural material appropriately until the characterisation test results are validated as compliant with the maximum average concentration or other value listed in Column 2 of Table 4 and the absolute maximum concentration or other value listed in Column 3 of Table 4.

**Table 1**

<b>Sampling of Stockpiled Material</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Quantity (tonnes)</b>	<b>Number of samples</b>	<b>Validation</b>
<500	3	Required
500 – 1,000	4	
1,000 – 2,000	5	
2,000 – 3,000	7	
3,000 – 4,000	10	

4.4. For in situ material, the generator must:

- 4.4.1. undertake sampling by collecting discrete samples. Compositing of samples is not permitted for in-situ materials.
- 4.4.2. undertake characterisation sampling for the range of chemicals and other attributes listed in Column 1 of Table 4 according to the requirements listed in Columns 1, 2 and 3 of Table 2. When the ground surface is not comprised of soil (e.g. concrete slab), samples must be taken at the depth at which the soil commences.
- 4.4.3. undertake sampling at depth according to Column 1 of Table 3.
- 4.4.4. collect additional soil samples (and analyse them for the range of chemicals and other attributes listed in Column 1 of Table 4), at any depth exhibiting discolouration, staining, odour or other indicators of contamination inconsistent with soil samples collected at the depth intervals indicated in Table 3.
- 4.4.5. segregate and exclude hotspots identified in accordance with Table 2, from material excavated for reuse.
- 4.4.6. subdivide sites larger than 50,000 m<sup>2</sup> into smaller areas and sample each area as per Table 2.
- 4.4.7. store the excavated natural material appropriately until the characterisation test results are validated as compliant with the maximum average concentration or other value listed in Column 2 of Table 4 and the absolute maximum concentration or other value listed in Column 3 of Table 4.

**Table 2**

<i>In Situ Sampling at surface</i>				
Column 1	Column 2	Column 3	Column 4	Column 5
Size of <i>in situ</i> area (m <sup>2</sup> )	Number of systematic sampling points recommended	Distance between two sampling points (m)	Diameter of the hot spot that can be detected with 95% confidence (m)	Validation
500	5	10.0	11.8	Required
1000	6	12.9	15.2	
2000	7	16.9	19.9	
3000	9	18.2	21.5	
4000	11	19.1	22.5	
5000	13	19.6	23.1	
6000	15	20.0	23.6	
7000	17	20.3	23.9	
8000	19	20.5	24.2	
9000	20	21.2	25.0	
10,000	21	21.8	25.7	
15,000	25	25.0	28.9	
20,000	30	25.8	30.5	
25,000	35	26.7	31.5	
30,000	40	27.5	32.4	
35,000	45	27.9	32.9	
40,000	50	28.3	33.4	
45,000	52	29.3	34.6	
50,000	55	30.2	35.6	

Table 2 has been taken from NSW EPA 1995, *Contaminated Sites Sampling Design Guidelines*, NSW Environment Protection Authority.

**Table 3**

<i>In Situ Sampling at Depth</i>	
Column 1	Column 2
Sampling Requirements *	Validation
<p>1 soil sample at 1.0 m bgl from each surface sampling point followed by 1 soil sample for every metre thereafter.</p> <p>From 1.0 m bgl, sample at the next metre interval until the proposed depth of excavation of the material is reached. If the proposed depth of excavation is between 0.5 to 0.9 m after the last metre interval, sample at the base of the proposed depth of excavation.</p>	<p>Required if the depth of excavation is equal to or greater than 1.0 m bgl</p>

\* Refer to Notes for examples

## Chemical and other material requirements

- 4.5. The generator must not supply excavated natural material waste to any person if, in relation to any of the chemical and other attributes of the excavated natural material:
- 4.5.1. The chemical concentration or other attribute of any sample collected and tested as part of the characterisation of the excavated natural material exceeds the absolute maximum concentration or other value listed in Column 3 of Table 4:
- 4.5.2. The average concentration or other value of that attribute from the characterisation of the excavated natural material (based on the arithmetic mean) exceeds the maximum average concentration or other value listed in Column 2 of Table 4.
- 4.6. The absolute maximum concentration or other value of that attribute in any excavated natural material supplied under this order must not exceed the absolute maximum concentration or other value listed in Column 3 of Table 4.

**Table 4**

Column 1	Column 2	Column 3
Chemicals and other attributes	Maximum average concentration for characterisation (mg/kg 'dry weight' unless otherwise specified)	Absolute maximum concentration (mg/kg 'dry weight' unless otherwise specified)
1. Mercury	0.5	1
2. Cadmium	0.5	1
3. Lead	50	100
4. Arsenic	20	40
5. Chromium (total)	75	150
6. Copper	100	200
7. Nickel	30	60
8. Zinc	150	300
9. Electrical Conductivity	1.5 dS/m	3 dS/m
10. pH *	5 to 9	4.5 to 10
11. Total Polycyclic Aromatic Hydrocarbons (PAHs)	20	40
12. Benzo(a)pyrene	0.5	1
13. Benzene	NA	0.5
14. Toluene	NA	65
15. Ethyl-benzene	NA	25
16. Xylene	NA	15
17. Total Petroleum Hydrocarbons C <sub>10</sub> -C <sub>36</sub>	250	500
18. Rubber, plastic, bitumen, paper, cloth, paint and wood	0.05%	0.10%

\* The ranges given for pH are for the minimum and maximum acceptable pH values in the excavated natural material.

## Test methods

- 4.7. The generator must ensure that any testing of samples required by this order is undertaken by analytical laboratories accredited by the National Association of Testing Authorities (NATA), or equivalent.
- 4.8. The generator must ensure that the chemicals and other attributes (listed in Column 1 of Table 4) in the excavated natural material it supplies are tested in accordance with the test methods specified below or other equivalent analytical methods. Where an equivalent analytical method is used the detection limit must be equal to or less than that nominated for the given method below.
  - 4.8.1. Test methods for measuring the mercury concentration.
    - 4.8.1.1. Analysis using USEPA SW-846 Method 7471B Mercury in solid or semisolid waste (manual cold vapour technique), or an equivalent analytical method with a detection limit < 20% of the stated absolute maximum concentration in Column 3 of Table 2 (i.e. < 0.20 mg/kg dry weight).
    - 4.8.1.2. Report as mg/kg dry weight.
  - 4.8.2. Test methods for measuring chemicals 2 to 8.
    - 4.8.2.1. Sample preparation by digesting using USEPA SW-846 Method 3051A Microwave assisted acid digestion of sediments, sludges, soils, and oils (or an equivalent analytical method).
    - 4.8.2.2. Analysis using USEPA SW-846 Method 6010C Inductively coupled plasma - atomic emission spectrometry, or an equivalent analytical method with a detection limit < 10% of the stated absolute maximum concentration in Column 3 of Table 2, (e.g. 10 mg/kg dry weight for lead).
    - 4.8.2.3. Report as mg/kg dry weight.
  - 4.8.3. Test methods for measuring electrical conductivity and pH.
    - 4.8.3.1. Sample preparation by mixing 1 part excavated natural material with 5 parts distilled water.
    - 4.8.3.2. Analysis using Method 103 (pH) and 104 (Electrical Conductivity) in Schedule B (3): Guideline on Laboratory Analysis of Potentially Contaminated Soils, National Environment Protection (Assessment of Site Contamination) Measure 1999 (or an equivalent analytical method).
    - 4.8.3.3. Report electrical conductivity in deciSiemens per metre (dS/m).
  - 4.8.4. Test method for measuring Polynuclear Aromatic Hydrocarbons (PAHs) and benzo(a)pyrene.
    - 4.8.4.1. Analysis using USEPA SW-846 Method 8100 Polynuclear Aromatic Hydrocarbons (or an equivalent analytical method).
    - 4.8.4.2. Calculate the sum of all 16 PAHs for total PAHs.
    - 4.8.4.3. Report total PAHs as mg/kg dry weight.
    - 4.8.4.4. Report benzo(a)pyrene as mg/kg.

- 4.8.5. Test method for measuring benzene, toluene, ethylbenzene and xylenes (BTEX).
- 4.8.5.1. Method 501 (Volatile Alkanes and Monocyclic Aromatic Hydrocarbons) in Schedule B (3): Guideline on Laboratory Analysis of Potentially Contaminated Soils, National Environment Protection (Assessment of Site Contamination) Measure 1999 (or an equivalent analytical method).
- 4.8.5.2. Report BTEX as mg/kg.
- 4.8.6. Test method for measuring Total Petroleum Hydrocarbons (TPH).
- 4.8.6.1. Method 506 (Petroleum Hydrocarbons) in Schedule B (3): Guideline on Laboratory Analysis of Potentially Contaminated Soils, National Environment Protection (Assessment of Site Contamination) Measure 1999 (or an equivalent analytical method).
- 4.8.6.2. Report as mg/kg dry weight.
- 4.8.7. Test method for measuring rubber, plastic, bitumen, paper, cloth, paint and wood.
- 4.8.7.1. NSW Roads & Traffic Authority Test Method T276 Foreign Materials Content of Recycled Crushed Concrete (or an equivalent method).
- 4.8.7.2. Report as percent.

## **Notification**

- 4.9. On or before each transaction, the generator must provide the following to each person to whom the generator supplies the excavated natural material:
- a written statement of compliance certifying that all the requirements set out in this order have been met;
  - a copy of the excavated natural material exemption, or a link to the EPA website where the excavated natural material exemption can be found; and
  - a copy of the excavated natural material order, or a link to the EPA website where the excavated natural material order can be found.

## **Record keeping and reporting**

- 4.10. The generator must keep a written record of the following for a period of six years:
- the sampling plan required to be prepared under clause 4.1.1;
  - all characterisation sampling results in relation to the excavated natural material supplied;
  - the volume of detected hotspot material and the location;
  - the quantity of the excavated natural material supplied; and
  - the name and address of each person to whom the generator supplied the excavated natural material.
- 4.11. The generator must provide, on request, the characterisation and sampling results for that excavated natural material supplied to the consumer of the excavated natural material.

## 5. Definitions

In this order:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**Bgl** means below ground level, referring to soil at depth beneath the ground surface.

**composite sample** means a sample that combines five discrete sub-samples of equal size into a single sample for the purpose of analysis.

**consumer** means a person who applies, or intends to apply excavated natural material to land.

**discrete sample** means a sample collected and analysed individually that will not be composited.

**generator** means a person who generates excavated natural material for supply to a consumer.

**hotspot** means a cylindrical volume which extends through the soil profile from the ground surface to the proposed depth of excavation, where the level of any contaminant listed in Column 1 of Table 2 is greater than the absolute maximum concentration in Column 3 of Table 2.

**in situ material** means material that exists on or below the ground level. It does not include stockpiled material.

**in situ sampling** means sampling undertaken on *in situ* material.

**N/A** means not applicable.

**stockpiled material** means material that has been excavated from the ground and temporarily stored on the ground prior to use.

**systematic sampling** means sampling at points that are selected at even intervals and are statistically unbiased.

**transaction** means:

- in the case of a one-off supply, the supply of a batch, truckload or stockpile of excavated natural material that is not repeated.
- in the case where the supplier has an arrangement with the recipient for more than one supply of excavated natural material, the first supply of excavated natural material as required under the arrangement.

**Manager Waste Strategy and Innovation**  
**Environment Protection Authority**  
**(by delegation)**

## Notes

The EPA may amend or revoke this order at any time. It is the responsibility of each of the generator and processor to ensure it complies with all relevant requirements of the most current order. The current version of this order will be available on '[www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)'

In gazetting or otherwise issuing this order, the EPA is not in any way endorsing the supply or use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this order are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this order nor the accompanying exemption guarantee that the environment, human health or agriculture will not be harmed.

Any person or entity which supplies excavated natural material should assess whether the material is fit for the purpose the material is proposed to be used for, and whether this use may cause harm. The supplier may need to seek expert engineering or technical advice.

Regardless of any exemption or order provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The supply of excavated natural material remains subject to other relevant environmental regulations in the POEO Act and Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of this order, is guilty of an offence and subject to prosecution.

This order does not alter the requirements of any other relevant legislation that must be met in supplying this material, including for example, the need to prepare a Safety Data Sheet. Failure to comply with the conditions of this order constitutes an offence under clause 93 of the Waste Regulation.

## Examples

### *In situ* sampling at depth

Example 1.

If the proposed depth of ENM excavation is between 1 m bgl and 1.4 m bgl, then:

- 1 sample on surface (as per the requirements of Table 2).
- 1 sample at 1 m bgl.
- No further depth sampling after 1 m bgl, unless required under section 4.4.4.

Example 2.

If the proposed depth of ENM excavation is at 1.75 m bgl, then:

- 1 sample on surface (as per the requirements of Table 2).
- 1 sample at 1 m bgl.
- 1 sample at 1.75 m bgl.
- No further depth sampling after 1.75 m bgl, unless required under section 4.4.4.

Example 3.

If the proposed depth of ENM excavation is at 2.25 m bgl, then:

- 1 sample on surface (as per the requirements of Table 2).
- 1 sample at 1 m bgl.
- 1 sample at 2 m bgl.
- No further depth sampling after 2 m bgl, unless required under section 4.4.4.