

# End of Waste Code Recycled Aggregates (ENEW07604819)

*Waste Reduction and Recycling Act 2011*



### Version history

Version	Date	Description of changes
1	October 2021	FINAL
1.01	23 June 2023	Minor update to reflect the definition of waste moving into the <i>Waste Reduction and Recycling Act 2011</i> . This does not impact the interests of the producer or user of the resource.

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## 1. Explanatory Statement

This End of Waste (EOW) code for **recycled aggregates** has been issued by the **chief executive** in accordance with section 159 of the *Waste Reduction and Recycling Act 2011* (WRR Act).

This EOW code states when the **recycled aggregates** become a **resource** and any relevant requirements and/or conditions for its use. If the **resource** is not being used in accordance with the relevant requirements and/or conditions of this EOW code, or another type of permit that allows for its use, it is considered a waste under section 8AA of the WRR Act and must be disposed of appropriately at a facility that is **lawfully** able to receive the waste.

## 2. Guidance

### 2.1 Resource use versus activity

Under section 155 of the WRR Act, a waste stops being a waste and becomes a **resource** when it meets the requirements and conditions of an EOW code. Under section 159 of the WRR Act, an EOW code specifies the circumstances when a waste becomes a resource; how it must be used to be considered a resource; when it is no longer considered a resource but a waste instead; and conditions that must be complied with by resources users and registered resource producers.

An Environmental Authority (EA) under the *Environmental Protection Act 1994* (EP Act) is required where an activity being undertaken triggers the threshold for any environmentally relevant activity (ERA). This means that treating or processing the waste to meet the resource quality criteria under the EOW code may require an EA under the EP Act if the activity meets the threshold for an ERA.

### 2.2 Resource versus waste

A waste that is a **resource** under an EOW code is considered a **resource** only for the use(s) approved in an EOW code. To be considered a resource under the EOW code, the material used as the resource must meet the requirements of the EOW code and be used in accordance with the conditions of the EOW code, otherwise it is considered a waste and must be managed in accordance with waste management requirements under the EP Act and the WRR Act and their subordinate legislation.

A **resource** under an EOW code, is deemed to be a waste again, if it is not used in accordance with the EOW code; if it is disposed of at a waste disposal site; or if it is deposited at a place in a way that would, apart from its use approved under an EOW code, constitute a contravention of the general littering provision (section 103) or the illegal dumping of waste provision (section 104) under the WRR Act.

### 2.3 Failure to comply

It is an offence under section 158(1) of the WRR Act for a **registered resource producer** to produce the **resource**, or use, sell or give away the **resource** unless they comply with the requirements under an EOW code. Further, it is an offence under section 158(2) of the WRR Act for a **person** to use the **resource** in a way, or for a purpose, that does not comply with an EOW code for the **resource**. These offences carry a maximum penalty of 1,665 penalty units for an individual and 8,325 penalty units for a corporation<sup>1</sup>.

Please refer to Appendix A of this EOW code for general obligations for all **persons** operating under this EOW code, which includes the **resource users**.

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<sup>1</sup> The value of a penalty unit is stated in the *Penalties and Sentences Regulation 2015* (Qld).

## **2.4 Lawfulness of the activity**

The issuing of this EOW code for the use of a **resource** does not warrant or imply the lawfulness of the activity under all legislation, or that approvals necessary under other legislation have or will be approved. It is the responsibility of the **registered resource producer** and **resource user** to identify and obtain all other approvals necessary for the relevant activities.

## **3. Period of this EOW code**

This EOW code takes effect from the day of gazettal of this EOW code and remains in force until it is amended, cancelled or suspended by the **chief executive**<sup>2</sup>.

## **4. Waste to which this EOW code applies**

This EOW code is limited to **recycled aggregates**<sup>3</sup>, which means either **railway ballast** that does not require **mechanical reprocessing** for its intended reuse or **aggregates** produced by **mechanically reprocessing** waste bricks, pavers, ceramics, **railway ballast**, **hardened concrete**, and **recovered pavement material**.

This EOW code does not apply to **recycled aggregates** which are reused at the site or on the project from which they are sourced.

The **recycled aggregates** become a **resource** when the requirements and conditions under this EOW code are met.

## **5. Person to whom this EOW code applies**

### **5.1 Registered resource producers of the resource**

5.1.1 A **registered resource producer** for this EOW code must comply with the stated registered resource producer requirements in Section 6 – Registered Resource Producer Requirements.

### **5.2 Resource users**

5.2.1 The **resource user** must only use the **resource** in a way, and for a purpose allowed under this EOW code.

5.2.2 The **resource user** must comply with the stated conditions of use in Section 7 – Conditions of Use.

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<sup>2</sup> If an EOW code is to be amended, cancelled or suspended, the chief executive will provide an opportunity to make written submissions by providing a proposed action notice to the registered resource producers; and publishing the proposed action notice on the chief executive's [website](http://www.des.qld.gov.au) (www.des.qld.gov.au).

<sup>3</sup> There are separate EOW codes for Returned concrete (ENEW07278517), Solid concrete washout (ENEW07602819) and Liquid concrete washout (ENEW07602719) are available on the chief executive's [website](http://www.des.qld.gov.au) (www.des.qld.gov.au).

## 6. Registered Resource Producer Requirements

Registration under this EOW code	
(6.1)	Prior to operating under this EOW code, the producer of the <b>resource</b> must register with the <b>chief executive</b> by giving a notice in the approved form <sup>4</sup> to become a <b>registered resource producer</b> for this EOW code.
Approved resource	
(6.2)	The approved <b>resource</b> is <b>recycled aggregates</b> that comply with <i>Requirement (6.3)</i> of this EOW code.
(6.3)	The <b>registered resource producer</b> must not use, sell or give away the <b>resource</b> under this EOW code unless it complies with all of the following criteria and quality characteristics: <ul style="list-style-type: none"> <li>a) complies with any relevant Australian Standard or published technical specification<sup>5</sup> for <b>aggregates</b> which is appropriate to the use for which the <b>aggregate</b> is destined for at the time it is produced; and</li> <li>b) all reasonable and practicable measures have been taken to ensure that <b>recycled aggregates</b> are segregated from <b>other waste material</b>.</li> </ul>
Record keeping	
(6.4)	The <b>registered resource producer</b> must keep the following <b>records</b> for each <b>load</b> greater than 5 tonnes of the <b>resource</b> provided to the <b>resource user</b> : <ul style="list-style-type: none"> <li>a) date of dispatch of the <b>resource</b>;</li> <li>b) name, <b>ABN</b><sup>6</sup> and address for the <b>person</b> receiving the <b>resource</b>; and</li> <li>c) quantity (in tonnes or cubic metres) of the <b>resource</b> supplied.</li> </ul>
(6.5)	All <b>records</b> required to be kept by the <b>registered resource producer</b> under this EOW code must be: <ul style="list-style-type: none"> <li>a) kept by the <b>registered resource producer</b> for a period of not less than five (5) years; and</li> <li>b) provided to the <b>chief executive</b> upon request, in the format requested and in the time period specified.</li> </ul>
Notification of incidents and breaches	
(6.6)	Any breach of a requirement of this EOW code must be reported to the <b>chief executive</b> within 24 hours of becoming aware of the breach <sup>7</sup> .
(6.7)	<b>Records</b> of any breach of a requirement of this EOW code, including full details of the breach and any subsequent actions taken, must be kept and provided to the <b>chief executive</b> upon request, in the format requested and in the time period specified.

<sup>4</sup> The approved form, *Registered Resource Producer for an EOW code*, is available on the Queensland Government website at [www.qld.gov.au](http://www.qld.gov.au), using the publication number (ESR/2018/4082) as a search term.

<sup>5</sup> In the absence of Australian Standards or published technical specifications for the product, it is required that the final product meets any other appropriate industry standards (e.g. Registered Professional Engineer of Queensland certified technical specifications).

<sup>6</sup> Not required where the receiver of the resource is not a business.

<sup>7</sup> Reporting can be via the **chief executive's** Pollution Hotline (1300 130 372 – option 2) or via online reporting through the **chief executive's website** ([www.des.qld.gov.au](http://www.des.qld.gov.au)).

## 7. Conditions of Use

Approved uses	
(7.1)	The approved use of the <b>resource</b> is for engineered purposes in building, construction <sup>8</sup> and/or landscaping applications.

## 8. Definitions

Words and phrases used throughout this EOW code in **bold** are defined below. Where a definition for a term used in this EOW code is sought and the term is not defined within this EOW code the definitions provided in the relevant legislation shall be used.

**'ABN'** means Australian Business Number which is a unique 11 digit number issued by the Australian Business Register and identifies a business in Australia.

**'aggregates'** means a granular material, including gravels, used in construction and for other engineered purposes. To avoid doubt, clays and soils are not considered to be aggregates for the purposes of this EOW code.

**'chief executive'** means the Department of Environment and Science or its successor.

**'environmental authority'** is an approval granted by the **chief executive** pursuant to the *Environmental Protection Act 1994* which authorises the holder of the environmental authority to carry out an environmentally relevant activity or a mining activity.

**'facility'** means a naturally occurring or constructed hollow, pit or void (e.g. a gully, mining shaft or quarry).

**'hardened concrete'** means a building or construction material made from a mixture of aggregate, sand, cement, and water.

**'load'** means the volume of **resource** put in or on something for conveyance or transportation, carried at one time and to one site. For example, a truck and trailer carrying the **resource** is considered as one load as well as multiple bins travelling by rail. Where the **resource** is transported via conveyor systems, information should be recorded on a daily basis until the transfer ceases.

**'mechanical(ly) reprocessing'** includes mechanically crushing, milling, grinding, shredding or sorting waste, whether or not for the purpose of recycling the waste (e.g. crushing or screening).

**'mine'**, whether current or non-current, means a mining activity as defined in Chapter 5 of the *Environmental Protection Act 1994* and means:

- a) an activity that is an authorised activity for a mining tenement under the *Mineral Resources Act 1989*; or
- b) another activity that is authorised under an approval under the *Mineral Resources Act 1989* that grants rights over land.

**'other waste material'** means non-aggregate materials, including but not limited to, other wastes and recyclable materials, plastic, metal, plaster, rubber, wood, cloth, carpet, insulation materials and/or regulated waste.

**'person(s)'** means an individual or a corporation.

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<sup>8</sup> This includes road and/or railway construction and maintenance. Use of the **resource** at a **facility** as fill material must be carried out in accordance with the requirements of an environmental authority that authorises Environmentally Relevant Activity (ERA) 60 as prescribed under Schedule 2 of the Environmental Protection Regulation 2019. For the purpose of filling a void, the recycled aggregates are not considered a resource.

**'quarry'**, whether current or non-current, means a pit from which materials have been extracted under environmentally relevant activity 16 (Extractive and screening activities) as authorised under the *Environmental Protection Act 1994*.

**'railway ballast'** means free draining coarse aggregate of high strength used as support for railway tracks.

**'records'** include breach notifications, written procedures, analysis results, monitoring reports and monitoring programs required under a requirement or condition of this EOW code.

**'recovered pavement material'** means removed, surplus and/or unused pavement materials, including road base and sub-base materials, containing asphalt, sprayed seals, granular material, stabilised materials (including those stabilised with cementitious binders and bitumen) and/or aggregates.

**'recycled aggregates'** means either **railway ballast** that does not require **mechanical reprocessing** for its intended reuse or **aggregates** produced from **mechanically reprocessing** waste bricks, pavers, ceramics, **railway ballast**, **hardened concrete**, and **recovered pavement material**.

**'records'** include breach notifications, written procedures, analysis results, monitoring reports and monitoring programs required under a condition or requirement of this EOW code.

**'registered resource producer'** means a **person** who generates or receives the waste, produces the **resource**, and has registered with the **chief executive** (in accordance with *Requirement (6.1)*) to use, sell or give away the **resource** to be used under this EOW code.

**'resource user(s)'** means a **person** who uses the **resource** for a use approved under this EOW code and in such a manner which does not cause any **environmental harm**. This includes any **registered resource producer(s)** who use the **resource**.

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## Appendix A — General obligation for all persons

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This appendix is not intended to provide a comprehensive assessment of all obligations under Queensland law. It provides some general information and persons are encouraged to familiarise themselves with all requirements related to their specific operation.

### Responsibilities under the *Environmental Protection Act 1994*

All persons within the State of Queensland must also meet their obligations under the *Environmental Protection Act 1994*, and the regulations made under that Act.

#### General environmental duty

Section 319 of the *Environmental Protection Act 1994* states that we all have a general environmental duty. This means that we are all responsible for the actions we take that affect the environment. We must not carry out any activity that causes or is likely to cause environmental harm unless we take all reasonable and practicable measures to prevent or minimise the harm. To decide what meets your general environmental duty, you need to consider:

- the nature of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of successful application of the different measures to prevent or minimise environmental harm that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

It is not an offence not to comply with the general environmental duty. However, maintaining your general environmental duty is a defence against the following acts:

- (a) an act that causes serious or material environmental harm or an environmental nuisance
- (b) an act that contravenes a noise standard
- (c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

More information is available on the Department of Environment and Science website [www.des.qld.gov.au](http://www.des.qld.gov.au).

### Some relevant offences under the *Environmental Protection Act 1994*

#### Causing serious or material environmental harm (sections 437–39)

Material environmental harm is when the harm is not trivial or negligible in nature. Serious environmental harm is harm that is irreversible, of a high impact or widespread, or that is caused to an area of high conservation value or special significance. Damages, or costs required to rehabilitate the environment, of over \$5000 constitutes material environmental harm and damages, or costs required to rehabilitate the environment, of over \$50,000 constitutes serious environmental harm.

Serious or material environmental harm excludes environmental nuisance.

#### Causing environmental nuisance (section 440)

Environmental nuisance is unreasonable interference with an environmental value caused by aerosols, fumes, light, noise, odour, particles or smoke. It may also include an unhealthy, offensive or unsightly condition because of contamination.

#### Depositing a prescribed water contaminant in waters (section 440ZG)

Prescribed contaminants include a wide variety of contaminants listed in Schedule 10 of the Environmental Protection Regulation 2019.

It is your responsibility to ensure that prescribed contaminants are not left in a place where they may or do enter a waterway, the ocean or a stormwater drain. This includes making sure that stormwater falling on or running across your site does not leave the site contaminated. Where stormwater contamination occurs you must ensure that it is treated to remove contaminants. You should also consider where and how you store material used in your processes onsite to reduce the chance of water contamination.

**Placing a contaminant where environmental harm or nuisance may be caused (section 443)**

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm or environmental nuisance.

**Some relevant offences under the *Waste Reduction and Recycling Act 2011***

**Littering (section 103)**

Litter is any domestic or commercial waste and any material a person might reasonably believe is refuse, debris or rubbish. Litter can be almost any material that is disposed of incorrectly. Litter includes cigarette butts and drink bottles dropped on the ground, fast food wrappers thrown out of the car window, poorly secured material from a trailer. However, litter does not include any gas, dust, smoke or material emitted or produced during, or because of, the normal operations of a building, manufacturing, mining or primary industry.

**Illegal dumping of waste (section 104)**

Illegal dumping is the dumping of large volumes of litter (200 litres or more) at a place.

**Failure to comply with EOW code (section 158)**

A registered resource producer for an EOW code must not use, sell or give away the resource unless the registered resource producer complies with the requirements of the EOW code relating to the resource.

A person, other than a registered resource producer, must not use a resource in a way, or for a purpose, that does not comply with an EOW code for the resource.

**Approved:**

3 October 2021

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