



Technical Direction

Environment

ETD 2015/020

Legal offsite disposal of Roads and Maritime Services waste

Summary:	Audience:
<p>A duly completed and signed notice under section 143(3A) of the <i>Protection of the Environment Operations Act 1997</i> (NSW) (“POEO Act”) (“s.143 Notice”) must be received by either Roads and Maritime Services (Roads and Maritime) or its contractors prior to transporting project waste generated by or for Roads and Maritime to a place that is not owned by Roads and Maritime and is not a licensed landfill or resource recovery facility. Roads and Maritime and its contractors must ensure that such waste is appropriately classified and correctly described on the s.143 Notice.</p>	<p>Roads and Maritime staff and contractors</p>

What activities are within the scope of this direction?

This environmental direction applies to project waste generated by or for Roads and Maritime and transported to places that are not owned by Roads and Maritime and not a licensed waste facility (the “Waste Site”). This includes waste transported for reuse, recycling, disposal, or stockpiling.

Common project waste within the scope of this direction include materials such as spoil, fill, Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM), crushed rock, reclaimed asphalt pavement, mulched vegetation, waste concrete, and bridge demolition/maintenance waste.

What activities are outside the scope of this direction?

This direction does not apply to:

- Waste transported to land owned by Roads and Maritime; or
- Waste transported to licensed landfills or licensed resource recovery facilities; or
- Waste generated at Roads and Maritime administration sites (such as office waste); or
- Waste activities undertaken prior to the release of this direction; or
- Temporary stockpiling of waste within the road corridor at stockpile sites established and managed in accordance with the *Roads and Maritime Stockpile Site Management Guideline May 2015* and the *Roads and Maritime Services stockpile exemption 2015*.

Approvals:

Owner:	Senior Environmental Specialist (Sustainability)	Review Date:	27 October 2016
Authorised by:	General Manager Environment	Effective Date:	17 April 2007

What is a s.143 notice?

It is an offence under section 143 of the POEO Act to transport waste to a place that cannot lawfully receive that waste. Both the transporter of the waste and the owner of the waste can be prosecuted for this offence. It is the responsibility of the waste transporter and waste owner to ensure that a place can lawfully receive that waste.

A s.143 Notice (Attachment D), once completed and signed, is a declaration from the land owner/occupier (“landholder”) that waste is of a certain type and quantity may be legally accepted for a certain use on their land.

Requirements of this Direction

It is Roads and Maritime policy to:

1. Ensure that waste is classified correctly in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (www.epa.nsw.gov.au/wasteregulation/classify-waste.htm).
2. Seek reuse or recycling options for waste materials in preference to landfill disposal. Where reuse of waste materials by a landholder without the need for an environmental protection licence is subject to the conditions of an EPA resource recovery order / exemption, Roads and Maritime as the generator of waste must ensure the requirements of the applicable order are upheld and that the landholder is aware of the specific requirements of the exemption¹. Typical project waste that is subject to resource recovery orders/exemptions include excavated natural materials, mulch, and recovered aggregates.
3. Ensure that, prior to transporting waste to the Waste Site:
 - i) A letter, consistent with the templates in this Environmental Direction (Appendix A and B), and a blank s.143 Notice (as per Appendix D) are sent to the landholder that will receive the waste.
 - ii) An original completed and signed s.143 Notice is received by Roads and Maritime or its contractors from the landholder. The landholder should also keep a copy of the s.143 Notice. Roads and Maritime may need to liaise directly with the local council to assist the landholder to complete the s.143 Notice.
 - iii) The waste and its use are accurately described on the s.143 Notice.
 - iv) The landholder has been provided with information about illegal dumping (as per Attachment C).
 - v) Waste delivery arrangements have been confirmed with the landholder.
 - vi) It is clear whether the waste will be applied to land permanently or temporarily stockpiled.
 - vii) A copy of the s.143 Notice is provided to the waste transporter, who must be made aware of the waste’s classification and the details on the s.143 Notice.

What are the responsibilities of the landholder receiving the waste?

There is no legal obligation for the Waste Site landholder to complete a s.143 Notice. However, it is Roads and Maritime policy that waste will not be sent to a Waste Site unless the landholder completes and signs a s.143 Notice before receiving the waste.

¹The EPA can grant exemptions from some regulatory requirements (such as the requirement for an environmental protection licence for waste disposal by application to land) where it can be demonstrated that a specific type of waste can safely be used for another purpose, rather than being disposed of in accordance with the waste regulations.

Resource recovery orders include conditions which Roads and Maritime, as the waste generator, must meet. Resource recovery exemptions also contain the conditions which the landholder receiving the waste must meet.

Further information about EPA resource recovery orders and exemptions can be found on the EPA website (www.epa.nsw.gov.au/wasteregulation/recovery-exemptions.htm) and in the Roads and Maritime [waste fact sheets](#)

Prior to signing the s.143 Notice, the landholder should consult with the local council and the EPA to assess whether a development consent or EPA licence is required to legally accept the waste. The landholder should also make themselves aware of the specific requirements of the resource recovery exemption for reuse of the material if applicable.

Note that while land receiving waste VENM does not require an EPA waste disposal to land licence under the POEO Act, the landholder may still require approvals under other legislation (for example, development approval from local council).

Practical implementation of the s.143 Notice requirements for Roads and Maritime Projects

Reuse opportunities for waste should be assessed as early as possible in the project development and delivery process. In order to facilitate the process and to promote landholder awareness, a letter – consistent with the template at Attachment A or B – should be sent to the landholder.

- Attachment A should be used when works are being undertaken by Roads and Maritime directly
- Attachment B should be used when works are being undertaken by a contractor on behalf of Roads and Maritime.

This letter highlights the roles of the s.143 Notice, Roads and Maritime and the landholder in ensuring that the waste is appropriately managed.

Landholders will require time to assess their responsibilities and seek approvals, where required. Roads and Maritime may provide assistance by liaising directly with the local council and helping the landholder to complete the s.143 Notice.

What are the implications of not obtaining a s.143 Notice?

Members of the Roads and Maritime Executive, Roads and Maritime employees or Roads and Maritime contractors may be prosecuted for unlawfully transporting or depositing waste under s.143 of the POEO Act if:

- The land could not legally receive the waste; and
- Roads and Maritime does not possess a duly completed and signed s.143 Notice that accurately describes the waste type, quantity and end use.

It is a defence to any proceedings against Roads and Maritime under section 143 if Roads and Maritime can establish that:

1. A s.143 Notice was given to Roads and Maritime or its contractors by the landholder at the time of the alleged offence (or if the s.143 Notice was displayed at the Waste Site at the time of the alleged offence); and
2. The s.143 Notice stated that the place could lawfully receive the waste; and
3. Roads and Maritime or its contractors had no reason to believe that the waste could not lawfully be received at the Waste Site.

Roads and Maritime cannot rely on any advice given by the owner or occupier of the Waste Site in relation to its ability to legally accept waste unless that advice is in the form of a s.143 Notice.

Roads and Maritime Code of Conduct and Ethics

Roads and Maritime staff and contractors are reminded of their obligations under the Roads and Maritime Code of Conduct and Ethics when managing the sale or transfer of excess materials from Roads and Maritime projects.

Supersedes: Nil

Attachment A – Letter template for works undertaken by Roads and Maritime

[Select and type reference no.]

[Select and type file no.]

[Select and type date]

[Select and type recipient name]

[Select and type recipient company]

[Select and type recipient address]

Dear [Select and type salutation]

RECEIVING ROADS AND MARITIME WASTE AT [INSERT LOCATION OF WASTE FACILITY]

Thank you for your interest in receiving [discuss type and quantity of waste and the intended use for the waste] (“Roads and Maritime Waste”).

It is important to Roads and Maritime that all of its waste materials are managed in a way that meets legislated requirements and will not harm the environment or human health. This letter provides important information that will help you to understand what you need to do to legally receive this material and avoid harm to environmental and human health.

You will need to do the following things before Roads and Maritime will send the Roads and Maritime Waste to your property:

1. Read the illegal waste dumping “Questions and Answers” attached to this letter. The Environment Protection Authority (“EPA”) website at www.epa.nsw.gov.au/illegaldumping/index.htm has other information that may help you to understand the laws relating to receiving waste materials.
2. Check with your local council and the EPA whether any approvals or licenses are needed before your property can accept Roads and Maritime Waste. *[Optional – Roads and Maritime or its contractor can help the landholder by contacting council on the landholder’s behalf].*
3. Make sure that you obtain all relevant approvals, licenses or permits that are required for you to legally receive Roads and Maritime Waste. Often there will be no need for any approvals, licenses, or permits, but always check with council and the EPA whether this will be the case for your property.
4. *[This clause only applies where waste is being provided to the landholder for reuse in accordance with an EPA resource recovery order/exemption, delete if not applicable]* Make sure that you fully understand the requirements for reuse of the Roads and Maritime Waste in accordance with the [insert title of exemption]. A copy of this exemption is attached for your reference. It can also be downloaded from the EPA website at [insert web reference].

5. *[This clause only applies where the waste being provided is **mulch** and it is being provided to the landholder for reuse in accordance with NSW EPA mulch order and exemption, delete if not applicable]* Make sure that you fully understand the measures that apply to receiving and land applying the waste. These measures are attached to the Section 143 notice provided.
6. Complete and sign a “Section 143 Notice” (copy attached). Only send this form to Roads and Maritime if you are confident that your property can lawfully receive Roads and Maritime Waste. In addition, you must ensure that all of the details on the “Section 143 Notice” are correct and there is no reason why the materials can’t be legally accepted for the intended use.
*[Add this where the waste being provided is **mulch**]* The Attachment to the “Section 143 Notice” must also be signed to confirm that you agree to implement the management measures that apply to the reuse of the waste.
7. Once Roads and Maritime Waste arrives on your property, make sure that you manage Roads and Maritime Waste in a way that:
 - complies with any relevant approvals, licences or permits;
 - complies with any relevant resource recovery exemptions;
 - is consistent with what you’ve told Roads and Maritime in the Section 143 Notice; and
 - avoids harm to the environment, human health and other people’s property.
8. *[Optional – the Roads and Maritime may include further requirements, depending on the environmental risks associated with Roads and Maritime waste and their proposed use. For example, Roads and Maritime may require that adequate security arrangements and visible warning signs are in place at temporary bridge timber stockpiles to avoid public contact with the timbers or any uncontrolled removal of the timbers].*

Before sending Roads and Maritime Waste to your property, Roads and Maritime or its contractors will:

1. Identify the type and quantity of Roads and Maritime Waste.
2. *[This clause only applies where waste is being provided to the landholder for reuse in accordance with an EPA resource recovery order/exemption, delete if not applicable].* Provide a copy of the [insert title of order] and a written statement of compliance certifying that all the requirements set out in the [insert title of order] have been met.
3. *[This clause only applies where the waste being provided is mulch and it is being provided to the landholder for reuse in accordance with NSW EPA mulch order and exemption, delete if not applicable]* Identify the management measures that you must follow when applying the waste to land.
4. Request a completed and signed “Section 143 Notice” from you, which will demonstrate to Roads and Maritime that your property can legally receive the Roads and Maritime Waste.
5. Check the “Section 143 Notice” to make sure that the type and quantity of the Roads and Maritime Waste can be legally transported to your property.
6. Confirm arrangements with you for the delivery of the Roads and Maritime Waste.
7. Provide a copy of the completed “Section 143 Notice” and a description of the Roads and Maritime Waste to the driver who will deliver the Roads and Maritime Waste to your property.

If you have any inquiries about these matters please contact [insert contact name] on (xx) xxxx xxxx.

Yours sincerely

[Select and type sender name]

[Select and type sender title]

Attachment B – Letter template for works undertaken by contractor

[Select and type reference no.]

[Select and type file no.]

[Select and type date]

[Select and type recipient name]

[Select and type recipient company]

[Select and type recipient address]

Dear [Select and type salutation]

RECEIVING WASTE AT [INSERT LOCATION OF WASTE FACILITY]

Thank you for your interest in receiving [discuss type and quantity of waste and the intended use for the waste] (“**Waste**”) from [Insert reference to road project from which Waste will be generated].

It is important that all of the waste materials generated from [insert road project name] are managed in a way that meets legislated requirements and will not harm the environment or human health. This letter provides important information that will help you to understand what you need to do to legally receive this material and avoid harm to environmental and human health.

You will need to do the following things before the waste will be sent to your property:

1. Read the illegal waste dumping “Questions and Answers” attached to this letter. The Environment Protection Authority (“EPA”) website at <http://www.epa.nsw.gov.au/illegaldumping/index.htm> has other information that may help you to understand the laws relating to receiving waste materials.
2. Check with your local council and the EPA whether any approvals or licenses are needed before your property can accept Waste. *[Optional – Roads and Maritime or its contractor can help the landholder by contacting council on the landholder’s behalf].*
3. Make sure that you obtain all relevant approvals, licenses or permits that are required for you to legally receive the Waste. Often there will be no need for any approvals, licenses, or permits, but always check with council and the EPA whether this will be the case for your property.
4. *[This clause only applies where waste is being provided to the landholder for reuse in accordance with an EPA resource recovery order/exemption, delete if not applicable]* Make sure that you fully understand the requirements for reuse of the Waste in accordance with the [insert title of exemption]. A copy of this exemption is attached for your reference. It can also be downloaded from the EPA website at [insert web reference].
5. *[This clause only applies where the waste being provided is **mulch** and it is being provided to the landholder for reuse in accordance with NSW EPA mulch order and exemption, delete if not applicable]* Make sure that you fully understand the measures that apply to receiving and land applying the waste. These measures are attached to the Section 143 notice provided.
6. Complete and sign a “Section 143 Notice” (copy attached). Only send this form to Roads and Maritime or its contractors if you are confident that your property can lawfully receive Roads and Maritime Waste. In addition, you must ensure that all of the details on the “Section 143 Notice”

are correct and there is no reason why the materials can't be legally accepted for the intended use.

*[Add this where the waste being provided is **mulch**]* The Attachment to the "Section 143 Notice" must also be signed to confirm that you agree to implement the management measures that apply to the reuse of the waste.

7. Once the Waste arrives on your property, make sure that you manage the Waste in a way that:
 - complies with any relevant approvals, licences or permits;
 - complies with any relevant resource recovery exemptions;
 - is consistent with what you've told Roads and Maritime in the Section 143 Notice; and
 - avoids harm to the environment, human health and other people's property.
8. *[Optional – you may include further requirements, depending on the environmental risks associated with the waste and their proposed use. For example, you may require that adequate security arrangements and visible warning signs are in place at temporary bridge timber stockpiles to avoid public contact with the timbers or any uncontrolled removal of the timbers].*

Before sending the Waste to your property, [insert your company name] will:

1. Identify the type and quantity of Waste.
2. *[This clause only applies where waste is being provided to the landholder for reuse in accordance with an EPA resource recovery order/exemption, delete if not applicable].* Provide a copy of the [insert title of order] and a written statement of compliance certifying that all the requirements set out in the [insert title of order] have been met.
3. *[This clause only applies where the waste being provided is **mulch** and it is being provided to the landholder for reuse in accordance with NSW EPA mulch order and exemption, delete if not applicable]* Identify the management measures that you must follow when applying the waste to land.
4. Request a completed and signed "Section 143 Notice" from you, which will demonstrate to [insert your company name] that your property can legally receive the Waste.
5. Check the "Section 143 Notice" to make sure that the type and quantity of the Waste can be legally transported to your property.
6. Confirm arrangements with you for the delivery of the Waste.
7. Provide a copy of the completed "Section 143 Notice" and a description of the Waste to the driver who will deliver the Waste to your property.

If you have any inquiries about these matters please contact [insert contact name] on (xx) xxxx xxxx.

Yours sincerely

[Select and type sender name]

[Select and type sender title]

Attachment C - Questions and Answers for the landowner/occupier

Extracted from Environment Protection Authority website,
<http://www.environment.nsw.gov.au/waste/s143questions.htm>, April 2007

Why is illegal waste dumping a problem?

- lower the value of your property and surrounding properties;
- lead to land degradation;
- impact on the health of your family, neighbours and the local community in your catchment;
- contaminate local waterways; and
- contribute, on occasions, to dangerous landslides

Apart from these critical concerns, illegal waste dumping can cost you money. There is a high cost to the community as a whole when remediation work is required following waste dumping. The cost of cleaning up after waste dumping can be particularly devastating, however, for the individual landowner/occupier.

I don't run a waste facility. How does this affect me?

The legal definitions of "waste" and "waste facility" are very broad. A waste facility covers any premises used for storing, treating, reprocessing, sorting or disposing of waste. If you use material brought from another site to build a dam on your property or to construct a driveway or to fill certain areas then this might mean your land is being used, in the legal sense, as a waste facility.

There are some properties in metropolitan, rural and semi-rural areas of NSW that are being used currently as illegal waste dumping or landfill sites. In some cases a few unscrupulous waste generators and/or transporters seeking to minimise disposal costs have talked landowners into accepting waste which they are not lawfully able to accept. In other cases, landowners/occupiers are unaware of the requirement to get council and Environment Protection Authority (EPA) approval before accepting waste.

Landowners/occupiers can suffer a double blow: they find that they are left with a serious land degradation problem and, up until now, in many cases have been left footing the clean-up bill on their own.

What can be done to deal with these problems?

In order to tackle the illegal waste dumping problem and protect landowners from unscrupulous dumpers, some legislative changes have been made. The changes were originally contained in the Waste Minimisation and Management Amendment Act 1998 and commenced on 15 January 1999. In general terms, they have been brought forward into the Protection of the Environment Operations Act 1997, which commenced on 1 July 1999.

The new laws are aimed at making sure transporters and owners of waste accept responsibility for its disposal in a lawful manner. They introduce tougher offence provisions for waster transporters and waste owners who are responsible for illegal dumping. The changes:

- make it harder for transporters to get away with dumping waste illegally by making it an offence for them to dispose of waste at a place that cannot lawfully be used as a waste facility; and
- stop waste generators and transporters escaping from liability by simply saying they obtained permission from a landowner to leave waste on their property. Under the new laws, transporters must be able to prove the property can legally accept the waste.

The existing liability of landowners/occupiers remains unchanged under the new legislation. However, the changes provide an increased level of protection for landowners/occupiers.

How will the changes protect me?

Under the new laws, if a transporter wants to rely on advice from a landowner or occupier that their land can be used lawfully as a waste facility, they can only rely on a notice, certified by the landowner or occupier, in a form approved by the EPA.

The notice, which can be given to a transporter or displayed at a property, will describe the amounts and types of waste you say you can lawfully store, treat, reprocess, sort or dispose of. It will also state why you can lawfully do this, for example, because you hold a waste facility licence.

It is very important that you clearly state the exact type and amount of waste you can take. If a transporter provides different waste they may be guilty of an offence and can be made to pay for any clean-up action required. For example, if you want clean fill you should describe it as "clay, gravel, sand, soil and rock not mixed with any other waste" to make it clear you are not agreeing to take waste contaminated with lead or other substances. Landowners/occupiers should ensure that they retain a copy of any notice given out.

Do I have to use a notice?

No. You do not have to give a transporter a notice to accept waste. A transporter can rely on other means to establish if your place can lawfully be used as a waste facility for the waste. For example, they could rely on an EPA waste facility or activity licence.

Should I use a notice?

You should only use a notice when you are absolutely sure you can lawfully use your property as a waste facility for the waste you describe in the notice. If a transporter gives you the waste described in the notice but you could not lawfully accept this, you, and not the transporter, may be liable for a waste disposal offence.

What if I accept waste I shouldn't have?

Currently it is an offence for the owner or occupier of any land to cause or permit their land to be used as a waste facility without lawful authority. It is also an offence to fail to hold a waste facility or activity licence where this is required by law. The new laws have not changed this.

If I sign the notice can I take the waste?

No. Signing the notice does not mean you can lawfully take the waste.

What do I do if I want to take waste?

You should check whether you need a waste facility or waste activity licence. You can ring the EPA Environment Line on 131 555 for assistance. You should also check with your local council to see if you need development consent before you accept the waste.

Attachment D – Notice under section 143

**ORIGINAL: TO BE COMPLETED BY LANDOWNER AND GIVEN TO WASTE
TRANSPORTER OR DISPLAYED AT WASTE FACILITY**

**APPROVED NOTICE UNDER SECTION 143
PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997**

WARNING: If you sign this notice it could be used as a defence by a transporter if they deposit waste on your land. It does not give you a defence. It is an offence to provide false or misleading information about waste (section 144AA)

I (full name)

am the owner and/or occupier (delete if not applicable) of (insert street address and/or folio identification number of place):

.....

.....
certify that this place can lawfully be used as a waste facility for the **waste(s) specified** in the following table.
(Note: you must clearly state the exact type. Do not use terms like 'fill' or 'clean fill'.)

Table of specified wastes

Type of waste e.g. virgin excavated natural material	Classification of waste e.g. general solid waste	Amount of waste e.g. 50 tonnes
.....
.....
.....
.....

Before signing this notice you should read the back of this form for important information about offences.

Signature	Signature
Name	Name
Position title (e.g. director, owner, occupier)	Position title (e.g. director, owner, occupier)
ACN	ACN
Date	Date

Note that only one signature is required if the person signing this notice is **not** signing on behalf of a company.

Lawful authority to use place as waste facility for the specified waste

The place can lawfully be used for the types of waste described in the notice **because** (Delete whichever is not applicable):

A. This use is permitted by EPA licence number:

Or

An EPA licence is not required (for example, a resource recovery exemption may apply)

And because (Delete whichever is not applicable):

B. The place has consent or approval under the *Environmental Planning and Assessment Act 1979* for the uses described in the table above.

Or

The place can be used as a waste facility without consent or approval under the *Environmental Planning and Assessment Act 1979*.

The use(s) for the waste at the place are:

Land owners and occupiers should note that it is an offence to use land as a waste facility without lawful authority, see section 144 of the *Protection of the Environment Operations Act 1997* (POEO Act). It is also an offence to carry out an activity listed in Schedule 1 to the POEO Act without an Environment Protection Licence when one is required (see section 48). Offences carry a maximum penalty of \$250,000 for an individual and \$1,000,000 for a corporation. In the case of a continuing offence, a further penalty applies for each day the offence continues, being \$60,000 for an individual and \$120,000 for a corporation.

Regardless of this notice, any person who carries out any development or activity on land involving waste must ensure they comply with any planning requirements including obtaining any planning consent or approval and complying with any conditions attached to that consent or approval

Information about this notice

Waste is a very broad concept under the law and covers many types of materials you may not think of as waste; for example, it covers waste tyres, building and demolition materials and virgin excavated natural material.

Under the POEO Act, a waste facility includes any premises used for storage, treatment, processing, sorting or disposal of waste. For example, if you are planning to build a road or dam, or fill a gully, this could involve using your place as a waste facility.

Section 143 of the POEO Act makes it an offence to transport waste to a place that cannot lawfully be used as a waste facility for that waste. The notice above is the approved notice under section 143 (3A) of the POEO Act. If you sign this notice it may be used as a defence by a transporter if they are charged with unlawfully transporting or depositing waste on your land. It does not give you a defence to using your land as a waste facility without lawful authority.

If you sign this notice, you should give it to the transporter or display it at the waste facility. The transporter should keep the original and you should keep a copy.

If the landowner or occupier signing this notice is a company, the full name of the company and ACN should be used and the notice must be executed in accordance with the Corporations Law.

If you operate an unlicensed landfill site for business or commercial purposes you should contact the EPA to discuss reporting and operating requirements.

If you are not sure if you require an EPA licence you can ring the Environment Line on 131 555.

You are likely to need development consent to use your land as a waste facility. If you are not sure if you require development consent you should contact your local council.

Attachment to the Section 143 Notice

Measures that apply to the land application of waste mulch

I (*full name*)

am the owner and/or occupier (*delete if not applicable*) of (*insert street address and/or folio identification number of place*):

.....

.....

I agree to land apply the waste mulch supplied, as detailed on this Section 143 Notice, in accordance with the following measures:

- [Detail here all the measures that are required for the land application of mulch as detailed in the Roads and Maritime Approved Project/Works Mulch Management Plan].

Signature

Name

Position title (e.g. director, owner, occupier)

ACN

Date

Signature

Name

Position title (e.g. director, owner, occupier)

ACN

Date

Note that only one signature is required if the person signing this notice is **not** signing on behalf of a company.

COPY: TO BE KEPT BY LANDOWNER AND KEPT FOR RECORDS

**APPROVED NOTICE UNDER SECTION 143
PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997**

WARNING: If you sign this notice it could be used as a defence by a transporter if they deposit waste on your land. It does not give you a defence. It is an offence to provide false or misleading information about waste (section 144AA)

I (full name)

am the owner and/or occupier (delete if not applicable) of (insert street address and/or folio identification number of place):

.....

.....

certify that this place can lawfully be used as a waste facility for the **waste(s) specified** in the following table.
(Note: you must clearly state the exact type. Do not use terms like 'fill' or 'clean fill'.)

Table of specified wastes

Type of waste e.g. virgin excavated natural material	Classification of waste e.g. general solid waste	Amount of waste e.g. 50 tonnes
.....
.....
.....
.....

Before signing this notice you should read the back of this form for important information about offences.

Signature
Name
Position title (e.g. director, owner, occupier)
ACN
Date

Signature
Name
Position title (e.g. director, owner, occupier)
ACN
Date

Note that only one signature is required if the person signing this notice is **not** signing on behalf of a company.

Lawful authority to use place as waste facility for the specified waste

The place can lawfully be used for the types of waste described in the notice **because** (Delete whichever is not applicable):

A. This use is permitted by EPA licence number:

Or

An EPA licence is not required (for example, a resource recovery exemption may apply)

And because (Delete whichever is not applicable):

B. The place has consent or approval under the *Environmental Planning and Assessment Act 1979* for the uses described in the table above.

Or

The place can be used as a waste facility without consent or approval under the *Environmental Planning and Assessment Act 1979*.

The use(s) for the waste at the place are:

Land owners and occupiers should note that it is an offence to use land as a waste facility without lawful authority, see section 144 of the *Protection of the Environment Operations Act 1997* (POEO Act). It is also an offence to carry out an activity listed in Schedule 1 to the POEO Act without an Environment Protection Licence when one is required (see section 48). Offences carry a maximum penalty of \$250,000 for an individual and \$1,000,000 for a corporation. In the case of a continuing offence, a further penalty applies for each day the offence continues, being \$60,000 for an individual and \$120,000 for a corporation.

Regardless of this notice, any person who carries out any development or activity on land involving waste must ensure they comply with any planning requirements including obtaining any planning consent or approval and complying with any conditions attached to that consent or approval

Information about this notice

Waste is a very broad concept under the law and covers many types of materials you may not think of as waste; for example, it covers waste tyres, building and demolition materials and virgin excavated natural material.

Under the POEO Act, a waste facility includes any premises used for storage, treatment, processing, sorting or disposal of waste. For example, if you are planning to build a road or dam, or fill a gully, this could involve using your place as a waste facility.

Section 143 of the POEO Act makes it an offence to transport waste to a place that cannot lawfully be used as a waste facility for that waste. The notice above is the approved notice under section 143 (3A) of the POEO Act. If you sign this notice it may be used as a defence by a transporter if they are charged with unlawfully transporting or depositing waste on your land. It does not give you a defence to using your land as a waste facility without lawful authority.

If you sign this notice, you should give it to the transporter or display it at the waste facility. The transporter should keep the original and you should keep a copy.

If the landowner or occupier signing this notice is a company, the full name of the company and ACN should be used and the notice must be executed in accordance with the Corporations Law.

If you operate an unlicensed landfill site for business or commercial purposes you should contact the EPA to discuss reporting and operating requirements.

If you are not sure if you require an EPA licence you can ring the Environment Line on 131 555.

You are likely to need development consent to use your land as a waste facility. If you are not sure if you require development consent you should contact your local council.

Attachment to the Section 143 Notice

Measures that apply to the land application of waste mulch

I (*full name*)

am the owner and/or occupier (*delete if not applicable*) of (*insert street address and/or folio identification number of place*):

.....

.....

I agree to land apply the waste mulch supplied, as detailed on this Section 143 Notice, in accordance with the following measures:

- [Detail here all the measures that are required for the land application of mulch as detailed in the Roads and Maritime Approved Project/Works Mulch Management Plan].

Signature

Name

Position title (e.g. director, owner, occupier)

ACN

Date

Signature

Name

Position title (e.g. director, owner, occupier)

ACN

Date

Note that only one signature is required if the person signing this notice is **not** signing on behalf of a company.