



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

## The Boral engineered glass sand exemption 2022

### Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Boral engineered glass sand from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Boral engineered glass sand order May 2022'.

### 1. Waste to which this exemption applies

- 1.1. This exemption applies to Boral engineered glass sand that is, or is intended to be, applied to the land for the purpose of pipe bedding, drainage, compaction sand or road making activities, or for inclusion in concrete or asphalt.
- 1.2. Boral engineered glass sand means a blend of:
  - 1.2.1. recovered glass sand that meets all conditions of the 'recovered glass sand order 2014', and
  - 1.2.2. recovered aggregate that meets all conditions of the 'recovered aggregate order 2014' and has been produced at the Boral Recycling facility in Kooragang (EPL: 11968); and/or
  - 1.2.3. tunnel spoil generated by major infrastructure projects, for which a resource recovery order and exemption has been granted; and/or
  - 1.2.4. virgin quarried sand; and/or
  - 1.2.5. virgin quarried sandstone; and/or
  - 1.2.6. virgin excavation natural material (VENM) as defined in the Protection of the Environment Operations Act 1997 (POEO Act).

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

- 2.1. This exemption applies to any person who applies, or intends to apply, the Boral engineered glass sand to land as set out in section 1.

## **3. Revocation**

- 3.1. The “Boral engineered glass sand exemption 2020”, which commenced on 10 August 2020, is revoked from 31 May 2022.

## **4. Duration**

- 4.1. This exemption commences on 25 May 2022 and is valid until 25 May 2024 unless revoked by the EPA in writing.

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

- 5.1. This exemption only applies to the premises at which the consumer’s actual or intended application of Boral engineered glass sand 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 Boral engineered glass sand to land as pipe bedding, drainage, or road making activities, or included in concrete or asphalt at the premises:
  - section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 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 Boral engineered glass sand 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 the Boral engineered glass sand is received at the premises, the material must meet all chemical and other material requirements for Boral engineered glass sand which are required on or before the supply of Boral engineered glass sand under ‘the Boral engineered glass sand order August 2020’.
- 7.2. The Boral engineered glass sand can only be applied to land for the purpose of pipe bedding, drainage, compaction sand or road making activities, or for inclusion in concrete or asphalt.
- 7.3. This approval does not apply to the application of Boral engineered glass sand as engineering fill, in earthworks, or on private land, unless:
  - 7.3.1. the Boral engineered glass sand is applied only to the minimum extent necessary for the construction of the road, and

- 7.3.2. a development consent has been granted under the relevant Environmental Planning Instrument (EPI), or
  - 7.3.3. the road provides access (temporary or permanent) to a development approved by a Council, or
  - 7.3.4. the works are either an exempt or complying development.
- 7.4. The consumer must keep a written record of the following for a period of six years:
- the quantity of any Boral engineered glass sand received; and
  - the name and address of the supplier of the Boral engineered glass sand received.
- 7.5. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 7.6. The consumer must ensure that any application of Boral engineered glass sand to land must occur within a reasonable period of time after its receipt.

## 8. Definitions

In this exemption:

**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.

**compaction sand** means Boral engineered glass sand that meets the required properties and is land applied in a manner that complies with a relevant Australian Standard or with a relevant Government-referenced specification (for example, the *Roads and Maritime Services (RMS) QA Specification R11 for Stormwater Drainage*, or the *Sydney Water Technical Specification Civil*).

**consumer** means a person who applies, or intends to apply, Boral engineered glass sand to land.



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## 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 the Boral engineered glass sand 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 Boral engineered glass sand 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.