

### APPENDIX E – FACT SHEET SECTION 143 (POEO ACT) NOTICE

---

The legal definition of ‘waste’ is very broad and covers a range of substances, including some that are not commonly considered waste (for example, crushed concrete or soil).

Similarly, a waste facility includes any premises used for storage, treatment, reprocessing, sorting or disposal of waste. Under the legislation, a landholder importing fill to build a road or dam could be classified as using their land as a waste facility.

A site landholder may not require an EPA licence to store, treat, reprocess, sort or dispose of virgin excavated natural material or other resource recovery

exemption material; however, they may still require planning consent or approval from Council.

Section 143 of the *Protection of Environment Operations Act 1997* states that it is an offence for a person to transport waste to a place that cannot lawfully be used as a waste facility for that waste, or to cause or permit waste to be so transported. It is the waste transporter/owner’s responsibility to prove that the receiving site can lawfully be used as a waste facility for that particular waste.

---

#### What is a section 143 notice?

---

A section 143 ‘approved notice’ is used to provide proof that material can be lawfully accepted at the receiving site, and it transfers the responsibility of the waste from the generator to the receiver.

An ‘approved notice’ means a notice in a form approved by the EPA:

- stating that the place to which the notice relates can lawfully be used as a waste facility for the waste specified in the notice
- that contains a certification by the owner/occupier of the place that the statement is correct.

---

#### Why does Council require a section 143 notice?

---

A section 143 notice under the *Protection of Environment Operations Act 1997* is the best way to protect the waste generator, the waste transporter and the waste receiver from prosecution for illegal dumping. It is not a defence to rely on advice from the owner/occupier of the site receiving the material unless the advice is provided on an approved notice.

The maximum penalty for an illegal dumping offence is \$1,000,000 for a corporation or \$250,000 for an individual. Both the transporter and owner of the waste are potentially liable. The ‘owner’ of waste includes the person who was the owner of the waste immediately before it was transported.

---

#### What steps do Council and landowners take?

---

Anyone sending material (classified under general or specific resource recovery exemptions) to a non-licensed facility needs to complete a section 143 notice (a template is attached as Appendix F).

If the owner/occupier providing this notice is a company, the full name of the company should be used, and the notice must be certified in accordance with the *Corporations Act 2001*.

Council will include a development consent condition for the inclusion of a section 143 notice for the movement of waste to non-licensed sites. Properties that receive material without a section 143 notice may be placed on Council’s contaminated land register.

Councils should also require a section 143 notice for the movement of surplus material from any Council project. A template cover letter is attached as Appendix G to assist Council in requesting that the landowner complete the section 143 notice.