



Excavated Natural Material (ENM) & Virgin Excavated Natural Material (VENM)

POLICY 10.14

Property Management

Version 1

1. OBJECTIVES

The Excavated Natural Material (ENM) Policy statement has been prepared to outline the policy for the handling of spoil from Council projects, both internally and externally, to ensure Council's obligations for resource efficiency and environmental protection are met.

The ENM Policy has been prepared to outline the procedures for the transport and redistribution of excavated materials to Council's facilities and projects, and to the broader community or external organisations where appropriate.

The objectives of this Policy are:

- To provide a framework for the effective management of excavated natural material (ENM) to prevent the misclassification and improper distribution of contaminated material.
- To ensure compliance with relevant environmental legislation, regulations, and guidelines governing the reuse and disposal of ENM.
- To establish clear procedures for the testing, classification, and approval of ENM before its reuse or disposal.
- To prevent the introduction of contaminated material into clean fill sites or other receiving environments.
- To ensure that all ENM testing and classification align with NSW Environment Protection Authority (EPA) standards and requirements.
- To define the roles and responsibilities of Council staff, contractors, and stakeholders in the management of ENM.
- To implement record-keeping and reporting requirements to track ENM movements and ensure transparency and accountability.
- To promote environmental protection and safeguard community health by ensuring that only clean, uncontaminated material is repurposed or disposed of appropriately.
- To establish enforcement measures and penalties for non-compliance with the policy, including but not limited to improper testing, reporting, storage or disposal of ENM.

2. POLICY IMPLICATONS

To provide a framework for the effective management of excavated natural material (ENM), including procedures for testing, classification, and distribution to ensure compliance with environmental regulations and prevent the misclassification or improper disposal of contaminated material.

3. DEFINITION

This policy applies to all employees and Councillors of Lithgow City Council (LCC or Council) contractors, developers, and any other persons involved in the excavation, classification, transport, reuse, or disposal of excavated natural material (ENM) within the Council area. For the purposes of this policy, excavated natural material (ENM) refers to naturally occurring rock and soil (including but not limited to materials such as sandstone, shale, clay and soil) that has been excavated from the ground, and contains at least 98% (by weight) natural material, and does not meet the definition of Virgin Excavated Natural Material (VEMN) in the Protection of the Environment Operations Act 1997.

Virgin excavated natural material (VEMN) refers to Virgin excavated natural material (VEMN) means 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 with process residues, as a result of industrial, and commercial, mining or agricultural activities, and that does not contain any sulfidic ores or soils or any other waste, and includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved for the time being pursuant to an EPA Gazettal notice.

The classification, testing, and management procedures outlined in this policy apply to all ENM generated from Council projects, where excavated material may be reused or disposed of within the Council jurisdiction.

4. MANAGEMENT OF CONFLICTS

The Protection of the Environment Operations Act 1997 and its subsequent regulations, orders, codes and guidelines in force at the time shall prevail if an inconsistency arises between the application of this Policy and the law to the extent of that inconsistency.

5. STAFF AUTHORITY AND RESPONSIBILITIES

The authority to determine whether it is beneficial to reuse ENM or dispose of it at a suitably licensed waste facility is the responsibility of the General Manager or those officers subsequently delegated.

The following authorities and responsibilities apply:

Review of this policy and recommend changes	Director of Infrastructure and Economy
Recommend changes to this policy	Director Infrastructure and Economy
Approve minor changes to this policy	General Manager
Approve major changes to this policy	Council
Confirm insurance arrangements are up to date	WHS Coordinator

6. POLICY FOR MANAGEMENT OF EXCAVATED NATURAL MATERIAL (ENM) FOR COUNCIL PROJECTS

All excavated natural material (ENM) generated from Council projects must be classified, tested, and managed in accordance with relevant environmental legislation, including the NSW Environment Protection Authority (EPA) guidelines.

Prior to the reuse or disposal of ENM within Council-managed projects, appropriate testing must be conducted to confirm that the material meets the required standards and is free from contamination. Testing results must be documented and approved by a qualified environmental professional before any ENM is reused or relocated.

Council staff and contractors engaged in Council projects must ensure compliance with this policy and obtain all necessary internal approvals before repurposing or disposing of ENM. Records of ENM classification, testing, and movement must be maintained as corporate records and registered in accordance with Council's document management requirements.

Non-compliance with this policy, including the misclassification, improper disposal, or failure to conduct appropriate testing of ENM, may result in internal review, corrective actions, and, where necessary, regulatory reporting.

7. POLICY FOR THE ISSUING OR USE OF EXCAVATED NATURAL MATERIAL (ENM) FOR NON-COUNCIL PROJECTS

All requests for the use of excavated natural material (ENM) from Council projects by external parties, including developers, contractors, and other entities, must adhere to the policy outlined below to ensure compliance with environmental regulations and safeguard community health and environmental integrity.

7.1 Request and Approval

External parties seeking access to ENM must make a formal written request to Council outlining the proposed use, quantity required, and reuse location.

Council reserves the right to approve or reject such requests at its discretion, based on environmental suitability, material availability, and compliance with relevant legislation and internal policies.

All approvals must be provided in writing by an authorised Council officer, with conditions of use clearly stated.

7.2 Environmental Compliance

ENM will only be issued where it meets the standards set out in the NSW Environment Protection Authority's Excavated Natural Material Order and Exemption.

Council will not supply ENM that may pose a risk to human health or the environment.

7.3 Testing and Classification

All ENM intended for reuse by external parties must be tested and classified by an appropriately accredited laboratory to confirm its suitability.

Testing must be arranged or endorsed by Council, and reviewed by a qualified environmental professional prior to material release.

Recipients must acknowledge and accept only material that has been formally classified as meeting relevant EPA requirements.

7.4 Record Management

Council will maintain records of ENM assessments, approvals, testing results, and details of recipients.

External parties must retain records of ENM usage and provide them to Council upon request.

7.5 Transport and Reuse Responsibilities

The recipient is responsible for the lawful transport and reuse of ENM, whether delivery is arranged by Council or the material is collected.

Any costs associated with transport and handling are to be borne by the recipient, in line with Council's Fees and Charges.

Should ENM be found to be unsuitable or contaminated post-distribution, the recipient is responsible for its lawful disposal at an approved waste facility.

7.6 Compliance

Council reserves the right to take enforcement action in cases of non-compliance with this policy. This may include the refusal of future requests, notification to regulatory authorities, and other actions permitted under applicable legislation.

8. TRANSFERRING OF ENM TO ANOTHER PERSON

Once ENM has been tested and deemed suitable for delivery by Council (as per Council's Fees and Charges) or collection by the recipient, and the material has been transported to the new location, further use, storage or distribution of this material by any external party is no longer the concern or responsibility of Council.

Any person or organisation holding ENM must do so in a lawful manner in accordance with the relevant guidelines and legislation (refer Blue Book, POEO Act).

9. RESTRICTIONS

Excavated natural material (ENM) shall only be used for approved purposes in accordance with this policy and relevant environmental regulations. ENM must not be distributed, reused, or disposed of in a manner that could pose a risk to human health or the environment.

Additional restrictions / conditions may be placed on the use of ENM at the time of approval or subsequently, with written notice provided to the recipient. Such restrictions / conditions may include:

- Specifying the approved location where the ENM may be reused or placed.
- Limiting the volume of ENM that may be issued to an external party.
- Requiring additional testing before transport or placement.
- Restricting the reuse of ENM in environmentally sensitive areas or locations subject to land use constraints.
- Prohibiting the mixing of ENM with other materials without prior approval.

The recipient of the ENM remains responsible for ensuring compliance with all conditions of use and any additional restrictions imposed by Council. Any non-compliance with these restrictions may result in enforcement action, including revocation of approval, penalties, or reporting to regulatory authorities.

10. BREACHES OF THIS POLICY

The obligation to comply with this policy rests with each, employee, person and/or organisation that handles, transports or distributes ENM. Sanctions may be applied if this Policy is breached.

Any person may report an alleged breach of this policy. Staff reporting a serious breach are encouraged to utilise Council's Public Interest Disclosures Policy.

Environmental protection and public health are of utmost importance to Lithgow City Council. If this Policy has been breached, further action against the individuals or

organisations responsible may be considered, depending on the severity of the breach. This may include counselling disciplinary action (including termination of employment) and legal proceedings.

11. DISCLOSURES

This policy does not remove any other obligations under the *Local Government Act* and any other legislation, or relevant codes and policies regarding the disclosure of any interests.

Review Date:

Once every term of Council.

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