

# Environmental Incident Classification and Reporting Procedure

Roads and Maritime Services | November 2018

Document No. | RMS 17.374 | Version 5.1



## About this release

<b>Title</b>	Environmental Incident Classification and Reporting Procedure
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<b>Document Control</b>			
<b>Version</b>	5.1	<b>Release date</b>	November 2018
<b>Publication Number</b>	RMS 17.374	<b>ISBN</b>	978-1-925659-57-3

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**Acronyms and definitions**

<b>Acronym</b>	<b>Definition</b>
DE	(Roads and Maritime Services) Director Environment
DES	(Roads and Maritime Services) Director Environment Sydney
DPE	Department of Planning and Environment
Environmental harm	Any act that degrades or pollutes the environment
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1997</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPL	Environment Protection Licence
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
REF	Review of Environmental Factors
Roads and Maritime	NSW Roads and Maritime Services
SEQC	(Roads and Maritime Services) Safety Environment and Quality Co-ordinator
SEQO	(Roads and Maritime Services) Safety Environment and Quality Officer
WHS	Work Health and Safety

# 1. Introduction

## 1.1 Aim

The Environmental Incident Classification and Reporting Procedure (the Procedure) aims to ensure Roads and Maritime Services workers and contractors understand how to classify, respond to and report environmental incidents that occur as a result of Roads and Maritime managed activities.

## 1.2 Objectives

The objectives of the Procedure are to:

- Ensure all relevant Roads and Maritime workers, managers and contractors are made aware of environmental incidents promptly and can respond accordingly
- Ensure site workers understand the immediate environmental incident reporting requirements
- Ensure all workers understand reporting timeframes, including statutory requirements
- Ensure incidents are reported to enable monitoring, sharing of lessons learnt and response to emerging environmental incident trends
- Comply with statutory obligations to report certain environmental incidents to regulators and other relevant government agencies (see [section 5.1](#)).

## 1.3 Scope and coverage

This Procedure is applicable to all Roads and Maritime activities where environmental incidents may occur. This includes (but is not limited to):

- Temporary activities, such as preliminary investigations (e.g. geotechnical and environmental surveys) and the construction and maintenance of Roads and Maritime assets
- Activities at Roads and Maritime properties and facilities
- Vessels operated by Maritime division
- Activities undertaken by contractors on behalf of Roads and Maritime.

The requirements of this Procedure must be communicated to all Roads and Maritime workers and contractors (e.g. during inductions) who are undertaking activities where incidents may occur.

The Procedure is for internal reporting processes, except where incidents are identified that need to be notified to regulators, and other relevant authorities (see [section 5.1](#)).

The procedure does NOT cover environmental incidents caused by:

- Operational road and traffic activities of the general public (e.g. vehicle accidents, fires caused by discarded cigarette butts)
- Boating accidents (except those involving Roads and Maritime vessels)
- Dumping of materials by members of the public on Roads and Maritime roadsides or land (except where hazardous materials are unexpectedly found during road construction or maintenance activities). Illegal dumping should be reported to the [NSW Environment Protection Authority \(EPA\)](#)
- Marine oil and chemical spills covered by the [National Plan for Maritime Environmental Emergencies](#) (Australian Maritime Safety Authority, 2014).

## 2. Environmental incident classification

There are three categories of environmental incidents, as detailed in Table 2.

**Table 2: Environmental incident classification**

Category	Description	Examples	
Category 1	<p>Potential breaches of legislation or failures of process that result in actual off-site environmental harm, or residual on-site environmental harm</p> <p>or</p> <p>Works undertaken outside approved areas, without required approval or without environmental assessment</p> <p>or</p> <p>Any Material Harm pollution incident as defined by <u>Part 5.7 of the <i>Protection of the Environment Operations Act 1997</i> (POEO Act)</u>.</p>	Pollution Incidents	Discharge of waters from site not in accordance with any approval requirements (e.g. discharge criteria in an Review of Environmental Factors (REF) safeguard or Environment Protection Licence (EPL) condition)
			Pollution, or potential pollution, of waters
			Unmanaged vehicle tracking of materials or emissions of dust, offensive odours or noise beyond the site boundary that are not managed in accordance with approval requirements and/or might impact on nearby land users
			Pollution incidents that threaten harm to the health or safety of people (e.g. uncontrolled releases of hazardous substances)
			Unauthorised or illegal disposal or transport of waste
			A spill or other incident that causes pollution to land
		Conservation Breaches	Unauthorised harm or damage to native flora and fauna (terrestrial or aquatic/marine)
			Unauthorised dredging or reclamation works within a watercourse
			A fire caused by Roads and Maritime activities that travels beyond the boundary causing or potentially causing harm to the environment or community
		Heritage Breaches	Unauthorised harm to Aboriginal objects and Aboriginal places
Unauthorised damage to any State or locally significant relic or Heritage item, or item listed on the <u>Roads and Maritime Section 170 register</u>			

**Table 2: Environmental incident classification**

Category	Description	Examples
		<p>Failure to comply with the requirements of:</p> <ul style="list-style-type: none"> <li>• The <i>Environmental Planning and Assessment Act 1997</i> (EP&amp;A Act), including exempt activities, Part 5 determinations and Part 5.1 approvals</li> <li>• An <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) approval</li> <li>• An EPL</li> <li>• A CEMP or environmental work method statement</li> <li>• A permit from a regulator (e.g. under the <i>Fisheries Management Act 1994</i>)</li> </ul>
Category 2	Failures of process or events that do not result in off-site environmental harm, or residual on-site environmental harm. These incidents may result in temporary on-site environmental harm that can be rectified to pre-existing conditions.	<p>A procedural, administrative or technical breach of environmental requirements, including:</p> <ul style="list-style-type: none"> <li>• Failure to prepare or submit required documents, reports or other correspondence</li> <li>• Failure to comply with the requirements of: <ul style="list-style-type: none"> <li>○ The <i>Environmental Planning and Assessment Act 1997</i> (EP&amp;A Act), including exempt activities, Part 5 determinations and Part 5.1 approvals</li> <li>○ An <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) approval</li> <li>○ An EPL</li> <li>○ A CEMP or environmental work method statement</li> <li>○ A permit from a regulator (e.g. under the <i>Fisheries Management Act 1994</i>).</li> </ul> </li> </ul> <p>Spills and discharges that do not leave a site boundary and are cleaned up without residual on-site environmental harm, and the area of temporary impact can be restored to pre-existing conditions</p> <p>A fire that is contained on site and does not cause or potentially cause adverse impact to the environment or community</p>
Reportable Event	An event or unexpected find that occurs outside the scope of reasonable environmental controls and mitigation measures	<p>Sediment or site water travelling beyond a site boundary, and where it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>• Erosion and sediment controls were installed and maintained in accordance with an erosion and sediment control plan, and</li> <li>• The cause of the incident was reasonably unforeseen or the weather (rain, wind etc) event exceeded the design capacity of controls.</li> </ul>

**Table 2: Environmental incident classification**

Category	Description	Examples
		<p>Note these events are considered to have occurred (and the response should commence in accordance with <a href="#">Section 3</a>) when sediment or site water first travels beyond the site boundary (e.g. when an appropriately sized and maintained sediment basin commences overtopping)</p> <p>An unexpected archaeological find that is being managed in accordance with the "Roads and Maritime Standard Management Procedure - Unexpected Archaeological Finds"</p> <p>An unexpected threatened species find that is being managed in accordance with the "Roads and Maritime Biodiversity Guidelines – unexpected threatened species finds procedure"</p> <p>An unexpected find of contaminated soils, asbestos or other potentially hazardous substances during construction or maintenance works. Note that once a particular contaminant is identified or found for the first time (either during project planning or construction phases) it is then reasonably expected to be found, so additional finds need not be reported in this category.</p>
Regulatory Action	Formal regulatory action from an environmental regulator (that has not already been reported in conjunction with another incident)	<p>Formal regulatory action from an environmental regulator includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Penalty infringement notices (PINs)</li> <li>• Clean up notices</li> <li>• Prevention notices</li> <li>• Official cautions / warnings</li> <li>• EPA show cause notifications.</li> </ul>

**Note:** For any incident where there is associated formal regulatory action from an environmental regulator, copies of this correspondence must be forwarded to [envops@rms.nsw.gov.au](mailto:envops@rms.nsw.gov.au) in addition to the Environmental Incident Report (see [section 4](#)).

## 3. Environmental incident response

### 3.1 Considerations and steps for environmental incident response

The step-by-step response for Category 1 incidents, Category 2 incidents and Reportable Events is detailed in Table 3.1a (activities undertaken by contractors) and Table 3.1b (activities undertaken by Roads and Maritime Regional Maintenance). However, some key points apply throughout all stages of the response to any environmental incident:

- If in doubt, treat all incidents as Category 1 to ensure reporting timeframes can be met
- Project teams should also undertake the following notifications as appropriate:
  - Roads and Maritime Corporate Communications for any incidents that have potential for community or media attention (see [section 4.4](#))
  - Roads and Maritime Work Health and Safety (WHS) Branch for any incidents that involve actual or potential risks to worker health and safety (see [section 4.4](#)).
- The person responsible for operational management of the site/activity shall assume responsibility for the response to the incident and direct actions as necessary and in accordance with this Procedure
- The Director Environment Sydney (DES) may reclassify the category of an incident where appropriate, in consultation with the relevant Roads and Maritime Environment Manager.

Any Regulatory Action received (that has not already been reported in conjunction with another incident) should be immediately forwarded to the [envops@rms.nsw.gov.au](mailto:envops@rms.nsw.gov.au) mailbox, and followed by an immediate phone call to the relevant Roads and Maritime Environment Manager, who will immediately advise the DES. Consideration should then be given as to whether an environmental incident has occurred (see [section 2](#)) that should be reported in accordance with this section.

**Table 3.1a: Environmental incident response – activities undertaken by contractors**

Step	Action	Responsibility for completing action	Timeframe	
			Category 1 Incidents	Category 2 Incidents / Reportable Events
1	Stop work in relevant area (if necessary) and take actions to prevent adverse impact to human health or the environment. Note human health and safety is the primary concern, and no action should be taken if it is not safe to do so - in these instances emergency services should be contacted (phone triple zero).	Person who identifies incident	Immediate	Immediate
2	Advise the contractor site management team (and Roads and Maritime Corporate Communications and/or WHS Branch as appropriate)	Person who identifies incident	Immediate	Immediate
3	Advise the Roads and Maritime project management team and the relevant Roads and Maritime Environment Manager.	Contractor	Immediate	Day of the incident
4	Consider if the incident is a pollution incident that constitutes Material Harm in accordance with Part 5.7 of the POEO Act. For Material Harm pollution incidents, notify relevant agencies (see <a href="#">section 5.2</a> ). Sites with an EPL should implement their Pollution Incident Response Management Plan.	Contractor	Immediate	Immediate
5	Advise DES by phone. The DES may request photographs and a brief summary of known information via email. The following Roads and Maritime managers should also be notified by phone as relevant: <ul style="list-style-type: none"> <li>• Director Environment (Regions)</li> <li>• Director Environment (Motorways).</li> </ul>	Roads and Maritime Environment Manager	Immediately following advice of the incident	N/A
6	Where relevant, notify incident to appropriate regulatory agency (see <a href="#">section 5.1</a> ). Note this does not refer to the requirement to notify Material Harm pollutions incidents (see Step 4).	Contractor	As required by legislation	As required by legislation
7	Complete the incident report form (see <a href="#">section 4.2</a> ), including sign-off from Roads and Maritime Project Manager, and submit to Roads and Maritime Environment Manager* (see <a href="#">sections 4.3</a> and <a href="#">4.4</a> ).	Contractor	Within 3 business days of the incident	Within 3 business days of the incident
8	Sign and submit incident report form to <a href="mailto:envops@rms.nsw.gov.au">envops@rms.nsw.gov.au</a> .	Roads and Maritime Environment Manager	On the day of receipt of the form	On the day of receipt of the form
9	For Material Harm pollution incidents, provide a written report to each relevant authority (see <a href="#">section 5.2</a> ).	Contractor	Within 7 days of the incident	N/A
10	Undertake incident investigation (level of investigation to be appropriate to the severity of the incident) to determine root cause and any necessary corrective actions. Summarise findings in 'Incident Lessons Learnt' template and submit to Environment Manager for review.	Contractor	Within 1 month of incident	N/A
11	Submit final Incident Lessons Learnt to <a href="mailto:envops@rms.nsw.gov.au">envops@rms.nsw.gov.au</a> .	Roads and Maritime Environment Manager	Within 1 week of receipt	N/A
12	Consider the need for any required corrective actions to be addressed through a management system (e.g. corrective action request), and any required updates to a risk register.	Roads and Maritime Environment Manager and project team	As appropriate	As appropriate

\*Alternate workflow / signatory arrangements may be required for projects where a third party is involved (e.g. a delivery authority). These arrangements can be confirmed with the relevant Roads and Maritime Environment Manager.

**Table 3.1b: Environmental incident response – activities undertaken by Regional Maintenance** (including contractors or RMCC on behalf of Regional Maintenance)

Step	Action	Responsibility for completing action	Timeframe	
			Category 1 Incidents	Category 2 Incidents / Reportable Events
1	Stop work in relevant area (if necessary) and take actions to prevent adverse impact to human health or the environment. Note human health and safety is the primary concern, and no action should be taken if it is not safe to do so - in these instances emergency services should be contacted (phone triple zero).	Person who identifies incident	Immediate	Immediate
2	Advise the Roads and Maritime site management team and the relevant Roads and Maritime Environment Manager and Safety Environment Quality Officer (SEQO) / Safety Environment Quality Co-ordinator (SEQC) (and Corporate Communications and/or WHS Branch as appropriate)	Person who identifies incident	Immediate	Immediate
3	Advise DES by phone. The DES may request photographs and a brief summary of known information via email. The relevant Regional Maintenance Manager must also be notified.	Environment Manager	Immediate	N/A
4	Consider if the incident is a pollution incident that constitutes Material Harm in accordance with Part 5.7 of the POEO Act. For Material Harm pollution incidents, notify relevant agencies (see <a href="#">section 5.2</a> ). Sites with an EPL should implement their Pollution Incident Response Management Plan.	DES	Immediately following advice of the incident	N/A
5	Where relevant, notify incident to appropriate regulatory agency (see <a href="#">section 5.1</a> ). Note this does not refer to the requirement to notify Material Harm pollutions incidents (see Step 4).	Environment Manager	As required by legislation	As required by legislation
6	Complete the incident report form (see <a href="#">section 4.2</a> ), including sign-off from Roads and Maritime Project Manager, and submit to SEQC (see <a href="#">section 4.3</a> ).	Relevant Roads and Maritime site representative	Within 3 business days of the incident	Within 3 business days of the incident
7	SEQC to sign and submit incident report form to relevant Environment Manager (see <a href="#">section 4.4</a> ).	SEQC	On the day of receipt of the form	On the day of receipt of the form
8	Sign and submit incident report form to <a href="mailto:envops@rms.nsw.gov.au">envops@rms.nsw.gov.au</a> .	Environment Manager	On the day of receipt of the form	On the day of receipt of the form
9	For Material Harm pollution incidents, provide a written report to each relevant authority (see <a href="#">section 5.2</a> ).	DES	Within 7 days of the incident	N/A
10	Undertake incident investigation (level of investigation to be appropriate to the severity of the incident) to determine root cause and any necessary corrective actions. Summarise findings in 'Incident Lessons Learnt' template and submit both to Environment Manager for review. Consider the need for any required corrective actions to be addressed through a management system (e.g. corrective action request), , and any required updates to a risk register.	SEQC	Within 1 month of incident	N/A
11	Submit final Incident Lessons Learnt to <a href="mailto:envops@rms.nsw.gov.au">envops@rms.nsw.gov.au</a> .	Roads and Maritime Environment Manager	Within 1 week of receipt	N/A

Copies of formal regulatory action from an environmental regulator (that has not already been reported in conjunction with another incident) must be forwarded to the relevant Roads and Maritime Environment Manager (and SEQC/SEQO for Regional Maintenance projects) and [envops@rms.nsw.gov.au](mailto:envops@rms.nsw.gov.au) immediately upon receipt.

### 3.2 Critical incidents

Some Category 1 incidents require escalation so relevant members of the Roads and Maritime Executive are aware of the incident and ready to respond as necessary. Category 1 incidents will be deemed 'Critical Incidents' for escalation to the Executive when they have the potential for:

- Regulatory action (e.g. EPA Penalty Infringement Notice) and/or
- Reputational damage (e.g. media coverage) and/or
- Significant environmental harm.

Guiding factors that will be considered when determining whether there has been 'significant' environmental harm include:

- When there has been actual or potential harm to the health or safety of people or to the environment that is not trivial
- Actions required to prevent, mitigate or make good the actual or potential environmental harm are likely to exceed \$10,000

When a potential 'Critical Incident' is reported, the DES will immediately brief the Director Environment (DE) who will make a determination on whether it will be considered a 'Critical Incident'. The DE will then brief the Roads and Maritime Chief Executive and relevant Executive Director, as well as any other members of the Executive as appropriate. When the DE cannot be contacted, the DES will make the determination and make the relevant Executive briefings.

## 4. Environmental incident reporting

### 4.1 Environmental incident report form

The Environmental Incident Report Form should be completed for Category 1 incidents, Category 2 incidents and Reportable Events, and is available on the [Roads and Maritime website](#).

### 4.2 Completing the incident report form

All parts of the Incident Report Form must be completed in accordance with this procedure and following the instructions within the form. The Form (and any subsequent reports) must only include factual information. Speculation about the causes and outcomes of incidents are not to be included.

The Form must be signed by the following:

Signatory	Reason
The person making the report	The person witnessed the incident or has the most knowledge of the incident, and can provide sufficient factual information.
The Roads and Maritime Project Manager	To ensure all relevant Roads and Maritime parties can be made aware of the incident, and appropriate resources can be allocated and/or approved to respond to the incident. This also ensures the project management team are aware of any environmental performance trends if multiple incidents occur.
Safety Environment and Quality Co-ordinator (Roads and Maritime Regional Maintenance only)	To ensure Regional Maintenance management system staff are aware of the incident, and any necessary management system changes can be made once corrective actions and lessons learnt are finalised.
The relevant Roads and Maritime Environment Manager	Concurrence that the incident is adequately described, and the immediate actions and corrective actions are appropriate.

As noted in [Table 3.1a](#), alternate signatory arrangements may be required for projects where a third party is involved (e.g. a delivery authority). These arrangements can be confirmed with the relevant Roads and Maritime Environment Manager.

### 4.3 Submitting the incident report form

All Incident Report Forms must be populated, signed and submitted electronically (never printed / signed / scanned etc.) to enable Roads and Maritime to electronically capture the information entered in the form.

Completed Incident Report Forms should be submitted by the Roads and Maritime Environment Manager to the Environment Operations mailbox:

- [envops@rms.nsw.gov.au](mailto:envops@rms.nsw.gov.au)

It is essential that a clear and consistent subject line convention is used to allow tracking of correspondence about each incident. All emails about an incident between all parties should structure the subject line as follows:

- Category X - project name / incident location - date
- For example, Category 1 – Main Road Upgrade – dd/mm/yy.

Where information cannot be gathered within the timeframes set out in this Procedure, the incident form should be submitted to the mailbox as a 'draft', whether or not the information contained is fully completed.

- For example, Category 1 – Main Road Upgrade – dd/mm/yy (DRAFT).

The Environment Manager should then request further information from the person making the report, and the final report should be submitted within the next 24 hours.

## 4.4 Roads and Maritime contacts

The relevant Environment Manager for each region and Project Office is the first point of contact for enquiries relating to environmental incidents. Current contacts for all Roads and Maritime Environment Managers can be found on the [Roads and Maritime website](#).

Environment Managers can also provide contact details for other relevant contacts during an incident, such as Communications or Work, Health and Safety. Hazards and occurrences that occur during Roads and Maritime activities should be reported through the Roads and Maritime WHS reporting line on 1300 131 469.

The DES oversees the application of this Procedure, and can be contacted in the absence of the relevant Environment Manager for Category 1 incidents:

- Phone - (02) 0428 608 758

## 5. Regulatory agency notification

### 5.1 Notification of Material Harm pollution incidents

#### 5.1.1 Definition of Material Harm pollution incidents

Under Part 5.7 of the POEO Act, there is a duty to immediately notify (i.e. promptly and without delay) each relevant authority (see [section 5.1.3](#)) of a pollution incident where material harm to the environment is caused or threatened.

The POEO Act states that a pollution incident should be considered Material Harm if:

*“(i) it involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial, or*

*(ii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000”*

Material Harm only relates to pollution incidents. Other environmental incidents, such as conservation, heritage and planning breaches, are not included in the definition of a pollution incident.

#### 5.1.2 Determining if an incident should be considered Material Harm

As soon as a person becomes aware of a pollution incident that has the potential to cause Material Harm, the Category 1 incident response should be followed (see [Table 3.1a](#) and [Table 3.1b](#) above). The determination on whether a pollution incident should be considered Material Harm should be made in accordance with [Table 5.1.2](#).

**Table 5.1.2: Determination of Material Harm pollution incidents**

Project delivery	Material Harm determination
Activities undertaken by Regional Maintenance	<p>The DES should make the determination (and any associated notifications) on whether a pollution incident should be considered Material Harm.</p> <p>If the DES is not available, the relevant Environment Manager should seek advice from other Roads and Maritime Environment Branch Directors, or make the material harm determination themselves.</p> <p>If no assistance can be obtained and it is suspected that a pollution incident should be considered Material Harm, the project should notify the relevant authorities in accordance with <a href="#">Table 5.1.3a</a> or <a href="#">Table 5.1.3b</a> (as relevant).</p>
Activities undertaken by contractors	<p>The contractor project team should make the determination (and any associated notifications) on whether a pollution incident should be considered Material Harm.</p> <p>The relevant Roads and Maritime Environment Manager or Environment Branch Director may contact the DES to assist in making an assessment of the incident, to aid the contractor in determining if the pollution incident should be considered Material Harm.</p> <p>Where Roads and Maritime believes a pollution incident should be considered Material Harm but the contractor disagrees, Roads and Maritime is required by law to notify EPA and other relevant authorities. In this instance the DES or DE would make a determination on whether the incident should be notified by Roads and Maritime as Material Harm. Roads and Maritime would provide details of any notifications made to the contractor.</p>

Even if only limited information is available for a pollution incident being considered Material Harm, each relevant authority must be immediately notified with the information available and updates provided as soon as further relevant information becomes available.

In circumstances where there is doubt about the need to notify a pollution incident as Material Harm, Roads and Maritime and its contractors should always err on the side of notification.

**When in doubt, communicate!**

Note: Roads and Maritime is not responsible for notifying a Material Harm pollution incident caused by a traffic or vehicle accident where notification has already occurred by someone at the scene. However, if it is believed notification has not been undertaken, Roads and Maritime should undertake notification in accordance with [section 5.1.3](#). Environment Branch can provide advice in this instance (see [section 4.4](#)).

**5.1.3 Relevant authorities to notify**

The relevant authorities that must be notified for a Material Harm pollution incident are listed in tables [5.1.3a](#) and [5.1.3b](#) below. It is important to note the order of notification and phone numbers to use can vary depending on the nature of the pollution incident, as detailed in the two tables.

All of the authorities listed (whether considered relevant or not) must be contacted for each Material Harm pollution incident to satisfy POEO Act requirements. Serious penalties apply to both individuals and corporations for failing to notify Material Harm pollution incidents:

- Maximum penalty for individuals - \$500,000
- Maximum penalty for corporations - \$2,000,000.

**Table 5.1.3a: Authorities to notify for Material Harm pollution incidents that present an immediate threat to human health or property**

Order	Authority	Contact Number
1	Fire and Rescue NSW	000
2	NSW EPA environment line	131 555
3	Ministry of Health (via the local Public Health Unit)*	Contact 1300 066 055 to be directed to the local Public Health Unit, or visit the <a href="#">NSW Health Website</a>
4	SafeWork NSW	131 050
5	The Appropriate Regulatory Authority*, being either: <ul style="list-style-type: none"> <li>• Local council</li> <li>• Western Lands Commissioner for the Western Division (except any part of the Western Division within the area of a local council).</li> </ul>	Local council - contact Office of Local Government on 4428 4100, or visit the <a href="#">Office of Local Government website</a>  Western Lands Commissioner – phone 6883 5400

**Table 5.1.3b: Authorities to notify for Material Harm pollution incidents that do NOT present an immediate threat to human health or property**

Order	Authority	Contact Number
1	NSW EPA environment line	131 555
2	The Appropriate Regulatory Authority*, being either: <ul style="list-style-type: none"> <li>• Local council</li> <li>• Western Lands Commissioner for the Western Division (except any part of the Western Division within the area of a local council).</li> </ul>	Local council - contact Office of Local Government on 4428 4100, or visit the <a href="#">Office of Local Government website</a>  Western Lands Commissioner – phone 6883 5400

3	Ministry of Health (via the local Public Health Unit)*	Contact 1300 066 055 to be directed to the local Public Health Unit, or visit the <a href="#">NSW Health Website</a>
4	SafeWork NSW	131 050
5	Fire and Rescue NSW	1300 729 579

\* The appropriate contact for the Appropriate Regulatory Authority and Public Health Unit will vary according to the geographic location of the activity. These contact numbers should be found in advance and stored for immediate access (e.g. in a project's Construction Environmental Management Plan and/or on site notice boards) should a pollution incident need to be notified.

#### 5.1.4 The relevant information to provide

It is important to avoid speculation on origin, causes or outcomes of a pollution incident in discussions with the authorities. Section 150 of the POEO Act provides the information that needs to be notified, being:

- The time, date, nature, duration and location of the incident
- The location of the place where pollution is occurring or is likely to occur, the nature, the estimated quantity or volume and the concentration of any pollutants involved, if known
- The circumstances in which the incident occurred (including the cause of the incident, if known)
- The action taken or proposed to be taken to deal with the incident and any resulting pollution or threatened pollution, if known
- Other information prescribed by the regulations.

Only known information should be provided when notifying of a Material Harm pollution incident. If further information becomes known after the initial notification, that information must immediately be notified to all authorities in accordance with Section 150 (see above). The immediate verbal notification is to be followed by written notification to each relevant authority within seven days of the date on which the incident occurred.

Complying with these notification requirements does not remove the need to comply with any other legislative requirements for incident notification (e.g. requirements under EPL conditions or the Work Health and Safety Act 2011).

## 5.2 Summary of other regulatory agency notification requirements

Specific statutory requirements relating to the notification of environmental incidents to relevant regulatory agencies are summarised in Table 5.2. Additional requirements adopted by Roads and Maritime are indicated in *italics*. Any notification to regulatory agencies should be indicated in the Environmental Incident Report Form to confirm that any required notifications have been initiated.

**Table 5.2: Regulatory agency notification requirements**

Legislation / issue	Regulating authority	Section / requirement
<i>Commonwealth Aboriginal and Torres Strait Islanders Heritage Protection Act 1984</i>	Department of the <a href="#">Environment and Energy</a>	Section 20 – requirement to notify the Minister of the discovery of Aboriginal remains.
<i>Contaminated Land Management Act 1997</i>	<a href="#">EPA</a>	Section 60 – requirement to notify if Roads and Maritime activities have contaminated land or if Roads and Maritime owns land that has been contaminated.
<i>Heritage Act 1977</i>	Office of <a href="#">Environment and Heritage</a>	Section 146 – requirement to notify the Heritage Council of the location of the relic once a relic has been discovered or located.
<i>National Parks and Wildlife Act 1974</i>	Office of <a href="#">Environment and Heritage</a>	Section 89A – requirement to notify the location of an Aboriginal object that is the property of the Crown.

<i>Protection of the Environment Operations Act 1997</i>	<u>EPA</u> and other relevant authorities	Section 148 – requirement to immediately notify pollution incidents that cause or threaten Material Harm to the environment (see <a href="#">Section 5.1</a> )
	<u>EPA</u>	<i>Pro-active reporting to the local EPA officer of offsite pollution incidents that occur as a result of Roads and Maritime activities is encouraged as soon as practicable after the pollution incident occurs.</i>
<i>Rural Fires Act 1997</i>	<u>NSW Rural Fire Service</u>	Section 64 – requirement to notify an appropriate fire officer of the inability to extinguish any fire burning during a bush fire danger period applicable to the land.
Breach of Conditions of Approval (projects approved under Part 5.1 of the EP&A Act)	<u>Department of Planning and Environment</u> (DPE)	DPE should be notified by the project proponent when there has been a breach of a Condition of Approval (CoA). There may also be other notification requirements included in the CoA.
<i>Water supply catchment areas</i>	<i>Local water supply authority</i>	<i>If an environmental incident has the potential for unapproved impacts on a drinking water supply, the relevant water supply authority must be advised.</i>

### 5.3 Requests for written reports from regulatory authorities (activities delivered internally by Roads and Maritime)

Should Roads and Maritime directly receive a request from a regulatory authority for a written report regarding an environmental incident, Environment Branch and Legal Branch must be immediately contacted for advice. No further correspondence (including email) about the incident should be distributed either internally or externally until advice is received. Environment Branch will coordinate with Legal Branch to:

- Assist in the investigation of the incident
- Provide legal advice to the project
- Co-ordinate the preparation of the written response to the regulatory authority.



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**November 2018**  
RMS 17.374  
ISBN: 978-1-925659-57-3