

Resource Recovery Order under Section 286A of the Protection of the Environment Operations Act 1997

The Downer Bituminous Pavement Order 2026

Record Number: SRROE-123

Version Number: 2

Introduction

This order, issued by the Environment Protection Authority (EPA) under Section 286A of the *Protection of the Environment Operations Act 1997* (POEO Act), imposes the requirements that must be met by suppliers of Downer bituminous pavement to which 'the Downer bituminous pavement exemption 2026' applies. The requirements in this order apply in relation to the supply of Downer bituminous pavement for application to land for road making or as a road maintenance material.

1. Waste to which this order applies

- 1.1 This order applies to Downer bituminous pavement.
- 1.2 Downer bituminous pavement means bituminous pavement that contain TonerPlas or Modified Toner Polymer (MTP) and which may also include reclaimed asphalt pavement that meets the requirements of *The reclaimed asphalt pavement order 2014*, recovered glass sand that meets the requirements of *The recovered glass sand order 2014*, and crumb rubber from tyres that meet the requirements of *The recovered tyres order 2014*. Downer bituminous pavement may contain up to 0.75% TonerPlas or up to 0.7% MTP for mixed asphalt pavements, and up to 0.15% MTP in sprayed seal pavements.

2. Persons to whom this order applies

- 2.1 The requirements in this order apply, as relevant, to Downer EDI Works Pty Ltd (ACN 008 709 608).
- 2.2 This order does not apply to the supply of Downer bituminous pavement to a consumer for land application at a 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.

3. Duration

- 3.1 This order commences on the issue date and is valid until 13 April 2028 unless revoked by the EPA in writing at an earlier date.

4. Revocation

- 4.1 'The Downer bituminous pavement order May 2024' which commenced on 5 May 2024 is revoked from 13 April 2026.

5. Processor Requirements

The EPA imposes the following requirements on any processor who supplies Downer bituminous pavement. The processor in this order is Downer EDI Works Pty Ltd.

General Requirements

- 5.1 On or before supplying Downer bituminous pavement, the processor must ensure that the Downer bituminous pavement (and constituent parts) meets the specifications given in the "*Reconophalt Internal Quality Management Process V4, March 2026*" attached in Appendix A of this order.

Notification

- 5.2 On or before each transaction, the processor must provide the following to each person to whom the processor supplies the Downer Bituminous Pavement:
- a written statement of compliance certifying that all the requirements set out in this order have been met;
 - a copy of the '*Downer bituminous pavement exemption 2026*' or a link to the Downer website where the '*Downer bituminous pavement exemption 2026*' can be found; and
 - a copy of the '*Downer bituminous pavement order 2026*' or a link to the Downer website where the '*Downer bituminous pavement order 2026*' can be found.

Record keeping and reporting

- 5.3 The processor must keep a written record of the following for a period of six years:
- the quantity of the Downer bituminous pavement supplied; and
 - the name and address of each person to whom the processor supplied the Downer bituminous pavement.
- 5.4 The processor must notify the EPA within seven days of becoming aware that it has not complied with any requirement in clause 5.1.

6. Definitions

In this order:

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.

asphalt is a solid material typically composed of sand, aggregates and similar materials bound together with bituminous and/or other similar binders.

consumer means a person who applies or intends to apply, Downer bituminous pavement to land.

Modified Toner Polymer (MTP) means granulated material supplied by Close the Loop Pty Ltd (or its successors or assigns) containing:

- waste toner (post-consumer recycled toner powder), and
- waste oil (medium-grade engine oils and greases).

processor means a person who processes, mixes, blends, or otherwise incorporates TonerPlas or MTP into Downer bituminous pavement for supply to a consumer. The processor in this order is Downer EDI Works Pty Ltd (ABN – 66 008 709 608).

TonerPlas means a granulated product produced by Close the Loop Pty Ltd (ABN 79 095 769 752 26) at 6-20 Radford Rd, Reservoir VIC 3073 containing:

- waste toner (post-consumer recycled toner powder),
- waste oil (medium-grade engine oils and greases), and
- low-density polyethylene (LDPE) pellets derived from post-consumer and post-industrial soft plastics.

transaction means:

- In the case of a one-off supply, the supply of a batch, truckload or stockpile of Downer bituminous pavement that is not repeated. In the case where the supplier has an arrangement with the recipient for more than one supply of Downer bituminous pavement the first supply of Downer bituminous pavement is required under the arrangement.

SIGNATURE

Karen Marler

Director, Technical (Chemical, Land and Radiation)

Environment Protection Authority

(by delegation)

Issue date: 13 April 2026

Notes

The EPA may amend or revoke this order at any time. It is the responsibility of each of the generator and processor to ensure it complies with all relevant requirements of the most current order.

In gazetting or otherwise issuing this order, the EPA is not in any way endorsing the supply or use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this order are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this order nor the accompanying exemption guarantee that the environment, human health or agriculture will not be harmed.

Any person or entity which supplies Downer bituminous pavement should assess whether the material is fit for the purpose the material is proposed to be used for, and whether this use may cause harm. The supplier may need to seek expert engineering or technical advice.

Regardless of any exemption or order 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 supply of Downer bituminous pavement remains subject to other relevant environmental regulations in the POEO Act and 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 requirements for asbestos waste (s. 144AAB), regardless of this order, is guilty of an offence and subject to prosecution.

This order does not alter the requirements of any other relevant legislation that must be met in supplying this material, including for example, the need to prepare a Safety Data Sheet. Failure to comply with the conditions of this order constitutes an offence under section 286A of the Protection of the Environment Operations Act 1997.

Appendix A

Reconophalt Internal Quality Management Process – V4 March 2026