

## Project Approval

### Section 75J of the *Environmental Planning and Assessment Act 1979*

I approve the project referred to in schedule 1, subject to the conditions in schedules 2, 3 and 4.

These conditions are required to:

- prevent and/or minimise adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

Frank Sartor MP  
Minister for Planning

Sydney

2007

*The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.*

*The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.*

# DRAFT CONSOLIDATED CONSENT

## SCHEDULE 1

**Application Number:** 07\_0031

**Proponent:** COLAS New South Wales Pty Ltd

**Approval Authority:** Minister for Planning

**Land:** 25 and 27 Kennington Drive, Tomago  
(Lot 14 and Lot 15 DP270494)

**Project:** Asphalt plant and associated infrastructure

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## SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
MP07_0031-Mod-1	31 January 2025	A/Director	Increase input material type and annual asphalt production limit

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## DEFINITIONS

BCA	Building Code of Australia
Council	Port Stephens Council
DECC	Department of Environment and Climate Change
Department	Department of Planning
EA	Environmental Assessment titled <i>Environmental Assessment for Proposed Asphalt Plant at Lots 14 &amp; 15 Kennington Drive, Tomago, NSW</i> , dated 3 August 2007, and prepared by Lindsay & Dynan Pty Limited
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
Minister	Minister for Planning
Modification Assessments	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with the following modification applications made under the EP&A Act: (a) MP07_0031-Mod-1 Modification Report prepared by Monteath & Powys Pty Ltd and dated October 2021, and Submissions Report prepared by R.W. Corkery & Co. Pty Ltd and dated October 2024, and Re: EPA Advice – Submissions Report prepared by R.W. Corkery & Co Pty Ltd and dated November 2024
Proponent	COLAS New South Wales Pty Ltd, or its successors in title
Project	Construction and operation of an asphalt plant and associated infrastructure (see EA)
Site	Land referred to in schedule 1
µg/m <sup>3</sup>	micrograms per cubic metre
Year	A period of 12 consecutive months

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## SCHEDULE 2 ADMINISTRATIVE CONDITIONS

### Obligation to Minimise Harm to the Environment

1. The Proponent shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or decommissioning of the project.

### Terms of Approval

2. The Proponent shall carry out the project generally in accordance with the:
  - a) EA;
  - b) **Modification Assessments**
  - c) site plans DA01(A), DA02(A), DA03(A), DA04(A), DA05(A) (refer to Appendix 1); and
  - d) conditions of this approval.
3. If there is any inconsistency between the above, the conditions of this approval shall prevail to the extent of the inconsistency.
4. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
  - a) any reports, plans or correspondence that are submitted by the Proponent in accordance with this approval; and
  - b) the implementation of any actions or measures contained in those reports, plans or correspondence submitted by the Proponent.

### Limits of Approval

5. The Proponent shall not produce more than **250,000** tonnes of asphalt a year.

### **5A. The Proponent must ensure the project does not receive more than:**

- a) **30,000 tonnes of steel slag per year;**
- b) **74,750 tonnes of reclaimed asphalt pavement per year;**
- c) **10,000 tonnes of glass per year; and**
- d) **1,000 tonnes of crumbed rubber per year.**

### Structural Adequacy

6. The Proponent shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

#### *Notes:*

- *Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works.*
- *Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.*

### Protection of Public Infrastructure

7. The Proponent shall:
  - e) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - f) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

### Operation of Plant and Equipment

8. The Proponent shall ensure that all plant and equipment used at the site is:
  - a) maintained in a proper and efficient condition; and
  - b) operated in a proper and efficient manner.

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## Management Plans/Monitoring Programs

9. With the approval of the Director-General, the Applicant may prepare and submit any management plan or monitoring program required by this approval on a progressive basis.

## Section 94 Contributions

10. Prior to the commencement of construction, the Proponent shall make suitable provisions for contributions in accordance with *Port Stephens Section 94A Development Contributions Plan*, in consultation with Council, and to the satisfaction of the Director-General.

## Pre-Operation Compliance Audit

11. Prior to the commencement of operations, the Proponent shall submit work as executed plans to the Department for all the development associated with the project. These plans must be prepared by a suitably qualified and experienced expert, and include plans showing the work as executed plans laid over the approved plans to demonstrate that the development has been carried out in accordance with the approved plans.
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## SCHEDULE 3 SPECIFIC ENVIRONMENTAL CONDITIONS

### ODOUR

1. The Proponent shall not cause or permit the emission of offensive odours from the site, as defined under Section 129 of the *Protection of the Environment Operations Act 1997*.

*Note: Section 129 of the Protection of the Environment Operations Act, 1997 provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence at minimising odour.*

### AIR QUALITY

#### Air Quality Assessment Criteria

2. The Proponent shall ensure that the stack emissions from the project comply with the relevant standards of concentrations under the *Protection of the Environment Operations Act, 1997*.
3. The Proponent shall ensure that the dust emissions generated by the project do not cause additional exceedances of the air quality impact assessment criteria listed in Tables 1, 2, and 3 at any sensitive receivers.

Table 1: Long term impact assessment criteria for particulate matter

<b>Pollutant</b>	<b>Averaging period</b>	<b>Criterion</b>
Total suspended particulate (TSP) matter	Annual	90 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	30 µg/m <sup>3</sup>

Table 2: Short term impact assessment criterion for particulate matter

<b>Pollutant</b>	<b>Averaging period</b>	<b>Criterion</b>
Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	50 µg/m <sup>3</sup>

Table 3: Long term impact assessment criteria for deposited dust

<b>Pollutant</b>	<b>Averaging period</b>	<b>Maximum increase in deposited dust level</b>	<b>Maximum total deposited dust level</b>
Deposited dust	Annual	2 g/m <sup>2</sup> /month	4 g/m <sup>2</sup> /month

*Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.*

#### Operating Conditions

4. The Proponent shall ensure that all road surfaces on site are paved and regularly cleaned.
5. Trucks entering and leaving the site that are carrying loads of dust-generating materials must have their loads covered at all times.

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## Air Quality Audit

6. Within 6 months of the commencement of operations, during a period in which the project is operating at normal capacity, the Proponent shall conduct an air quality audit of the project to the satisfaction of the DECC and Director-General. This audit shall:
- be undertaken by a suitably qualified and experienced person;
  - assess whether the project is complying with the relevant air quality assessment criteria in this approval; and
  - provide details of any complaints received on the air quality impacts of the project, and any action taken to respond to these complaints.
- 6A. Within six months of the approval of MP07\_0031-Mod-1, the Proponent must prepare an Odour and Air Quality Management Plan (OAQMP) to the satisfaction of the Director-General. The OAQMP must:
- be prepared by a suitably qualified and experienced person(s);
  - detail and rank all emissions from all sources of the project;
  - describe a program that is capable of evaluating the performance of the operation and determining compliance with key performance indicators;
  - identify the control measures that will be implemented for each emission source;
  - nominate the following for each of the proposed controls:
    - key performance indicator;
    - monitoring method;
    - location, frequency and duration of monitoring;
    - record keeping;
    - complaints register;
    - response procedures;
    - compliance monitoring; and
  - detail a trigger action response plan, including contingency and corrective measures, to be implemented if the relevant odour and air quality criteria identified in conditions 1, 2 or 3 are exceeded.
- 6B. The Proponent must
- not produce more than 150,000 tonnes of asphalt a year until the OAQMP required by condition 6A is approved by the Director-General; and
  - implement the most recent version of the OAQMP approved by the Director-General for the duration of the development.

## NOISE

### Noise Impact Assessment Criteria

7. The Proponent shall ensure that the noise generated by the project does not exceed the noise limits in Table 4.

Table 4: Project Noise Limits (dB(A))

Location	Day $L_{Aeq}(15min)$	Evening $L_{Aeq}(15min)$	Night $L_{Aeq}(15min)$	Night $L_{AFmax}$
All residential receivers	40	39	39	52

Note: Noise generated by the development is to be measured in accordance with the relevant monitoring performance procedures and exemptions (including certain meteorological conditions) of the NSW Noise Policy for Industry (EPA, 2017) (as may be updated or replaced from time to time)

## Operating Hours

8. Unless the Director-General agrees otherwise, the Proponent shall comply with the restrictions in Table 5.

Table 5: Construction and Operation Hours for the Project



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<b>Activity</b>	<b>Day</b>	<b>Time</b>
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation	All days	Any time

*Note: Construction activities may be conducted outside the hours in Table 5 provided that the activities are not audible at any residence beyond the boundary of the site.*

## Noise Audit

9. Within 6 months of the commencement of operations during a period in which the project is operating at normal capacity, the Proponent shall conduct a Noise Audit of the project to the satisfaction of the DECC and Director-General. This audit shall:
  - a) be undertaken by a suitability qualified and experienced person;
  - b) assess whether the project is complying with the relevant noise impact assessment criteria in this approval; and
  - c) provide details of any complaints received on the noise impacts of the project, and any action taken to respond to these complaints.

## TRANSPORT

### Vehicle Queuing

10. The Proponent shall ensure that the project does not result in any vehicles queuing on the public road network.

### Parking

11. Vehicles associated with the project shall not park on local roads in the vicinity of the site at any time.
12. The Proponent shall ensure that the internal road network, driveways and parking associated with the project are designed, constructed and maintained in accordance with the latest versions of the Australian Standards AS 2890.1:2004, AS 2890.2:2002 and AUSTROADS.

## Road Maintenance

- 12A. The Proponent must enter into a licensing agreement with Council, at no cost to Council, to maintain and repair the pavement of Kennington Drive along the frontage of 25 Kennington Drive (Lot 14 DP270494), 27 Kennington Drive (Lot 15 DP270494) and 31 to 33 Kennington Drive (Lot 62 DP270494) for the life of the project. Any pavement damage or failure must be reported to Council immediately, along with a proposed schedule for repairs.

## Operational Traffic Management Plan

- 12B. Within six months of the approval of MP07\_0031-Mod-1, the Proponent must prepare an Operational Traffic Management Plan (OTMP) for the project to the satisfaction of the Director-General. The OTMP must:
  - a) be prepared by a suitably qualified and experienced person(s);
  - b) detail heavy vehicle routes, access, and parking arrangements;
  - c) detail the measures that are to be implemented to ensure road safety and compliance with condition 10, condition 11, condition 12 and condition 12A;
  - d) detail how the operation of the project will interact with the operation of the storage yard at 31 to 33 Kennington Drive (Lot 62 DP270494), including consideration of cumulative construction and/or operational traffic impacts and how these would be managed;
  - e) include an Operational Driver Code of Conduct to:
    - (i) inform truck drivers of the site access arrangements and use of specified haul routes;
    - (ii) minimise the impacts on the local and regional road network;
    - (iii) minimise conflicts with other road users; and
    - (iv) include a program to monitor the effectiveness of these measures.

- 12C. The Proponent must

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- a) not produce more than 150,000 tonnes of asphalt a year until the OTMP required by condition 12B is approved by the Director-General; and
- b) implement the most recent version of the OTMP approved by the Director-General for the duration of the development.

## WATER

### Water Discharges

13. The Proponent shall only discharge water from the site in accordance with the DECC Environment Protection Licence, or in accordance with section 120 of the *Protection of the Environment Operations Act 1997*.

### Bunding and Dangerous Goods Storage

14. The Proponent shall store and handle all dangerous goods, as defined by the Australian Dangerous Goods Code, strictly in accordance with:
- a) all relevant Australian Standards;
  - b) a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund; and
  - c) the DECC's Environment Protection Manual Technical Bulletin *Bunding and Spill Management*.

### Soils and Water Management Plan

15. The Proponent shall prepare and implement a Soil and Water Management Plan for the project to the satisfaction of the Director-General. This plan must:
- a) be prepared by a suitably qualified expert;
  - b) be submitted to the Director-General for approval prior to the commencement of construction;
  - c) include:
    - an Erosion and Sedimentation Control Plan for the construction works that has been prepared in accordance with Lancom's publication *Managing Urban Stormwater: Soils and Construction* (2004, or its latest version); and
    - a revised Stormwater Management Scheme for the site that has been prepared generally in accordance with the DECC's guidelines on *Managing Urban Stormwater*, and endorsed by Council.

### Operational Water Management Plan

- 15A. Within six months of the approval of MP07\_0031-Mod-1, the Proponent must prepare an Operational Water Management Plan (OWMP) to the satisfaction of the Director-General. The OWMP must:
- a) be prepared by a suitably qualified and experienced person(s);
  - b) detail and rank all discharges to waters from all sources of the project;
  - c) describe a program that is capable of evaluating the performance of the operation and determining compliance with key performance indicators;
  - d) consider all potential sources of contamination of surface waters from leaching from bulk stockpiled materials;
  - e) identify the control measures that will be implemented for all discharges to waters;
  - f) include a site water balance; and
  - g) nominate the following for each of the proposed controls:
    - (i) key performance indicator;
    - (ii) monitoring method;
    - (iii) location, frequency and duration of monitoring;
    - (iv) record keeping;
    - (v) complaints register;
    - (vi) response procedures; and
    - (vii) compliance monitoring.
- 15B. The Proponent must
- a) not produce more than 150,000 tonnes of asphalt a year until the OWMP required by condition 15A is approved by the Director-General; and
  - b) implement the most recent version of the OWMP approved by the Director-General for the duration of the development.

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## WASTE MANAGEMENT

16. The Proponent shall ensure that all waste generated on site during the construction and operation of the project is classified in accordance with the Environmental Guidelines: *Assessment, Classification and Management of Liquid and Non-Liquid Waste*, and disposed of to a facility that may accept the waste.
17. The Proponent shall implement all reasonable and feasible measures to minimise the waste generated by the project to the satisfaction of the Director-General.
- 17A. The Proponent must ensure resource recovery waste received at the site is secured and maintained within designated storage areas at all times.

*Note: A resource recovery waste means a waste that has a resource recovery order and exemption as defined in the Protection of the Environment Operations Act 1997*

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## SCHEDULE 4 ENVIRONMENTAL MANAGEMENT AND REPORTING

### ENVIRONMENTAL MANAGEMENT PLAN

18. The Proponent shall prepare and implement an Environmental Management Plan for the project to the satisfaction of the Director-General. This plan must:
- be submitted to the Director-General for approval prior to the commencement of construction;
  - provide the strategic context for environmental management of the project;
  - identify the statutory and other obligations that apply to the project;
  - describe in general how the environmental performance of the project would be monitored and managed during the project;
  - describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the construction, operation and environmental performance of the project;
    - receive, handle, respond to, and record any complaints that are received;
    - resolve any disputes that may arise during the course of the project;
    - respond to any non-compliance; and
    - respond to emergencies;
  - describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project; and
  - include a copy of the Soil and Water Management Plan (see schedule 3).

### COMPLIANCE REPORTING

19. Prior to both the commencement of construction and operations, the Proponent shall certify in writing to the Director-General that it has complied with all relevant conditions of this approval.

### INCIDENT REPORTING

20. Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval or the occurrence of an incident that causes (or may cause) harm to the environment, the Proponent shall notify the Department and other relevant agencies of the exceedance/incident.
21. Within 6 days of notifying the Department and other relevant agencies of an exceedance/incident, the Proponent shall provide the Department and these agencies with a written report that:
- describes the date, time, and nature of the exceedance/incident;
  - identifies the cause (or likely cause ) of the exceedance/incident;
  - describes what action has been taken to date ; and
  - describes the proposed measures to address the exceedance/incident.
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## APPENDIX 1 SITE PLANS

FOR INFORMATION