

NSW Department of Climate Change, Energy, the Environment and Water

Our ref: OUT25/11261

Cameron Ashe
Planning Group
NSW Department of Planning, Housing and Infrastructure
Email: cameron.ashe@dpie.nsw.gov.au

28/08/2025

Subject: Birriwa Solar Farm Modification 1 (SSD-29508870) - Modification Report

Dear Cameron Ashe,

I refer to your request for advice sent on 13 August 2025 to the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Water Group about the above matter.

NSW DCCEEW Water Group has reviewed the EIS and has recommendations regarding:

- quantification of the maximum water take during construction and operation, and demonstration sufficient entitlement can be obtained
- review of the dams/structures proposed that will capture runoff
- acquiring a water access licence (WAL) to account for the maximum predicted water take
- potable water requirements for construction and operation, and identification of a viable supply
- activities on waterfront land.

Please see **Attachment A** for details.

Should you have any further queries in relation to this submission please do not hesitate to contact the Water Assessments team at water.assessments@dcceew.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Rob Brownbill".

Rob Brownbill,
Manager, Water Assessments, Knowledge Division
NSW Department of Climate Change, Energy, the Environment and Water

Detailed advice to DPHI Planning & Assessment regarding the Birriwa Solar Farm Modification 1 (SSD-29508870) - Modification Report

1.0 Water supply, take and licensing

1.1 Recommendation – pre-determination

The Department of Planning, Housing and Infrastructure (DPHI) should seek from the proponent quantification of the maximum water take during construction and operation, and demonstration sufficient entitlement can be obtained to account for the take or identify an exemption which applies.

Explanation

The proposal states that water will be sourced from a variety of sources, including third party suppliers, farm dams, existing bores, new bores or from the Cudgegong River, however it does not include assessment of any water supply infrastructure or an indication of any water supply agreements. The proposal also suggests that take from the Cudgegong River downstream of Windemere Dam is a possible water supply option, however water take is not quantified.

1.2 Recommendation – pre-determination

DPHI should seek from the proponent a review of the dams/structures proposed that will capture runoff.

Explanation

The proposal states that water may be sourced from dams on site but has not listed which existing dams or provided locations, capacities or an assessment against any exclusions or exemptions from water licensing requirements. To meet an exemption, they need to be sized consistent with best practice for the purpose of the dam eg. a dam to capture runoff from an upstream disturbed area needs to be sized according to industry standards. Where a dam is capturing runoff from an undisturbed catchment it will not meet an exclusion.

The dam capacity of dams/structures on minor streams (first and second order streams) need to be considered for whether they are within the Maximum Harvestable Rights Dam Capacity (MHRDC) or satisfy an exemption. Water holding structures on minor streams that are sized larger than the industry standards for the runoff capture need to be either

- 1) constructed to prevent runoff capture such as a turkeys nest dam,
- 2) need to be considered within the MHRDC or
- 3) considered for licensing.

Dams/structures constructed on third order or higher order streams are subject to licensing requirements for the water take (not the dam size). Where water is captured in these dams licensing needs to be considered whether it is later pumped out and back into the system.

1.3 Recommendation – post approval

DPHI should ensure the proponent acquires a water access licence (WAL) to account for the maximum predicted water take for construction and operation activities unless an exemption applies under the *Water Management (General) Regulation 2018*.

Explanation

Under the *Water Management Act 2000*, if groundwater is intercepted a WAL must be obtained prior to any water take occurring unless an exemption under the *Water Management (General) Regulation 2018* applies. An exemption may where the groundwater take during construction or operation is less than or equal to 3ML per water year (cl 7, sch 4 of WM Reg). To claim this exemption certain requirements must be met, such as

- the person claiming the exemption keeps a record of the water taken under the exemption and provides this to the Minister within 28 days of the end of the water year; and
- the records are kept for 5 years.

Further information on these requirements and other information on licensing and approvals and exemptions, including a form to report and record water taken can be found at:

<https://water.dpie.nsw.gov.au/licensing-and-trade> and [Groundwater access licence exemptions | NSW Government Water](#).

2.0 Water utilities

2.1 Recommendation – pre-determination

DPHI should request the proponent to quantify potable water requirements for construction and operation and identify a viable supply is available.

Explanation

Quantification and source of potable water have not yet been identified. Confirmation of a viable supply of potable water is required pre-determination, not post approval as suggested by the proponent. Supply of potable water should not be assumed available due to the location of the project and limited potable water supply options in the area. The proponent should contact potential suppliers and confirm availability.

3.0 Activities on waterfront land

3.1 Recommendation – post approval

DPHI should ensure works within waterfront land are in accordance with the Guidelines for Controlled Activities on Waterfront Land.

Explanation

The proposal states that cable installation, watercourse crossings and fencing are proposed on waterfront land. These works must consider the Guidelines for Controlled Activities on Waterfront Land. The guidelines can be found here: <https://water.dpie.nsw.gov.au/our-work/licensing-and-approvals/controlled-activity-approvals>.

End Attachment A