

18 July 2025



**Carl Dumbleton**

Team Leader

Resources and Energy Assessments

Development Assessments and Sustainability

**Department of Planning, Housing and Infrastructure (DPHI)**

[carl.dumbleton@planning.nsw.gov.au](mailto:carl.dumbleton@planning.nsw.gov.au)

Dear Carl

**Re: 240071 – Tilbuster solar farm Modification SSD SSD-9619**

Please find overleaf the Applicant's response to the further agency submissions received in relation to this project. Specifically:

- Crown Lands
- Transport for NSW (TfNSW)
- NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Conservation Programs, Heritage and Regulation Group (CPHR)

The agency submissions include matters which are not specifically related to the Modification Application. We propose that the key concerns that remain can be addressed in the completion of management plans and secondary approvals required to be prepared / obtained in consultation with these stakeholders.

As discussed in our last meeting, the delay in achieving approval for the Modification is affecting the Project's construction program and scheduled commissioning date. The uncertainty and cost of the delays are affecting project viability.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brooke Marshall', is positioned below the 'Yours sincerely,' text.

Brooke Marshall

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## Crown Lands

Agency correspondence, 8 Nov 2024 and 13 June 2025, identified two issues.

- The access road is incorrectly identified as an unnamed crown road and the proponent will need to consult Council regarding this access.

The Applicant has been in extensive consultation with Council with regard to this access. The area has now been subject to more accurate surveying to inform detailed design of road upgrades.

- The proponent will require a licence to use Crown land for access or infrastructure, noting solar panel infrastructure should not be planned on Crown land.

The Applicant have consulted with Crown Lands (Warren Martin) and have been advised to [Apply for a general licence | Crown Lands](#). Given the Tilbuster Solar Farm is not in a Native Title Claim area (but Native Title has not been extinguished on the unreserved Crown land), Crown Lands considers that if the use of unreserved Crown land is for vehicle access crossing and power line connection (which it is), that it does not require 24FA application but can be licenced by Crown Lands under subdivision K of the Native Title Act 1993. Therefore EP Sunspot 5 Pty Ltd will apply for a Crown Lands licence for purpose 'access and powerline' over the unreserved Crown land. Solar panel infrastructure is not proposed on Crown land.

EP Sunspot 5 Pty Ltd currently holds Licence 635128 for purpose 'site investigation' but will update on the progress of the general licence. This is considered a post approval process and is ongoing.

## Transport for NSW

Agency correspondence 26 June 2025, identified three unresolved issues; comments 3 and 5 related to recent traffic survey data, and comment 4 relating to the use of the Port of Newcastle as an origin for Over Size Over Mass (OSOM) movements.

- Comments 3 and 5 – Traffic Surveys and Revised Traffic Assessments

The Applicant has now provided the traffic count data requested directly to TfNSW. The data was collected in late-2024 comprising 7-day tube counts and intersection surveys. The results from these surveys were used for the purposes of developing the revised turn treatment assessment for the Modification Application. The letter report from Amber Organisation submitted with the Modification Application showed consistent findings with the original Traffic Impact Assessment. Refer to Appendix A email.

- Comment 4 – OSOM Route Assessment

The Modification Application seeks to add the Port of Newcastle as an option for the delivery of the transformer *in addition to Port Botany which was considered and approved as part of the original consent*. Accordingly, the only aspect of the route that is impacted by the Modification Application is that between the Port of Newcastle and the approved route from Port Botany.

A total of three pinch points were tested between the Port of Newcastle and the State roads on the (considered and approved) Port Botany Route where they join on the Hunter Expressway. It is also noted that the roads between the Port of Newcastle and the Hunter Expressway have been used for much larger vehicles than that proposed (prime mover with an 8x8 platform trailer with dolly).

Further assessment and consideration of the OSOM vehicle, route, and management arrangements will form part of a future High-Risks OSOM Traffic Management Plan (should it be required) and the project-specific Traffic Management Plan, currently in development. Consideration and approval of OSOM movements as part of the post-approval Traffic Management Plan process / NHVR permit is considered suitable given the small change contemplated by the modification, as well as the status of the project, which is well underway.

## NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Conservation Programs, Heritage and Regulation Group (CPHR)

Background:

In a meeting regarding the assessment approach in May 2024, the agency provided advice that the BAM-C case must cover the *entire proposal as modified* (whole of project recalculation) and noted some latitude for use of old data in the assessment. The Biodiversity Development Assessment Report (BDAR V2) was submitted in August 2024. In the agency submission to the BDAR V2 provided in December 2024, the agency's comments addressed the Project as a whole and were not restricted to the impacts / assessment required by the Modification.

NGH worked with DPHI to suggest changes to the Biodiversity BDAR approach and format which would facilitate the agency to assess only the changes required by the Modification. In May 2025, DPHI facilitated a meeting with the Applicant, NGH and DCCEEW to discuss the BDAR approach and clarified at the end of the meeting that they would support a BDAR approach that assessed only the *additional areas* of impact for the Modified Project (ignoring the areas already approved but now avoided by the Modified project). This would provide an additional offset obligation specific to the Modification that could be added to the consented obligation. This approach was subject to the supporting data being lawful. It is noted that, as the approach would include assessment and offset of some areas of better vegetation now avoided by the Modified Development footprint, it also represented a conservative approach.

The BDAR V2.1 was provided on 22 May 2025, along with a legal review in support of the BDAR's approach and use of data. Specific consideration was given to the age of the data and its ability to represent current seasonal conditions in the legal review.

Agency correspondence dated 9 July 2025 identified three outstanding issues and provided options to address these:

- Conduct additional field surveys or use drought modified benchmarks to update the BDAR.

NGH consider that the Applicant has demonstrated that the data used to support the Modification is lawful in the context of the Modified project. This includes consideration of the age of the data, the effect of seasonality and the type of data (plot data versus species survey). Legal advice has been provided separately to DPHI by the Applicant. The changes in assessment approach requested by the agencies to date have caused significant delays for this project and the Applicant respectfully submits that the DPHI's May 2025 mandate, as set out above, has been met in the resubmission of BDAR V2.1.

- Additional surveys for threatened owl species in the EIS were deficient and should be addressed either by further surveys or assumed presence.

BDAR V2.1, using the DPHI mandated approach, did not generate requirement for owl surveys. The Applicant respectfully submits that the DPHI's May 2025 mandate, as set out above, has been met in the resubmission of BDAR V2.1.

- The proposal in its current form is considered to have a serious and irreversible impact (SAIL) on the critically endangered ecological community (CEEC) White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland. Further avoid and minimise options should be included in an amended project.

NGH considers that the Modified project shows substantive avoid and minimise actions (section 6.2, BDAR V2.1). As agreed with agencies in the May 2025 meeting, the assessment and offset obligation mandated now includes areas that will not be impacted by the Project; these areas to be avoided are not included in the Modified Development footprint and 'inflate' the offset obligation in relation to the better areas of the CEEC.

While an overall increase of 11.78 ha to the Development footprint is required for constructability, the Development footprint has been curtailed in several areas to ensure the overall vegetation impact is

responsive to the sites values and specifically to the more intact areas of CEEC. With reference to the zone IDs used in BDAR V2, the Modified project increases can be seen to be purposefully targeted to areas that were generally too poor quality to generate offsets (Zone 2 and 6):

- i. 8.26 ha increase in impacts to Zone 2: 567\_Grassland (VI Score 7.5)
- ii. 0.36 ha increase in impacts to Zone 3: 567\_Scattered (VI Score 22)
- iii. 0.05 ha increase in impacts to Zone 4: 575\_Forest (VI Score 59.9)
- iv. 6.68 ha increase in impacts to Zone 6: 704\_Grassland (VI Score 8.9)
- v. 0.55 ha increase in impacts to Zone 7: 704\_Scattered (VI Score 35.5)
- vi. 0.01 ha increase in impacts to Zone 8: 575\_Scattered (VI Score 38.4).

The reductions now achieved are mostly in the higher quality areas (Zone 1 and 5 – which are still being assessed as being impacted and offset as if impacted, as mandated by DPHI);

- i. 5.08 ha reduction in impacts to Zone 1: 567\_Woodland (VI Score 54.5)
- ii. 1.09 ha reduction in impacts to Zone 5: 704\_Woodland (VI Score 35.4)

The Project remains committed to further connectivity enhancement for the life of the Project. The Project remains committed to ensuring no panels will be developed on the higher quality vegetation in zones 1 and 5. These areas will be restricted to fencing and tracks where these impacts cannot be avoided.

Further changes to the layout would cause significant delays for this project and the Applicant respectfully requests the DPHI's May 2025 mandate, as set out above, has been met in the resubmission of BDAR V2.1 and that the outcome of the Modification is unlikely to generate a serious and irreversible impact on the CEEC.

# Appendix A TfNSW correspondence

**From:** [Tom Dwyer](#)  
**To:** [Emily Lu](#); [Development Renewables](#)  
**Cc:** [Alexandra Power](#); [Brooke Marshall](#); [e.tran@enerparc.com](mailto:e.tran@enerparc.com)  
**Subject:** TfNSW reference: REN25/00093/004 - SSD-9619-Mod-1, Tilbuster Solar  
**Date:** Friday, 4 July 2025 5:51:38 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[\\_2025.06.26+-+TfNSW+Response+-+Tilbuster+Solar+Farm+Mod+1\\_.pdf](#)

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Hi Emily

I'm writing to provide more information to response to TfNSW's response to the Tilbuster Solar Farm Mod-1 RtS (refer attached pdf: "[\\_2025.06.26+-+TfNSW+Response+-+Tilbuster+Solar+Farm+Mod+1\\_](#)")

A total of 3 comments remain open, with comments 3 and 5 related to recent traffic survey data, and comment 4 relating to the use of the Port of Newcastle as an origin for OSOM movements. Further information on outstanding items is provided below.

### **Comments 3 and 5 – Traffic Surveys and Revised Traffic Assessments**

Updated traffic counts were undertaken in late-2024 comprising 7-day tube counts and intersection surveys. Links to the raw data is provided below:

 [3624 - New England Hwy - South of Property 12029.xlsx](#)

 [TMCs Armidale NSW.xlsx](#)

The results from these surveys were used for the purposes of a revised turn treatment assessment of Mod-1 which was presented in our letter report, which showed consistent findings with the original TIA. Assessment files are provided below with one for the road network peak hour for completeness:

 [045 tta 250704 6-7am.xlsx](#)

 [045 tta 250704 7-8am.xlsx](#)

### **Comment 4 – OSOM Route Assessment**

The modification of the project only seeks to add the Port of Newcastle as an option for the delivery of the transformer in addition to Port Botany which was considered and approved as part of the original consent.

Accordingly, the only aspect of the route that is impacted by the modification is that between the Port of Newcastle and the approved route from Port Botany. A total of three pinch points were tested between the Port of Newcastle and the State roads on the (considered and approved) Port Botany Route where they join on the Hunter Expressway. It is also noted that the roads between the Port of Newcastle and the Hunter Expressway have been used for much larger vehicles than that proposed (prime mover with an 8x8 platform trailer with dolly).

Further assessment and consideration of the OSOM vehicle, route, and management arrangements will form part of a future High-Risks OSOM TMP (should it be required) and the project-specific TMP. Consideration and approval of OSOM movements as part of the TMP process / NHVR permit is considered suitable given the small change contemplated by the modification, as well as the status of the project which is well underway.

I trust the above information helps, and I'd be happy to discuss it in more detail – feel free to be in touch.

Cheers

Tom

**Tom Dwyer**

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