

Mr Tom Kibble
Head of Legal
The Trustee for Elliott Nevertire Trust
Angel Place, Level 9, 123 Pitt Street
Sydney NNSW 2000

Via email: tom.kibble@elliottgreenpower.com

27/07/2021

Dear Mr Kibble

Nevertire Solar Farm (SSD-8072)
Modification 4 – Battery Energy Storage System

I refer to your correspondence (PMA-24315732) indicating your intention to modify the Nevertire Solar Farm (SSD-8072) to include a Battery Energy Storage System.

Based on the information provided, the Department considers that the modification could be made under section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

The Department has reviewed the proposed approach to preparing a modification application. The Department requests the following matters be included in the modification report:

- comprehensive environmental impact assessment of the battery project site, including biodiversity, heritage, noise, visual and traffic impact assessment, noting the site would comprise new land to the approved Nevertire Solar Farm;
- evidence of consultation with potentially affected surrounding residences having regard to noise, visual and traffic impacts;
- evidence of consultation with all relevant stakeholders, including Council, Biodiversity Conservation and Science Directorate (BCS) within the Department and TransGrid;
- a Preliminary Hazard Analysis (PHA) prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 6, 'Hazard Analysis'* (HIPAP 6) and *Multi-Level Risk Assessment* (MLRA). The PHA should also have regard to any recent developments in research and standards for battery storage.

The Department notes that a Biodiversity Development Assessment Report is required unless sufficient justification can be provided under the *Biodiversity Conservation Act 2016*, in consultation with BCS.

Your next step will be to lodge your modification application through your dashboard on the major projects website (<http://www.planningportal.nsw.gov.au/major-projects>).

Once you submit your modification application, we will check it for completeness to confirm it addresses the above requirements. We will also notify you of the application fee for your project. Please note that **your application is not taken to be lodged until the fee has been paid.**

If you have any questions, please contact Karl Okorn, who can be contacted on (02) 9995 5207 or at karl.okorn@planning.nsw.gov.au

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'NB', followed by a horizontal line.

Nicole Brewer
Director
Energy Assessments

Michelle Moodley

From: Ben Ellis <Ben.Ellis@environment.nsw.gov.au>
Sent: Wednesday, 28 July 2021 3:13 PM
To: Mark Aitkens
Subject: RE: Nevertire Solar Farm Mod - question
Attachments: Screen Extracts_BAM Assessor Renewal Training Course Companion_DPIE 2020.docx

Hello Mark,

As discussed, The legislation does not prescribe or identify any formal process for the proponent to seek to 'waive' the requirement to prepare a BDAR for a modification application.

The Biodiversity Conservation Act 2016 (BC Act) states that a Biodiversity Development Assessment Report (BDAR) is required with a modification application for SSD and SSI projects unless the authority is satisfied that the modification will not increase the impact on biodiversity values. This applies to the modification of SSD or SSI approvals, even if the original approval was granted or applied for before the commencement of the BC Act (25 August 2017).

Specific pieces of legislation which step this out (if your interested) can be found in

- BC Act S7.17 and
- Biodiversity Conservation (Savings and Transitional) Regulation 2017 C.30 and C.30A

As discussed the process for determining that the MOD would not result in an increase of impact to any biodiversity values would be a similar assessment which you would undertake to inform a BDAR wavier request i.e. we need to be seeing that the project would not increase impacts on vegetation abundance, vegetation integrity, habitat suitability, threatened species abundance, threatened species movement, flight path integrity or hydrological processes/waterbodies that are known to sustain a threatened species or ecological community.

I recall you mentioning during our chat that the land was reasonably degraded and potentially is a farm paddock? If so, it may be worth your time to conduct a land category assessment to determine if any of the site can meet the criteria for Category-1 exempt land. Vegetation clearing within this land would not need to be considered when assessing you're MODs impact on aspects such as vegetation abundance, vegetation integrity.

Ive attached a bunch of screen extracts out of the BAM Assessor Renewal Training Course Companion which explains this somewhat. Feel free to get in touch if this is something of an unfamiliar process in which you would like any further discussion on. The NW team generally advises if your going to conduct a land categorisation assessment on a site to submit your method and mapping to us prior to submission so we can review and endorse it.

Kind Regards

Ben Ellis
A/ Senior Team Leader Planning North West



Planning,
Industry &
Environment

The [Winter edition](#) of the DPIE NW Environment quarterly newsletter. Please [subscribe here](#) to receive future editions.

From: Mark Aitkens <Mark.Aitkens@rpsgroup.com.au>
Sent: Wednesday, 28 July 2021 12:07 PM
To: Ben Ellis <Ben.Ellis@environment.nsw.gov.au>
Subject: Nevertire Solar Farm Mod - question

Ben

I am sure I know the answer to this but I am asking as there is some ambiguity.

DPIE have indicated to the proponent that a mod for the Nevertire Solar may require a BDAR. DPIE indicate that a BDAR may be required and this requirement is to be determined in consultation with EES. There is no mention of a BDAR Waiver.

I assume this consultation with EES is via a BDAR Waiver application? Is there any other way to determine the need for a BDAR and, at the same time, demonstrate correspondence with EES? (I do not know the answer to this second question).

Thanks in advance for your thoughts.

Regards

Mark

Mark Aitkens

Principal Ecologist
RPS | Australia Asia Pacific
Unit 2A, 45 Fitzroy Street
Carrington NSW 2294, Australia
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Michelle Moodley

From: Ben Ellis <Ben.Ellis@environment.nsw.gov.au>
Sent: Monday, 2 August 2021 8:22 AM
To: Michelle Moodley
Cc: Mark Aitkens
Subject: RE: Nevertire Solar Farm (SSD 8072) Modification 4 – Battery Energy Storage System - Consultation Letter
Attachments: RE: Nevertire Solar Farm Mod - question

CAUTION: This email originated from outside of RPS.

Hi Michelle/Mark,

I've had a quick scan of the scoping document sent for consultation this morning. The attached advice sent to Mark on Wednesday 28/07/2021 remains current and applicable to the site.

As discussed with Mark last week I would encourage RPS group to undertake a land category assessment of the site, to assess if the site could be consistent with Category-1 land as a preliminary step.

Please see standard NW Planning advice re: Land Category Assessments below.

Clearing of native vegetation on land that meets the definition of Category 1 - exempt land (as defined under the Local Land Services Act 2013 (LLS Act)) does not require assessment or offsetting under the Biodiversity Conservation Act 2016. Prescribed impacts as outlined in chapter 6 of the Biodiversity Assessment Method (2020) must still be considered on Category 1 - exempt land. In addition, potential impacts to Matters of National Environmental Significance under the Environment Protection and Biodiversity Conservation Act 1999 on Category 1 – exempt land must be considered.

Where an assessor identifies land as Category 1 – exempt land it must be adequately demonstrated that the identified land meets the criteria as set out in section 60H of the LLS Act. Multiple pieces of evidence should be used to demonstrate a Category 1 – exempt land designation.

This might include:

- *Publicly available data sets on the SEED data portal, such as:*
 - *Land use mapping – used to identify and map existing and historical agricultural land use in NSW – see the [2017 landuse map](#)*
 - *Woody vegetation extent – used to identify and map native vegetation extent – see [2008 Woody extent](#) [2011 woody extent](#)*
 - *State-wide Landcover and Tree Survey (SLATS) woody clearing for NSW – used to identify detectable clearing events since January 1990 – [available here](#)*
- *Published information on the Native Vegetation Regulatory Map, including Category 2-sensitive regulated, Category 2-vulnerable regulated, and excluded land - [available here](#)*
- *Site-based information and records, including:*
 - *Current and historical high-resolution aerial photography*
 - *current and historical photographs of the subject land*
 - *historical land management records maintained by the landowner*
 - *vegetation survey data collected on the subject land*
 - *documentation demonstrating history of authorised clearing and/or development*

The published [Native Vegetation regulatory map: method statement](#) should be reviewed to determine how the datasets can be best interrogated to support any identification of Category 1 – exempt land.

Where datasets/information provide contradictory information, a precautionary approach should be applied and the land should be categorised as Category 2 – regulated land.

Where Category 1 – exempt land is likely to be present on a development site, early engagement with BCS is encouraged. Prior to an assessment being submitted to the consent authority, the accredited assessor should submit a proposed land categorisation method to the BCS North West Planning team at rog.nw@environment.nsw.gov.au for endorsement.

Kind Regards

Ben Ellis

A/ Senior Team Leader Planning North West

Biodiversity, Conservation & Science | Department of Planning, Industry and Environment

T 02 8275 1838 | E ben.ellis@environment.nsw.gov.au

www.dpie.nsw.gov.au



The [Winter edition](#) of the DPIE NW Environment quarterly newsletter. Please [subscribe here](#) to receive future editions.

From: Michelle Moodley <Michelle.Moodley@rpsgroup.com.au>

Sent: Friday, 30 July 2021 11:23 PM

To: Ben Ellis <Ben.Ellis@environment.nsw.gov.au>

Subject: Nevertire Solar Farm (SSD 8072) Modification 4 – Battery Energy Storage System - Consultation Letter

Dear Mr Ellis,

RPS Australia East Pty Ltd acts for Elliott Green Power Limited ('EGP'), a renewable energy project owner, operator and developer and the current owner of the Nevertire Solar Farm (the 'Project').

The purpose of the attached communication is to advise Biodiversity, Conservation and Science Directorate (BCS) on the proposed modification application (via 4.55(2) of the *Environmental Planning & Assessment Act 1979* for the Project for the addition of a proposed Battery Energy Storage System (BESS) and provide Council an opportunity to comment on the proposed modification.

As per verbal communication with RPS' Principal Ecologist, Mark Aitkens on 28 July 2021 it is understood that an analysis of impacts on biodiversity values is required for the modification application. It would be appreciated if you could provide any further preliminary comment about the proposed modification and if there are any particular matters BCS would like to see addressed within the assessment. Please provide comments by Monday 21 August 2021.

If you have any questions about the proposed modification, feel free to contact me.

Regards,



Our ref: DOC21/922501

Your ref: SSD 8072

Michelle Moodley
Senior Consultant - Environment
RPS
Michelle.moodley@rpsgroup.com.au

Dear Ms Moodley

Nevertire Solar Farm – modification for a battery energy storage system

Thank you for your e-mail dated 19 October 2021 to the Biodiversity, Conservation and Science Directorate (BCS) of the Department of Planning, Industry and Environment inviting comments on the biodiversity impact analysis report for a battery storage system to support the Nevertire solar farm.

BCS endorses the land category assessment in the biodiversity impact analysis report, and considers that:

1. The biodiversity impact analysis contains adequate information to support the conclusion that the proposed development area is Category 1 – exempt land under the *Local Land Services Act 2013*
2. As the land is Category 1 – exempt land, a biodiversity development assessment report is not required.

If you require any further information regarding this matter, please contact Liz Mazzer, Conservation Planning Officer, via liz.mazzer@environment.nsw.gov.au or (02) 6883 5325.

Yours sincerely

A handwritten signature in black ink that reads 'Samantha Wynn'.

Samantha Wynn
Senior Team Leader Planning North West
Biodiversity, Conservation and Science Directorate

22 October 2021

CC: Karl Okorn, Energy Resource Assessment, Department of Planning, Industry & Environment

Michelle Moodley
Senior Consultant – Environment
RPS
Level 13, 255 Pitt Street
SYDNEY NSW 2000

13th August 2021

Dear Michelle,

Re: Comment on proposed Battery Energy Storage System, Modification to development application

Further to your letter received 2nd August 2021, Council provides the following comments;

1. The environmental conditions 8, 9 and 10 within Schedule 3 of the original approval have NOT been complied with. It is recommended that this is actioned as necessary to ensure compliance with the conditions. The reasoning for this non-compliance was the drought which no longer exists.
2. Warren Shire Council's waste facility does not have the capabilities to deal with commercial waste of any kind. All waste products will need to be disposed of at a licenced waste facility other than the Ewenmar Waste Facility.
3. The energy storage system is designed and construction to Essential Energy standards and approved by Essential Energy, as the infrastructure owner.
4. The establishment of easements for all underground infrastructure as part of the development.
5. The existing access should be utilised for the development to ensure a traffic hazard is not created.
6. A copy of the Environmental Impact Statement is provided to Council for information.

Please feel free to contact me if you have any questions.

Yours faithfully,



Maryanne Stephens
Manager Health & Development Services

16/08/2021

SF2016/252417 | WST16/00182/14

Deborah Dinardo
Senior Executive-Environment
Level 13
255 Pitt Street
Sydney NSW 2000

Attention: Michelle Moodley

Dear Ms Moodley

Pre-Modification application request for Nevertire Solar Farm SSD 8072 for the construction of a Battery Energy Storage System:

Thank you for sending the letter requesting pre-modification advice for the proposed Battery Energy Storage System to support the Nevertire Solar Farm development.

TfNSW have reviewed the pre-modification advice request and provide the following advice to incorporate in the preparation of the modification for Nevertire Solar Farm SSD 8072:

- The existing consent incorporated transport conditions in schedule 3 of the development consent within conditions 1-7 and condition 9. The proposed modification should comply with the existing conditions of development consent. However, if any changes are proposed in relation to the above conditions as a result of the modification the proposed change will need to be identified and justified as to how compliance is achieved with the Austroads Guide to Road Design, Technical Directions, Supplements and the RTA Guide to Traffic Generating Development.
- In regards to the above point, an updated Transport Impact Assessment (TIA) is required to be prepared that address the below points where relevant. The TIA is to be prepared by a suitably qualified person in accordance with the *Austroads Guide to Traffic Management Part 12*, the *Roads and Maritime Supplements to Austroads* and the *RTA Guide to Traffic Generating Developments*:

Project schedule:

- Hours and days of work, number of shifts and start and end times,
- Phases and stages of the project, including construction, operation and decommissioning,

Traffic volumes:

- Existing background traffic,
- Project-related traffic for each phase or stage of the project,
- Projected cumulative traffic at commencement of operation, and a 10-year horizon post-commencement,

Traffic characteristics:

- Number and ratio of heavy vehicles to light vehicles,
- Peak times for existing traffic,
- Peak times for project-related traffic including commuter periods,
- Proposed hours for transportation and haulage,



NSW RURAL FIRE SERVICE

Michelle Moodley
RPS
Level 13, 255 Pitt Street
Sydney NSW 2000

Our reference: DA20210824003566-SEARS-1

ATTENTION: Michelle Moodley

Date: Friday 3 September 2021

Dear Sir/Madam,

**State Significant Development – Electricity Generating Works
Request for Secretary's Environmental Assessment Requirements
Nevertire Solar Farm Mitchell Highway NEVERTIRE NSW 2826, 2//DP1258306, 1//DP1258306**

Reference is made to correspondence dated 02/08/2021 seeking input regarding the preparation of Secretary's Environmental Assessment Requirements for the above State Significant Development in accordance with the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the information provided and advises that a bush fire assessment report shall be prepared which identifies the extent to which the proposed development conforms with or deviates from the relevant provisions of *Planning for Bush Fire Protection 2019*.

- The EIS shall identify the bush fire risk to the BESS and recommend mitigation measures to reduce the identified bush fire risk.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Timothy Carroll
**Manager Planning & Environment Services
Built & Natural Environment**

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- Interactions between existing and project-related traffic,
- A description of all over size and over mass vehicles and the materials to be transported

The origins, destinations and routes for:

- Commuter (employee and contractor) light vehicles and pool vehicles,
 - Heavy (haulage) vehicles,
 - Over size and over mass vehicles,
 - Road safety assessment of key haulage route/s,
 - The impact of traffic generation on the public road network and measures employed to ensure traffic efficiency and road safety during construction, operation and decommissioning of the project,
 - The need for improvements to the road network, and the improvements proposed such as road widening and intersection treatments, to cater for and mitigate the impact of project related traffic,
 - Proposed road facilities, access and intersection treatments are to be identified and be in accordance with Austroads Guide to Road Design including provision of Safe Intersection Sight Distance (SISD),
 - Local climate conditions that may affect road safety during the life of the project (e.g. fog, wet and dry weather, icy road conditions),
 - The layout of the internal road network, parking facilities and infrastructure,
 - Impact on rail corridors and level crossings detailing any proposed interface treatments,
 - Impact on public transport (public and school bus routes) and consideration for alternative transport modes such as walking and cycling,
 - Identification and assessment of potential impacts of the project, such as blasting, lighting, visual, noise, dust and drainage on the function and integrity of all affected public roads,
 - Controls for transport and use of any dangerous goods in accordance with *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development*, the *Australian Dangerous Goods Code* and *Australian Standard 4452 Storage and Handling of Toxic Substances*.
- It is noted that the Traffic Management Plan (TMP) will likely required to be updated based on the modification if there are changes to any matters identified in the TMP as a result of the modification.
 - If the modification does not trigger a change to the above conditions or trigger a legislative requirement for referral or concurrence from TfNSW then the modification will not require referral to TfNSW as a part of the modification process.

If you wish to discuss this matter further, please contact Alexandra Power on 02 6861 1428.

Yours faithfully



Alexandra Power
Team Leader Development Services
Development Services West
Regional and Outer Metropolitan

Michelle Moodley

From: DPI Landuse Enquiries Mailbox <landuse.enquiries@dpie.nsw.gov.au>
Sent: Monday, 2 August 2021 10:25 AM
To: Michelle Moodley
Subject: RE: Nevertire Solar Farm (SSD 8072) Modification 4 – Battery Energy Storage System - Consultation Letter

CAUTION: This email originated from outside of RPS.

Hi Michelle,

Thank you for your email, the information provided is noted. We have no feedback at this time and will review the modification report and accompanying documents once exhibited

Regards,

Judy Court

Assistant Project Officer

Water Group | Department of Planning, Industry and Environment

T 9842 8126 | E judy.court@dpie.nsw.gov.au

4 Parramatta Square, 12 Darcy St, Parramatta, NSW 2150.

www.dpie.nsw.gov.au



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Our Vision: Together, we create thriving environments, communities and economies

The Department of Planning, Industry and Environment acknowledges that it stands on Country which always was and always will be Aboriginal land. We acknowledge the Traditional Custodians of the land and waters, and we show our respect for elders past, present and emerging. We are committed to providing places in which Aboriginal people are included socially, culturally and economically through thoughtful and collaborative approaches to our work.

From: Michelle Moodley <Michelle.Moodley@rpsgroup.com.au>
Sent: Saturday, 31 July 2021 12:08 AM
To: DPI Landuse Enquiries Mailbox <landuse.enquiries@dpie.nsw.gov.au>
Subject: Nevertire Solar Farm (SSD 8072) Modification 4 – Battery Energy Storage System - Consultation Letter

Dear Sir/Madam,

RPS Australia East Pty Ltd acts for Elliott Green Power Limited ('EGP'), a renewable energy project owner, operator and developer and the current owner of the Nevertire Solar Farm (the 'Project').

The purpose of the attached communication is to advise the NSW Department of Primary Industries (DPI) on the proposed modification application (via 4.55(2) of the Environmental Planning & Assessment Act 1979 for the Project for the addition of a proposed Battery Energy Storage System (BESS) and provide DPI an opportunity to comment on the proposed modification.

It would be appreciated if you could provide preliminary comment about the proposed modification and if there are any particular matters DPI would like to see addressed within the assessment. Please provide comments by Monday 21 August 2021.

If you have any questions about the proposed modification, feel free to contact me.

Regards,

Michelle Moodley

Senior Consultant - Environment
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From: [Matthew Corradin](#)
To: [Michelle Moodley](#)
Subject: Nevertire Solar Farm (SSD 8072) Modification 4 – Battery Energy Storage System - Consultation Letter [ref:_00D7F6iTix._5007F1DVdGz:ref]
Date: Tuesday, 10 August 2021 5:34:32 PM
Attachments: [image001.png](#)
[image003.png](#)
[Nevertire Solar Farm BESS SSD MOD EPA.pdf](#)

CAUTION: This email originated from outside of RPS.

Hi Michelle

Thanks for your email. The EPA has no regulatory role under the *Protection of the Environment Operations Act 1997* in respect of solar farms and battery storages as they are not required to be licensed under Schedule 1 of the POEO Act nor is the activity being undertaken by or on behalf of a public authority/state owned corporation. Therefore, the EPA has no further comment to make other than to advise that you should contact Warren Shire Council in respect of the proposal as the Appropriate Regulatory Authority for environmental pollution matters under the POEO Act.

Regards

Matthew Corradin
Unit Head
Regulatory Operations
NSW Environment Protection Authority
D 02 4908 6830 | M 0428 663 146



www.epa.nsw.gov.au [@NSW_EPA](#)

The EPA acknowledges the traditional custodians of the land and waters where we work. As part of the world's oldest surviving culture, we pay our respect to Aboriginal elders past, present and emerging.

Report pollution and environmental incidents 131 555 or +61 2 9995 5555

----- Forwarded Message -----

From: Michelle Moodley [michelle.moodley@rpsgroup.com.au]
Sent: 2/08/2021 11:24 AM
To: info@epa.nsw.gov.au
Subject: Nevertire Solar Farm (SSD 8072) Modification 4 – Battery Energy Storage System - Consultation Letter

Dear Sir/Madam,

RPS Australia East Pty Ltd acts for Elliott Green Power Limited ('EGP'), a renewable energy project owner, operator and developer and the current owner of the Nevertire Solar Farm (the 'Project').

The purpose of the attached communication is to advise the NSW Environment Protection Authority (EPA) on the proposed modification application (via 4.55(2) of the Environmental Planning & Assessment Act 1979 for the Project for the addition of a proposed Battery Energy Storage System (BESS) and provide EPA an opportunity to comment on the proposed

modification.

It would be appreciated if you could provide preliminary comment about the proposed modification and if there are any particular matters EPA would like to see addressed within the assessment. Please provide comments by Monday 21 August 2021.

If you have any questions about the proposed modification, feel free to contact me.

Regards,

Michelle Moodley

Senior Consultant - Environment

RPS | Australia Asia Pacific

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