

COUNCIL ASSESSMENT REPORT

SOUTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSTH-587 & DA.2026.0113
LOCAL GOVERNMENT AREA	Queanbeyan Palerang Regional Council
PROPOSAL	Construction of a solar farm, battery energy storage systems, landscaping and associated site works
ADDRESS	Lot 81 DP 755905 873 Wallaces Gap Road Ballalaba NSW 2620
APPLICANT	EDPR Australia Pty Ltd
OWNER	Kyal Jacob Neilsen & Terry Andrew Neilsen
DA LODGEMENT DATE	16 March 2026 (Invoice paid on 20 March 2026)
APPLICATION TYPE	Regionally significant
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) of State Environmental Planning Policy (Planning Systems) 2021 identifies the proposal as regionally significant development as the development is private infrastructure over \$5 million
CIV	\$9,572,476.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	SEPP (Biodiversity and Conservation) 2021, SEPP (Planning Systems) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Transport and Infrastructure) 2021 Queanbeyan-Palerang Regional Local Environmental Plan 2022 Palerang Development Control Plan 2015
AGENCY REFERRALS	Water NSW Essential Energy
KEY ISSUES	Aboriginal Heritage Visual Impacts Traffic Impacts

TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	27 Submissions (First Notification) 24 Submissions (Re-notification)
DOCUMENTS SUBMITTED FOR CONSIDERATION	ATTACHMENT A – Statement of Environmental Effects (dated 12 March 2026) ATTACHMENT B – Flora and Fauna Assessment (version 2, dated 12 March 2026) ATTACHMENT C – Visual Impact Assessment (dated 03 March 2026) ATTACHMENT D – Traffic and Parking Impact Statement (dated 06 March 2026) ATTACHMENT E – Fire and Hazard Assessment (rev 3, dated 04 March 2026) ATTACHMENT F – Waste and Decommissioning Assessment (rev 2, 02 March 2026) ATTACHMENT G – Water Assessment (rev 2, 06 March 2026) ATTACHMENT H – Noise Assessment (dated 05 March 2026) ATTACHMENT I – Glint and Glare Study (rev 2, dated 06 March 2026) ATTACHMENT J – Working Drawings (date varies) ATTACHMENT K – Draft Reasons for Refusal
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Nil
RECOMMENDATION	Refusal
SCHEDULED MEETING DATE	1 September 2026
PREPARED BY	Ranga Ravi, Senior Planner – QPRC
DATE OF REPORT	10 August 2026

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EXECUTIVE SUMMARY

The application is for the construction and development of a 4.99MW solar farm, battery energy storage systems and associated site works. The specific elements of the proposal are as follows:

- a. Installation of approximately 10,800 solar panels in 120m long rows, with each module measuring a maximum height of 2.0m to 2.75m
- b. Panels constructed on piles driven into ground with a depth of 1.5m – 3m
- c. Ancillary infrastructure includes an inverter station, 2.9m high battery energy storage system
- d. Additional power pole at the north-western corner of the array and lines to connect to existing lines
- e. Construction of a 2.3m high security including three rows of barbed wire at the top on the outer side of a 10m wide asset protection zone
- f. Operation to last 35 years

The proposed development will occupy 14.11 ha of the total 40.17 ha of the site and is sited at the eastern portion of the site. The land is zoned RU1 Primary Production under Queanbeyan Palerang Regional Local Environmental Plan 2022 (the LEP). The development is defined as “electricity generating works” which is prohibited on RU1 Primary Production zone, however, is made permissible under State Environmental Planning Policy (Transport and Infrastructure) 2021.

The subject site is currently used for livestock grazing purposes and rural residential purposes and gently slopes to the northeast. The site is clear of native vegetation. The access to the site is by way of an existing driveway off Wallaces Gap Road that runs parallel to the northern boundary of the site. Wallaces Gap Road is an unsealed local road managed by Council. Surrounding land uses comprises of agriculture and rural living uses.

This application is to be determined by the Southern Regional Planning Panel as the development is ‘*regionally significant development*’, pursuant to Clause 5 of Schedule 6 of the Planning Systems SEPP being “private infrastructure” with a capital investment value over “\$5 million”.

The application was placed on public exhibition, and twenty seven (27) unique submissions were received. While five submissions (5) supported the proposal, twenty two (22) submissions raised the following concerns:

- Visual impact on the landscape character of the locality and incompatibility with the rural character of the locality and inconsistent with the zoning objectives of the LEP
- Adverse traffic and road safety impacts on Wallaces Gap Road
- Increased fire risks associated with the solar panels and lack of appropriate mitigation measures
- Lack of adequate screening resulting in adverse glare impacts on the locality
- Contamination risks associated with site being located on a catchment area
- Noise impacts resulting from the construction phase and ongoing use of the development
- Land identified as containing significant aboriginal cultural heritage value and lack of documentation addressing Aboriginal Heritage
- Decreased property values
- Lack of community consultation

In particular, concerns were raised by the Local Aboriginal Land Council (LALC) regarding potential Aboriginal cultural heritage values associated with the site. However, these matters have not yet been addressed through any supporting assessment or specialist investigation submitted by the applicant.

While the applicant provided a response to the issues raised in the public submissions addressing several concerns, some concerns still remain unresolved.

Having regard to the assessment of the application against relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, these issues have not been appropriately addressed and cannot be overcome with the imposition of conditions of consent. Assessment under Section 4.15(1) of the EP&A Act has concluded that the proposal is inconsistent with the relevant planning controls and the site is considered unsuitable for the development. There are likely to be significant adverse impacts arising from the proposal and the proposal is not considered to be in the public interest.

Following review of the exhibition process, it was identified that some documents associated with the development application were not appropriately notified and included in the public exhibition. To ensure procedural fairness and to provide the stakeholders with the opportunity to review all relevant material, the application was re-notified from 13 July 2026 – 30 July 2026. Twenty four (24) submissions were received during the re-notification period. The concerns raised in the re-notification are similar to the concerns raised in the original notification.

Accordingly, the development application is recommended for refusal.

1. BACKGROUND

1.1 Site Context

The site is located approximately 20 kms south-west of the township of Braidwood and 7 kms west of Majors Creek. The locality is generally comprised of rural residential dwellings, agricultural uses and associated outbuildings. Local heritage item I6 - Nithsdale homestead, barn, outbuildings and garden is located approx. 3km to the west and a minor portion of a National Park lies 1km in the southeast direction of the site and large areas of the private lands north of the site is predominantly forested in nature.

The Shoalhaven river is located over 3kms west of the site and flat areas between the site and the river are cleared of any significant native vegetation and occupied by rural residential dwellings, farms and outbuildings.



Figure 1: Site Context

1.2 Site Description

The site is located at 873 Wallaces Gap Road Ballalaba NSW 2622, and the legal description of the land is Lot 81 DP 755905. The property has an overall area of 40.13 Ha and is currently comprised of a dwelling and associated outbuildings.

The landscape of the site is predominantly cleared in nature with a small dam located at the centre of the site with native vegetation (trees) at the northeast corner of the site. The site is currently used for livestock grazing and rural residential purposes and gently slopes to the northeast. The access to the site is by way of an existing driveway off Wallaces Gap Road that runs parallel to the northern boundary of the site. Wallaces Gap Road is an unsealed local road managed by Council. An existing powerline runs through the site and is currently maintained by Essential Energy.

The development will occupy approx. 14.11 ha of the site and is sited within the eastern portions of the site.



Figure 2: Subject Site



Figure 3: Existing Entrance



Figure 4: Approx location of the development, looking east



Figure 5: Looking north toward Wallaces Gap Road



Figure 6: Looking south

The site has been subject to a continued use application from 2016. However, this is not considered relevant for this application.

1.3 The Locality

The locality is comprised of large rural lots with residential dwellings, associated outbuildings and agricultural uses in the locality.

1.4 Additional Information Requests

Following a preliminary review of the proposal, an additional information request was raised on the Portal on 10 April 2026. The deadline for submission of the additional information was 11 May 2026. A follow up letter was raised on 22 May 2026. A response was provided on 18 June 2026. The additional information provided by the applicant was reviewed, however, it is not considered sufficient to address the outstanding issues and the concerns identified during the preliminary review remain unresolved.

2. THE PROPOSAL

2.1 The Proposal

The application is for the construction and development of a 4.99MW solar farm, battery energy storage systems and associated site works. The specific elements of the proposal are as follows:

- Installation of approximately 10,800 solar panels in 120m long rows, with each module measuring a maximum height of 2.0m to 2.75m

- Panels constructed on piles driven into ground with a depth of 1.5m – 3m
- Ancillary infrastructure includes an inverter station and a 2.9m high battery energy storage system
- Use of existing driveway off Wallaces Gap Road and provisioning of a 4m wide gravel all weather access track
- Additional power pole at the northwest corner of the array and lines to connect to the existing power lines
- A 2.3m high security fence including three rows of barbed wire on the outer side a 10m wide asset protection zone
- Operation to last 35 years
- 3m wide vegetation strip planted on the outer side of the security fence to grow to a maximum height of 3m for screening purposes

Table 1: Development Data

Control	Proposal
Overall Site area	40.13 Ha
Development Footprint	14.11 Ha
Capacity	4.99 MW
Entrance Access	Existing access off Wallaces Gap Road
Internal Access	4m wide gravel all weather track
Asset Protection Zone	10m on all sides
Setbacks	110m (north) Approx. 57m (east) 10m (south)
Ancillary infrastructure	Inverter Station, Battery Energy Storage System, Power poles
Duration	35 years

23 June 2026	Follow up request raised noting the inadequacy of the submitted information
14 July 2026	Exhibition of application until 30 July 2026
10 August 2026	Council Assessment Report Finalised

3. STATUTORY CONSIDERATIONS

3.1 The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999)

The EPBC Act 1999 is administered by the Commonwealth Department of Climate Change, Energy, the Environment and Water and an approval from the Commonwealth Minister for the Environment is required for any action that may have a significant impact on matters of national environmental significance (MNES). The proposed development is not deemed a controlled MNES. No further assessment is required under the Commonwealth legislation.

3.2 Protection of the Environment Operations Act 1997 (POEO Act)

Under section 4.46 of the EP&A Act, certain work and activities identified under the POEO Act requires general terms of approval (GTA). The proposed development does not involve any scheduled activities and does not require any approvals under relevant sections of this Act.

3.3 Water Management Act 2000 (WMA 2000)

The *WMA 2000* regulates the use of land where there may be interference (taking, interception, storage and use) of surface water and groundwater or where it involves works within 40m of a watercourse.

The subject land comprises of two 1st order streams that connect to form a 2nd order stream. However, these watercourses do not have any features of a watercourse and are not defined as waterfront land. The application does not involve a water use approval or water management work approval under the WMA 2000.

3.4 National Parks and Wildlife Act 1974 (NPW Act 1974)

The application documentation does not include an Aboriginal Cultural Heritage Assessment Report or other supporting documentation to identify, assess and manage the potential Aboriginal cultural heritage values associated with the site. This is of particular importance given the scale and nature of the proposed development, including the extent of ground disturbance associated with the construction of arrays, access and ancillary works.

During the public exhibition, concerns were raised by the Local Aboriginal Land Council (LALC) regarding potential Aboriginal cultural heritage values associated with the site. However, these matters have not yet been addressed through any supporting assessment or specialist investigation submitted by the applicant. Concerns raised by Local Aboriginal Land Council is attached under [Appendix B](#) of this report.

In the absence of an ACHAR, the Panel is unable to determine whether the proposal would result in impacts to Aboriginal objects, Aboriginal places of significance or other Aboriginal cultural heritage value or whether appropriate avoidance, mitigation or management measures can be implemented.

As a result, the proposed development is inconsistent with the objects of the Act, in particular, Section 2A(b), as the development does not demonstrate consideration of the aboriginal

cultural significance of the land and the Panel cannot be satisfied that the development will conserve objects, places or features of cultural value within the landscape.

3.5 Environmental Planning and Assessment Act 1979

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979 (the Act)*.

The matters outlined in Section 4.15 (1) is considered below. Other statutory matters as prescribed under the Act is also considered below.

Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

Section 7.2 of the of the Biodiversity Conservation Act 2016 (BC Act) requires consideration to development or an activity likely to significantly affect threatened species.

The application was supported by a Flora and Fauna Assessment, prepared by EcoLogical Australia, version 2, dated 12 March 2026. The report concludes that the direct impacts of the on flora and fauna arising from the proposal will be minimal given the already heavily modified nature of the footprint of the proposed development. As noted in the report, almost the entirety of the footprint comprised of bare earth and exotic grasses and do not comprise of any native vegetation communities. No threatened flora species were recorded within the study area, and none are considered likely to occur within the site.

The proposal is unlikely to affect any potentially important habitats for threatened species such as nesting breeding or roosting habitats and will not sever any linkages between habitats or restrict fauna movements.

The report also notes that, while the footprint area provides low quality potential habitat for a range of native fauna species, including threatened species such as the Dusky Woodswallow, similar or superior habitats are widespread in the locality which will continue to be available to these species.

Section 7.3 of the BC Act provides for 5-part-test to determine whether the proposed development to significantly affect the threatened species or ecological communities or their habitats. A five part test of significance was contained within the submitted report for Dusky Woodswallow and Black Gum species.

Summary

The proposed development will not require the removal of any native vegetation; it is therefore considered that the proposed development is unlikely to have any adverse impacts on threatened species.

Based on the supporting documentation, the Panel can be satisfied that the proposal is unlikely to result in any adverse impacts on the identified threatened species and given the development footprint comprises of highly modified exotic vegetation, this is unlikely to result in any adverse environmental impacts on the threatened species, ecological communities or their natural habitats.

Section 4.14 Consultation and development consent—certain bush fire prone land

The consent authority, before granting development consent for the carrying out of development on bush fire prone land, being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2), must consider the relevant Bush Fire Protection Planning guide, the Planning for Bushfire Protection 2019 (**PBP**). It must be noted

that the proposed development is not a listed special fire protection purpose development as prescribed under Section 100b of the Rural Fires Act 1997.

Section 8.3.5 Wind and solar farms of the PBP sets out the requirements for the development of renewable energy facilities. In accordance with the requirements, the proposal includes a 10m wide asset protection zone around the development footprint. The APZ is to be maintained as an Inner Protection Area in perpetuity. The APZ is not located on land with slopes greater than 18° and the proposal includes the provisioning of a 20,000 litre static water supply for bushfire purposes. Internal access roads are proposed to be a minimum carriageway width of 5.5m within vertical clearances of at least 4m. Internal curves of the APZ are designed within a minimum 6m radius turning circle to assist in vehicle manoeuvring. The APZ around the development will provide access for fire fighting vehicles.

The submitted Fire and Hazard Assessment, prepared by EDPR, Issue 3, dated 04 March 2026, recommends management measures that are to be implemented during the construction stages of the development. Appropriate conditions for the preparation and submission of a Bushfire Emergency Management and Operation Plan could be imposed, if consent was forthcoming.

The proposal is generally found to be consistent with the relevant requirements as prescribed under this section of the Act and conforms to the specifications and requirements as prescribed under the PBP.

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Act are considered below.

3.5.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments and Development Control Plans are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Queanbeyan-Palerang Regional Local Environmental Plan 2022*
- *Palerang Development Control 2015*

A summary of the key matters for consideration arising from these Environmental Planning Instruments and Development Control Plans are outlined in **Table 3** and considered in more detail below.

The application is to be determined by the Southern Regional Planning Panel as the development is '*regionally significant development*', pursuant to Clause 5 of Schedule 6 of the Planning Systems SEPP being private infrastructure development with a capital investment value over \$5 million.

Table 3: Development Data

EPI	Matters for Consideration	Comply
State Environmental Planning Policy (Planning Systems) 2021	Clause 2.19(1) declares the proposal regionally significant development – CI 5 of Schedule 6, Private Infrastructure > \$5 million	Yes
	Clause 3.6 – Is the land potential koala habitat?	Yes

State Environmental Planning Policy (Biodiversity and Conservation) 2021	No, the land is not known to contain any koala habitats	
	Clause 4.10 Development assessment process – other land <i>Land is not known to be under any Koala Management Plan</i>	Yes
	Clause 6.64 Concurrence of Regulatory Authority <i>Concurrence obtained from relevant Regulatory Authority</i>	Yes
State Environmental Planning Policy (Resilience & Hazards) 2021	Clause 3.2 Definitions of potentially hazardous industry and potentially offensive industry <i>No, the development is not defined as a potentially hazardous industry or potentially offensive industry. Preliminary Hazard Analysis not required in this instance</i>	Yes
	Clause 4.6 Contamination and remediation to be considered <i>No records have been found to indicate the land is contaminated. No remediation is required prior to the proposed use.</i>	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Clause 2.36 Development permitted with consent	Yes
	Section 2.48(2) (Determination of development applications—other development) – electricity transmission	Yes
Queanbeyan-Palerang Regional Local Environmental Plan 2022	Clause 1.2 – Aims of the Plan	No
	Clause 2.2 & 2.3 – Land Use Table	No
	Clause 4.3 – Height of Buildings	Yes
	Clause 5.10 – Heritage Conservation	No
	Clause 7.1 – Earthworks	Yes
	Clause 7.2 – Terrestrial biodiversity	Yes
	Clause 7.3 – Drinking water catchments	Yes
	Clause 7.12 – Essential services	Yes
Palerang Development Control Plan 2015	• B1 Site Analysis • B3 Flora, Fauna, Soil and Watercourses • B4 Bushfire Prone Land • B7 Engineering Requirements • B8 Erosion and Sediment Control • B10 Heritage • B14 Potentially Contaminated Soil • B15 Waste Management • B19 Sydney Drinking water catchments	No

a) State Environmental Planning Policy (Planning Systems) 2021

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6, being *private infrastructure* with the capital investment value more than \$5 million. Accordingly, the Southern Regional Planning Panel is the consent authority for the application.

b) State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('Biodiversity & Conservation SEPP') provides controls for various environmental issues, with Chapter 4 the only relevant chapter for the current application.

Chapter 3 Koala Habitat Protection 2020 , Chapter 4 Koala Habitat Protection 2021

As per the submitted Flora and Fauna Assessment Report, the land is not known to contain any habitats for koalas and does not contain any koala feeding tree species. Considering the findings contained within the report, the Panel can be satisfied that the site is not Koala habitat and is not under any koala management plans, and it is therefore not prevented by Clause 3.6(2) and 4.9 (2) of this policy from granting consent to a development application within the site.

Chapter 6 Water catchments

Pursuant to Clause 6.64 of the Policy, the application was referred to Water NSW, as the site is located on Sydney Drinking Water Catchment. Water NSW offered no objections to the proposal and provided their concurrence in a letter dated 04 May 2026 attached under [Appendix A](#) of this report. Appropriate conditions may be imposed if consent was forthcoming.

c) State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 provides controls relating to resilience and hazards matters, with Chapter 4 (remediation of land) relevant to the proposal, considered below.

Chapter 3 Hazardous and offensive development

Chapter 3 of this policy aims to provide for measures to reduce the impacts of the development and that sufficient information is made available to impose conditions to reduce or minimise any adverse impact on the environment.

The proposed solar farm development is a not listed industrial use under the SEPP and therefore does not require a detailed preliminary hazard analysis to be submitted as part of this application. However, the applicant has carried out a hazard analysis and risk screening contained within "Fire and Hazard Analysis". The findings of this report conclude the carrying out the development on the land is **not** potentially hazardous activity as per the definition under this Chapter of the Policy. Notwithstanding, the report provides recommendations and mitigation measures to ensure the development does not result in any adverse environmental or planning impact on the locality.

The application was reviewed by Councils Health Officer who has offered no objections to the proposal. Appropriate conditions could be imposed if consent was forthcoming.

Chapter 4 Remediation of Land

Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Section 4.6 requires

contamination and remediation to be considered in determining a development application.

The site inspection did not reveal any sources of contamination, and no records have been found to indicate any potential for contamination on the property. The site has been historically used for residential and agricultural purposes, and no records of past contaminating activity has been found. Due to the nature of the development being for the purposes of electricity generating works, minimal opportunities for offensive interpretations are identified, which is discussed above. As such, further assessment on this matter is not required.

d) State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) outlines the controls for the provision of infrastructure and schools, among other matters. Chapter 2 (Infrastructure) is relevant to the development application.

Chapter 2 Infrastructure

Clause 2.36 Development permitted with consent

Under this clause, development for the purposes of electricity generating works may be carried out with consent on RU1 Primary Production zone.

The proposed solar farm development is defined as *electricity generating works* which means a building or place used for generating electricity – a use prohibited in the RU1 zone under the provisions of the Queanbeyan Palerang Regional Local Environmental Plan 2022, but permitted with consent under this clause of the Policy.

Clause 2.48 Development likely to affect an electricity transmission or distribution network

Pursuant to Section 2.48(2), the Council consulted with Essential Energy, the electricity supply authority for the site, who raised no objections to the proposed development. Comments provided by Essential Energy is attached under [Appendix A](#) of this report.

e) Queanbeyan Palerang Regional Local Environmental Plan 2022

The relevant local environmental plan applying to the site is the Queanbeyan-Palerang Regional Local Environmental Plan 2022 (LEP) which commenced on 14 November 2022.

Aims

The aims of the LEP pursuant to Clause 1.2(2) are as follows:

(aa)	To protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,	N/A
(a)	To protect and improve the economic, environmental, social and cultural resources and prospects of the community,	No
(b)	To facilitate the orderly and economic use and development of land having regard to ecological sustainability principles,	Yes
(c)	To provide for a diversity of housing to meet the needs of the community into the future,	N/A
(d)	To provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development that caters for the retail, commercial and service needs of the community,	Yes
(e)	To keep and protect important natural habitat and biodiversity,	Yes
(f)	To protect water quality, aquifers and waterways,	Yes
(g)	To keep, protect and encourage sustainable primary industry and associated commerce in rural areas,	Yes

(h)	To identify and protect the cultural heritage of the area, including the built heritage and the Aboriginal heritage,	No
(i)	To protect important scenic quality, views and vistas,	No
(j)	To facilitate the orderly growth of urban release areas,	N/A
(k)	To ensure development does not unreasonably increase the demand for public services or public facilities,	No
(l)	To identify, protect and provide areas for community health and recreational activities.	N/A
(m)	To ensure development reduces human influence on the climate and to consider the impacts of climate change.	Yes

The proposal is not considered to be consistent with the aims of the LEP, in particular aims (a), (h), (i) and (k). The applicant has not provided an Aboriginal Cultural Heritage Assessment Report (**ACHAR**) to enable a comprehensive assessment of the proposal's potential impact on Aboriginal cultural heritage, nor has sufficient information been submitted to adequately address the proposals visual amenity impacts on the surrounding dwellings. These deficiencies represent a gap in the assessment of the application and prevents the Panel from being satisfied that the proposal appropriately protects and manages the environmental and cultural heritage values, responds sensitively to the character and landscape of the locality. Accordingly, the proposal has not demonstrated consistency with the relevant aims of the LEP, and this weighs significantly against the granting of a development consent.

Zoning and Permissibility

The subject site is Zoned RU1 Primary Production under the LEP.

Development for the purposes of *electricity generating works* is a prohibited use on this zone. However, the development is permitted with consent under the SEPP (Transport and Infrastructure) 2021.

The RU1 zone objectives are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To minimise the impact of development on the natural environment.*
- *To ensure development does not unreasonably increase the demand for public services or public facilities.*

The proposed development is not considered to be consistent with the objectives of the zone. In particular, the application has not demonstrated that the development will maintain and enhance the natural resource base, nor that the potential impacts on the surrounding rural land use and the broader landscape of the locality. The absence of an ACHAR prevents the Panel from undertaking a comprehensive assessment of the proposal's potential impacts on the Aboriginal cultural heritage and associated values of the land, while the visual impact statement does not provide sufficient information to adequately assess the proposal's landscape and visual impact. These deficiencies in the application prevents the Panel from

being satisfied that the proposal achieves the intended objectives of the zone and accordingly, the proposal has not demonstrated consistency with the objectives of the RU1 zone.

Principal Development Standards

Clause 4.3 Height of Buildings

Clause 4.3 of the LEP provides requirements for the maximum building heights.

The maximum height of building applicable to the site is 10m. The proposal does not include any structures except the fencing surrounding the proposed solar arrays. The maximum height of fence is 2.3m. This complies with the height requirements as prescribed under this Clause.

Miscellaneous Provisions

5.10 Heritage conservation

Clause 5.10 of the LEP seeks to conserve the environmental heritage of the LGA including Archaeological sites and aboriginal objectives and aboriginal places of heritage significance as well as to ensure that potential impacts are appropriately considered as part of the development assessment process.

The proposed development will have minimal impact on built heritage of the locality including the heritage item located 2km to the west of the site. The site is neither a listed item nor within any conservation areas.

The application documentation does not include an Aboriginal Cultural Heritage Assessment Report or other supporting documentation to identify, assess and manage the potential Aboriginal cultural heritage values associated with the site. This is of particular importance given the scale and nature of the proposed development, including the extent of ground disturbance associated with the construction of arrays, access and ancillary works.

During the public exhibition, concerns were raised regarding potential Aboriginal cultural heritage values associated with the site. However, these matters have not yet been addressed through any supporting assessment or specialist investigation submitted by the applicant.

The Batemans Bay Local Aboriginal Land Council did undertake a preliminary cultural land assessment of the land and determined that further work was required to be satisfied that the proposal would not affect aboriginal cultural heritage. This is attached under [Appendix C](#) of this report.

The proposed works would require the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR) and this has not been provided by the applicant.

In the absence of an ACHAR, the Panel is unable to determine whether the proposal would result in impacts to Aboriginal objects, Aboriginal places of significance or other Aboriginal cultural heritage value or whether appropriate avoidance, mitigation or management measures can be implemented.

Accordingly, the Panel cannot be satisfied that the proposal has demonstrated consistency with Clause 5.10 of the LEP.

Additional Local Provisions

7.1 Earthworks

Earthworks will be required for the development to form suitable access tracks and minor clearing associated with the erection of the solar panel arrays. Appropriate conditions relating to sediment and erosion control measures, could be imposed, if a consent was forthcoming.

With the implementation of the conditions of consent, the proposed development is considered to be satisfactory against relevant objectives under this Clause of the Plan.

7.2 Terrestrial biodiversity

This clause is considered relevant to the proposed development as the site is identified as “Biodiversity” on the Terrestrial Biodiversity Map, however, the proposed development is sited away from the identified portions of Terrestrial Biodiversity. The proposed development is unlikely to result in any adverse impact on the condition, ecological value and significance of the fauna and flora on the land and unlikely to result in any adverse impacts on the habitat elements providing connectivity on the land.

The proposal is consistent with the objectives of this clause.

7.3 Drinking water catchments

The site is located on Sydney Drinking water catchment area. The application was referred to Water NSW who offered no objections to the proposal subject to recommended conditions of consent, which would be imposed if a consent was forthcoming. Concurrence issued by Water NSW is attached under [Appendix A](#) of this report.

7.12 Essential services

Clause 7.12 requires that development consent must not be granted to development unless the consent authority is satisfied all of the following services that are essential for the development. The infrastructure, which is essential for the proposed development, including electricity, water, reticulated sewerage, is available or will be made available at the site for the proposed development. Accordingly, the matters in the precondition to the granting of consent have been satisfied.

Concerns have been raised by Councils Development Engineering regarding the use of the unsealed Wallaces Gap Road for B-Double vehicles. Councils Development Engineer has noted that while Cooma Road is an approved B-Double route with conditions, Wallaces Gap Road is not approved for B-Double vehicular use and that an updated Traffic Impact Statement would be required to confirm the suitability of Wallaces Gap Road for such a use as the unsealed road is narrow at certain sections and do not allow for two way traffic.

Other essential services are available or could be made available during the construction stages of the development.

3.5.2 Section 4.15(1)(a)(i) - Provisions of any Proposed Instruments

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

3.5.3 Section 4.15(1)(a)(i) - Provisions of any Development Control Plan

This application has been assessed in accordance with relevant requirements of the Palerang DCP 2015.

Section	Controls	Complies
PART B – General Provisions		
B1	Site Analysis The submitted application meets the requirements of this section of the PDCP 2015. All relevant plans and reports have been incorporated in the application.	Yes
B3	Flora & Fauna Please see Biodiversity Conservation Act 2016 assessment.	Yes

	Soil It is not considered that the site preparation and earthworks will have an adverse impact on soil stability. The proposed development is sited on areas of the land not containing any significant vegetation and on mostly cleared portions of the land (previously used for grazing purposes) Watercourses No watercourses exist on the land. Habitat corridors In accordance with the submitted Flora and Fauna Assessment the land mostly comprises of mostly non-native grassland with several pockets of native vegetation scattered across the site (result of historical use of the land for grazing purposes). The proposed development is unlikely to have any adverse impacts on threatened species, population, ecological communities or their habitat. Tree and Vegetation Management In accordance with the submitted Flora and Fauna Assessment the land mostly comprises of mostly non-native grassland with several pockets of native vegetation scattered across the site (result of historical use of the land for grazing purposes). The proposed development is unlikely to have any adverse impacts on threatened species, population, ecological communities or their habitat.	
B4	Bushfire Prone Land Proposal complies with the relevant requirements and specifications of PBP 2019. Appropriate conditions could be imposed if consent was forthcoming.	Yes
B7	Engineering Requirements The application is supported by a Traffic Impact Assessment, prepared by McLaren Traffic Engineering who concludes the existing road network is sufficient and capable of handling the expected traffic generation during site construction and operation. Concerns have been raised by Councils Development Engineering regarding the use of the unsealed Wallaces Gap Road for B-Double vehicles. Councils Development Engineer has noted that while Cooma Road is an approved B-Double route with conditions, Wallaces Gap Road is not approved for B-Double vehicular use and that an updated Traffic Impact Statement would be required to confirm the suitability of Wallaces Gap Road for such a use as the unsealed road is narrow at certain sections and do not allow for two way traffic.	No
B8	Erosion and sediment control If consent was forthcoming, appropriate conditions relating to soil erosion and sediment control could be included to ensure adequate measures are in place during the construction phase.	Yes
B10	Heritage	No

	The subject site is not heritage listed or located within a Heritage Conservation Area and is not adjacent to a heritage item. Refer to assessment under Clause 5.10 of the LEP.	
B12	Landscaping The proposal includes a 3m wide landscaped zone around the solar arrays. No further details are required in this instance. The plans adequately address the landscaping treatment.	Yes
B13	On-site System of Sewage Management (OSSM) No on site wastewater system is proposed in this application.	N/A
B14	Potentially contaminated land As discussed under SEPP (Resilience and Hazards) 2021, the applicant has submitted a hazard analysis which has determined that the carrying out of this development is not potentially hazardous activity and further investigation is not considered mandatory. If consent was forthcoming, appropriate conditions could be imposed in the consent. The application was reviewed by Councils Health Officer who offered no objections to the proposal.	Yes
B15	Waste Management Conditions may be imposed requiring the submission of a waste management plan to ensure that adequate measures are in place during the construction phase.	Yes
B19	Sydney drinking water catchment Assessed under SEPP (Biodiversity and Conservation) 2021 above. Concurrence obtained from Water NSW.	Yes

3.5.4 Section 4.15(1)(a)(i) – Planning agreements under Section 7.4 of the Act

Not applicable. No planning agreements are currently in place.

3.5.5 Section 4.15(1)(a)(i) – Provisions of Regulations

The following matters require consideration in relation to Part 4, Division 1 of the 2021 Regulations:

- Section 61(1) - In determining a development application for the demolition of a building, the consent authority must consider the *Australian Standard AS 2601—2001: The Demolition of Structures* – No demolition is proposed as part of this application.
- Section 62 (consideration of fire safety) – Not relevant
- Section 64 (consent authority may require upgrade of buildings) – This is not relevant as the proposal does not include built form.

None of the matters prescribed under the regulations are relevant to the proposed development. Accordingly, the provisions of the 2021 EP&A Regulation have been adequately considered.

3.5.6 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

Context and setting

The proposed development is sited in a locality that is characterised by agricultural uses and rural residential purposes. The locality is also characterised by large rural holdings accessed by an unsealed Wallaces Gap Road. The topography of the land is undulating in nature and comprised of native forest cover further east and north of the site, however, the subject land is mostly cleared in nature and comprises of exotic grass species. As a result of the undulating topography of the land, the rural residential dwellings located at higher elevations in the surrounding vicinity of the development will be adversely impacted, particularly in the absence of suitable screening measures.

Biodiversity

As noted previously in this report, the proposal has been sited to avoid, minimise and mitigate any disturbance to the native flora and fauna of the locality. The development footprint (including a 20m buffer surrounding the development) currently comprises of mostly exotic species and mostly cleared in nature due to past and current grazing activities. The Panel can be satisfied that the proposal is unlikely to result in any adverse biodiversity impacts on the locality.

Water

The site is not located on any flood planning areas, and the site is not identified as containing any riparian corridors and watercourses. However, the site is on Sydney Drinking Water Catchment. The application has been reviewed by Water NSW who have offered no objections to the proposal. The Panel can be satisfied that the proposal will result in a neutral or beneficial impact on the water quality entering the waterways.

Bushfire

The proposal is generally compliant with the requirements and specifications of the Planning for Bushfire Protection 2019 document, however, lacks adequate details relating to emergency bushfire management. This could be imposed as a condition of consent, if consent was forthcoming.

Contamination

The site inspection did not reveal any sources of contamination and no records have been found to indicate that the site may be contaminated due to past or current activities on the land.

The proposed solar farm development is a not listed industrial use under the SEPP and therefore does not require a detailed preliminary hazard analysis to be submitted as part of this application. However, the applicant has carried out a hazard analysis and risk screening contained within "Fire and Hazard Analysis". The findings of this report conclude the carrying out the development on the land is not potentially hazardous activity as per the definition under this Chapter of the Policy. Notwithstanding, the report provides recommendations and mitigation measures to ensure the development does not result in any adverse environmental or planning impact on the locality.

The application was reviewed by Councils Health who has offered no objections to the proposal. Appropriate conditions could be imposed if consent was forthcoming.

Access and traffic

The application is supported by a Traffic Impact Assessment, prepared by McLaren Traffic Engineering who concludes the existing road network is sufficient and capable of handling the

expected traffic generation during site construction and operation. Concerns were raised by Councils Development Engineering regarding the use of the unsealed Wallaces Gap Road for B-Double vehicles. Councils Development Engineer has noted that while Cooma Road is an approved B-Double route with conditions, Wallaces Gap Road is not approved for B-Double vehicular use and that an updated Traffic Impact Statement would be required to confirm the suitability of Wallaces Gap Road for such a use as the unsealed road is narrow at certain sections and do not allow for two way traffic.

Noise

The results of the submitted Noise Assessment demonstrate that noise levels are expected to comply with the noise management levels at all identified receivers and that operational noise management levels are satisfactory. The application was reviewed by Councils Environmental Health Officer who offered no objections to the proposal subject to recommended conditions of consent.

Heritage

European Heritage items of significance are not present across the site. The site is not a listed item nor within any heritage conservation areas.

Aboriginal Heritage

The application documentation does not include an Aboriginal Cultural Heritage Assessment Report or other supporting documentation to identify, assess and manage the potential Aboriginal cultural heritage values associated with the site. This is of particular importance given the scale and nature of the proposed development, including the extent of ground disturbance associated with the construction of arrays, access and ancillary works.

During the public exhibition, concerns were raised regarding potential Aboriginal cultural heritage values associated with the site. However, these matters have not yet been addressed through any supporting assessment or specialist investigation submitted by the applicant.

The Batemans Bay Local Aboriginal Land Council did undertake a preliminary cultural land assessment of the land and determined that further work was required to be satisfied that the proposal would not affect aboriginal cultural heritage. This is attached under [Appendix C](#) of this report.

The proposed works would require the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR) and this has not been provided by the applicant.

In the absence of an ACHAR, the Panel is unable to determine whether the proposal would result in impacts to Aboriginal objects, Aboriginal places of significance or other Aboriginal cultural heritage value or whether appropriate avoidance, mitigation or management measures can be implemented.

Rehabilitation

The development, after 35 years, is proposed to be decommissioned in the following ways:

- Notification of stakeholders of the de-energisation
- De-energisation of the solar farm and disconnection of assets
- Removal of PV modules and associated infrastructure
- Removal of electrical wiring
- Rehabilitation of land

The application is supported by a Waste & Decommissioning Assessment, prepared by EDP Renewables, dated 02 March 2026. This is satisfactory and appropriate conditions may be included if a consent was forthcoming.

Cumulative impacts

When considering collectively, the unresolved planning, environmental and heritage issues associated with the proposal weigh significantly against the granting of a development consent. The application does not include sufficient information to enable a comprehensive assessment of the potential impacts on Aboriginal cultural heritage and inadequate information to assess the overall visual impacts arising from the scale and nature of the proposed development.

These gaps in the documentation prevents the Panel from reaching a required level of satisfaction that the development is suitable for the site, consistent with the aims of the LEP and achieves the objectives of the RU1 zone.

The cumulative effect of these unresolved matters is that the environmental, cultural and visual impacts of the proposal remain uncertain and have not been adequately addressed by the applicant. In the absence of sufficient information to demonstrate that these impacts have been avoided, minimised and mitigated, the proposal has not established it is in the public's interest or that development consent should be granted. Accordingly, the proposal is recommended for a refusal.

3.5.7 Section 4.15(1)(c) - Suitability of the site

As noted above, the site has not been demonstrated to be suitable for the proposed development. The application does not include sufficient information to enable a comprehensive assessment of the proposals potential impact on Aboriginal cultural heritage or the visual character of the locality. These deficiencies in the assessment prevents the Panel from determining whether the proposed development is appropriate for the site and whether its impacts can be adequately minimised and managed. Accordingly, Panel cannot be satisfied that the site is suitable for the proposed development.

3.5.8 Section 4.15(1)(d) - Public Submissions

The community submissions are considered in Section 4 of this report.

3.5.9 Section 4.15(1)(e) - Public interest

The proposed development is not found to be in the public interest. The application does not include sufficient information to enable a comprehensive assessment of the proposal's potential impact on Aboriginal heritage and cultural values or the visual impacts on the surrounding rural residential dwellings. As a result, the Panel cannot be satisfied that the proposal is consistent with the objectives and aims of the LEP or that the likely impacts of the development have been appropriately addressed. In the absence of the information, the proposal has not demonstrated that the public benefits of the development outweigh the potential environmental, cultural heritage and visual impacts. Accordingly, the proposal is not in the interests of the public.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**. There are no outstanding issues arising from these concurrence and referral requirements.

Table 4: Development Data

Agency/Referral Trigger	Comments	Resolved
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Essential Energy <i>CI 2.48 of SEPP (Transport and Infrastructure) 2021</i>	No objections raised by Essential Energy. Advice provided by Essential Energy is attached under Appendix A of this report.	Yes
Water NSW <i>CI 6.64 of SEPP (B&C) 2021</i>	No objections raised by Water NSW. Concurrence issued by Water NSW on 04 May 2026. Concurrence issued by Water NSW is attached under Appendix A of this report.	Yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 5**. While Councils Health Officer raised no objections to the proposed development, Councils Development Engineer raised concerns in relation to the suitability of Wallaces Gap Road for the proposed development.

Table 5: Development Data

Officer	Comments	Resolved
Environmental Health	No objections raised by Essential Energy. Advice provided by Essential Energy is attached under Appendix A of this report.	Yes
Engineering	Concerns raised	No

4.3 Community Consultation

The proposal was advertised and notified in accordance with the Council's Community Participation Plan with a submission period from 24/03/2026 to 30/04/2026. Twenty seven (27) unique submissions were received. While five submissions (5) supported the proposal, twenty two submissions primarily raised the following concerns:

- Visual impact on the landscape character of the locality and incompatibility with the rural character of the locality, inconsistent with the zoning objectives of the LEP
- Adverse traffic and road safety impacts on Wallaces Gap Road
- Increased fire risks associated with the solar panels and lack of appropriate mitigation measures
- Lack of adequate screening resulting in adverse glare impacts on the locality
- Contamination risks associated with site being located on a catchment area
- Noise impacts resulting from the construction phase and ongoing use of the development
- Land identified as containing significant aboriginal cultural heritage value and lack of documentation addressing Aboriginal Heritage
- Decreased property values
- Lack of community consultation

In particular, concerns were raised by the Local Aboriginal Land Council (LALC) regarding potential Aboriginal cultural heritage values associated with the site. However, these matters have not yet been addressed through any supporting assessment or specialist investigation submitted by the applicant.

While the applicant provided a response to the issues raised in the public submissions addressing several concerns, some concerns still remain unresolved.

Following review of the exhibition process, it was identified that some documents associated with the development application were not appropriately notified and included in the public exhibition. To ensure procedural fairness and to provide the stakeholders with the opportunity

to review all relevant material, the application was re-notified from 13 July 2026 – 30 July 2026.

Twenty four (24) submissions were received during the re-notification raising concerns that were originally raised. Some of the concerns remain unresolved at the time of writing of this report.

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in exhibition and the issues identified in this report, it is considered that the application cannot be supported in its current form.

The proposed development has not demonstrated that it is suitable for the site or that its potential impact on the Aboriginal heritage and visual impacts on the locality can be appropriately assessed and managed. The absence of an Aboriginal Cultural Heritage Assessment and information regarding the visual impacts prevent the Panel from being satisfied that the proposal is consistent with the relevant provisions of the LEP, the objectives of the RU1 Primary Production zone and the matters for consideration under Section 4.15 of the Act.

6. RECOMMENDATION

That:

Development Application DA.2026.0113 for “Construction of a solar farm, battery energy storage systems, landscaping and associated site works” be **REFUSED**, pursuant to Section 4.16 (1) of the *Environmental Planning and Assessment Act 1979* for reasons stated in **Attachment K**.

The following attachments are provided:

- **Attachment A:** Statement of Environmental Effects (dated 12 March 2026)
- **Attachment B:** Flora and Fauna Assessment (version 2, dated 12 March 2026)
- **Attachment C:** Visual Impact Assessment (dated 03 March 2026)
- **Attachment D:** Traffic and Parking Impact Statement (dated 06 March 2026)
- **Attachment E:** Fire and Hazard Assessment (rev 3, dated 04 March 2026)
- **Attachment F:** Waste and Decommissioning Assessment (rev 2, 02 March 2026)
- **Attachment G:** Water Assessment (rev 2, 06 March 2026)
- **Attachment H:** Noise Assessment (dated 05 March 2026)
- **Attachment I:** Glint and Glare Study (rev 2, dated 06 March 2026)
- **Attachment J:** Working Drawings (date Varies)
- **Attachment K:** Reasons for Refusal

Appendix A – Agency Referrals

Essential Energy

Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW); and
- It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.
- All Torrens lots must have access and frontage to a public road as per Service and Installation rules this is to allow for the provision of power/services to the new development, a right of carriageway can not to be used for the provision of power/services to any part of the new development.
- *"Note: If your site's energy demand exceeds Essential Energy's standard limits, electricity supply upgrades may be required, including the possible installation of a padmount substation within your development. It is advised to use Essential Energy's Connection portal early to identify network needs and plan accordingly. Should network augmentation be necessary, consult the current list of Accredited Service Providers (ASPs) at <https://www.energy.nsw.gov.au/households/guides-and-helpful-advice/being-more-energy-efficient/understand-your-energy-bill/altering-supply> to arrange the necessary works."*

Should you require any clarification, please do not hesitate to contact us.

Information about when and how to request safety advice from Essential Energy.

[Request for Safety Advice \(essentialenergy.com.au\)](http://essentialenergy.com.au)

Water NSW



4 May 2026

Water NSW Ref: DAR 26024-a1
Your Ref: DA.2026.0113

General Manager
Queanbeyan-Palerang Regional Council
PO Box 90
QUEANBEYAN 22620

Attention: Ranganathan Ravi

**Subject: Part 6.5 of SEPP Biodiversity & Conservation (2021)
DA.2026.0113; Lot 81 DP755905; 873 Wallaces Gap Road, Ballalaba**

Dear Mr Ravi

I refer to NSW Planning Portal referral received on 25 March 2025 requesting the concurrence of Water NSW under Part 6.5 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (the SEPP) for a proposal for installation of 10,800 solar panels in 120-metre-long rows, ancillary infrastructure including an inverter station, Battery Energy Storage System (BESS) and a 4-metre-wide access easement.

The subject property is located within the Shoalhaven catchment which forms part of Sydney's water supply.

Water NSW notes the following from its assessment:

- The soils on site are prone to erosion, presenting a risk to water quality if not managed properly. Water NSW considers that adequate ground cover and surface water management across the site during both construction and operations is essential to reduce this risk.
- The proposed solar panels will directly discharge stormwater to the ground from the lower edge (dripline) of the panels – which can cause significant erosion if not managed appropriately. Water NSW agrees that stormwater quality modelling is not required for the solar panels, given they are not directly connected to the site's drainage network. Water NSW instead recommends adequate ground cover/stabilisation (such as turf strips) below the panel driplines and construction of contour banks (or similar) to divert upstream runoff away from the solar panel area – to minimise overall erosion risk.
- Solar panels, if not appropriately maintained, managed and disposed of (once they are no longer in use) can pose a water quality risk with research indicating potential for leaching due to:
 - (1) Panel deterioration from UV exposure, temperature fluctuations, physical damage affecting panel integrity (ie. from hailstorms/bushfires or vehicle/stock impacts) and long-term weathering, and
 - (2) Mobilisation of trace metals (e.g., lead, cadmium, arsenic) where rainwater is in contact with damaged and/or inappropriately disposed of panels.

The risk of leaching increases when panels are in direct contact with groundwater, and when protective glass or encapsulation layers fail.

- Under normal operations, BESS result in few environmental impacts (namely heat island and noise). However, there have been several self-heating, thermal runaway and other incidents globally, increasing awareness of thermal and fire risks associated with lithium-ion battery BESS. The environmental impacts during and following BESS fire events include toxic air emissions during

WaterNSW ABN 21 147 934 787
PO Box 398
Parramatta NSW 2124
t. 1300 662 077 e. Customer.Helpdesk@waternsw.com.au

WaterNSW | We're at the source

combustion, and potentially toxic runoff during control of a fire, which can contaminate surrounding soils, groundwater and/or surface water. These can be magnified based on bush fire and fire weather conditions, extent of the fire, fire fuel loads (such as dry grasses and leaf litter etc) in the surrounding vicinity, and time and resources taken to extinguish the fire.

- The proposed BESS station is 10 m from an existing farm dam, the site is mapped as bushfire prone land (according to the Statement of Environmental Effects - SEE), and lithium-ion batteries are proposed (according to the Waste and Decommissioning Assessment).
- The SEE also notes relevant hazardous industry standards require preliminary hazard analysis (PHA) be undertaken for 30+ MW capacity BESS, and that a PHA is not required for this project. The capacity of the proposed BESS is not provided, however, is likely below this threshold. While Water NSW has concerns for potential contamination should a BESS fire occur, we support the recommendations outlined in section 5.2.2 of the SEE and request that the proposed BESS-specific fire response plan consider the potential water quality impacts and suitable management measures to address this risk.
- The Water Assessment Report prepared by EDPR Australia Pty Ltd (dated 06/03/2026) notes that the mapped hydrolines to be disturbed within the project site are not defined watercourses and consequently, do not require Controlled Activity Approval. The site also contains an existing dam, which will be retained as part of the development.
- A second-order Strahler stream runs parallel to the eastern boundary of the site – which is a tributary of Brick Kiln Creek. Water NSW has concerns regarding the solar panel arrays in the south and eastern portion of the site which may direct sediment laden runoff to this tributary. As such, Water NSW considers a diversion berm or grass swale (or similar) be constructed along the eastern boundary of the site (along the proposed security fence line) to direct runoff away from this tributary.

The above matters have been addressed in the following conditions.

Based on aerial imagery and information provided, Water NSW considers that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

Water NSW concurs with Council granting consent to the application subject to the following conditions

General

1. The development layout and works shall be implemented in accordance with the plans and supporting documents set out in the following table.

Plan Title	Reference	Vers/ Issue	Prepared By	Dated
Site Plan	Drawing No: G-0200	09	EDPR Australia Pty Ltd	17/02/2026
General Arrangement Plan	Drawing No: G-0300	08		12/02/2026
Site Elevation	Drawing No: G-2200	01		08/08/2025
Inverter Footing Details	Drawing No: G-4300	01		08/08/2025
Bess Footing Details	Drawing No: G-4310	01		08/08/2025
Fencing Details	Drawing No: G-5300	01		08/08/2025
Gate Details	Drawing No: G-5301	01		08/08/2025
Access Path Details	Drawing No: G-6300	01		08/08/2025
Landscape Details	Drawing No: G-6301	04		12/02/2026
NEXTracker Array Details	Drawing No: G-3400	01		08/08/2025
Inverter Station Details	Drawing No: G-4300	01		08/08/2025
Bess Station Details	Drawing No: G-5300	01		08/08/2025
DC-DC Skid Details	Drawing No: G-5310	01		08/08/2025



Plan Title	Reference	Vers/ Issue	Prepared By	Dated
Supporting Documents				
Statement of Environmental Effects	-	Final	Zenith Town Planning Pty Ltd	12 March 2026
Water Assessment report	-	2	EDPR Australia Pty Ltd	06/03/2026
Waste and Decommissioning Assessment	-	2		2/03/2026
Fire and Hazard Assessment	-	3		04/03/2026

No revisions to site layout or works that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Biodiversity and Conservation) 2021 on this version of the development.

Wastewater Management

2. Wastewater management during the construction and operational phases of the development shall be as specified in Section 3.4 of the Statement of Environmental Effects set out in the table of Condition 1.
3. There shall be a sufficient number of portable toilet facilities (port-a-loos) to accommodate the peak number of workers during construction, as specified in *Code of Practice Portable Toilets (HRIA, 2021)*. The portable toilet facilities shall be regularly serviced and maintained throughout the construction period by a licensed contractor to industry standards and waste shall be disposed of at an appropriately licensed waste facility.
4. There shall be no on-site disposal of wastewater during construction or operations.

Reason for Conditions 2 to 4 - To ensure that the wastewater is appropriately managed during construction and operations so as to have a sustainable neutral or beneficial effect on water quality.

Site Water Management

5. The new internal 4-metre-wide access road shall be located and constructed as shown on the Site Plan set out in the table of Condition 1. The access road shall also:
 - be constructed with suitable crossfall, and in accordance with Council's engineering standards
 - be consistent with the requirements of the *Unsealed Roads Best Practice Guide* (ARRB, March 2020)
 - have vegetated swales, as appropriate, for the entire length with appropriately spaced cross drains, level spreaders, sills, and mitre drains that divert water onto a stable surface capable of accepting concentrated water flow and providing efficient sediment trapping and energy dissipation
 - ensure all swales, batters and verges associated with the proposed access road are vegetated and stabilised with light bitumen and jute matting or equivalent as soon as possible after construction, and
 - where the outlets of swales discharge near drainage depressions or watercourses, or where they intercept with runoff from the solar panel arrays, they shall be stabilised by a suitably designed energy dissipater to ensure combined flows are diverted to a stable surface capable of accepting concentrated water flow and providing efficient sediment trapping and energy dissipation.

6. Runoff generated by the dripline of solar panels shall be managed through suitable controls to reduce erosion risk. Controls shall include:
 - adequate stabilisation below the panel driplines (such as minimum 500mm wide grass turf strips, jute mesh, or similar measures) as soon as practical following installation of the panels
 - turf strips and/or jute mesh, fixed in place using landscaping pins
 - seeding (as required) with grass mix consistent with the remainder of the site
 - measures (such as stabilised bund, contour banks etc) designed to avoid continuous flow concentration along panel rows, and to divert upstream runoff from other hardstand areas away from the solar panel area, with provision for energy dissipation at the outlet to minimise scouring or erosion
 - permanent vegetation cover (turf or pasture) established and maintained between and beneath solar panel rows, and
 - measures to ensure the access track along the western boundary of the solar panel array does not become a preferential drainage pathway.
7. Site infrastructure and BESS hardstand areas shall:
 - be designed, graded and drained such that clean stormwater runoff from the hardstand areas and surrounding catchments can be managed separately from the BESS fire-water management system (should a BESS fire occur) to avoid dilution, overflow, or loss of containment capacity during an incident
 - incorporate suitable temporary and/or permanent measures (such as temporary bunding) as part of the BESS fire-water management system, to divert any potentially contaminated water applied for BESS fire suppression, cooling, or emergency operations that has contacted battery systems, fire residues, or combustion products to a suitable capture device for containment and off-site disposal, and
 - ensure physical and functional separation between clean water (e.g., runoff from solar panels, access road swales etc., natural surface water/groundwater and flood water) and potentially contaminated runoff from the BESS fire-water management system.
8. There shall be a suitably constructed diversion measure (such as diversion berm, swale etc) along the eastern boundary of the project site. The diversion measure shall:
 - be designed to direct concentrated runoff from the solar panel area to the north and away from the watercourse running parallel to the eastern portion of the site, and
 - have a stabilised outlet with appropriately designed energy dissipation to divert flows onto a stable surface capable of accepting concentrated water flow and providing efficient sediment trapping.
9. No site water management measures shall be shared, connected or hydraulically linked with BESS fire-water management infrastructure.
10. A suitably qualified consultant or engineer shall certify in writing to Water NSW and the Principal Certifier prior to the issuance of an Occupation Certificate that all site water management measures have been installed as per these conditions of consent and are in a functional state.

Reason for Conditions 5 to 10 – To ensure appropriate site water management measures, including drainage from the access road, are designed, implemented and maintained to reduce erosion risks and achieve a sustainable neutral or beneficial impact on water quality, over the longer term.

Bushfire Hazard Assessment

11. The **BESS-specific fire response plan** shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The plan shall:
 - be undertaken prior to issuance of a Construction Certificate and be to the satisfaction of the Principal Certifier

- detail the bushfire history of the area and how this has been considered in the associated hazard and risk assessment, and detailed design of the site
- detail the chemical composition of the proposed batteries and their thermal risk
- detail suitable management measures to reduce the risk of bushfire and BESS fire at the site, including those outlined in section 5.2.2 of the Statement of Environmental Effects set out in the table of Condition 1
- include the location of Asset Protection Zones (APZs) for all operational infrastructure, including access road, solar panels, inverters and BESS facilities and outline the inspection, maintenance and management requirements for APZs and fire fuel loads across the site to minimise bushfire risk while avoiding bare soils and potential for erosion, and
- outline the potential water quality impacts from BESS fire and suitable temporary and/or permanent measures (such as temporary bunding) as part of the BESS fire-water management system to address Condition 7 above.

Operational Environmental Management Plan

12. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The OEMP shall:
- be prepared prior to the issuance of an Occupation Certificate
 - be provided to the site's owner and appointed management representative
 - include details of land management requirements as specified in section 3.5 of the Statement of Environmental Effects, including requirements for reducing fire fuel loads and weeds across the site (such as mowing/slashing), and controlled livestock grazing
 - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of fire fuel loads and livestock grazing, including any agreement with the landholder outlining specific management responsibilities for these activities at the site, particularly with regards to potential impacts on water quality (ie. overgrazing exposing bare soils prone to erosion)
 - incorporate a **site water management plan** that outlines:
 - the location, nature and management of the site water management measures required to address Conditions 5 to 9 above (including site plans and cross-sectional details)
 - the BESS fire-water management system to address Condition 7 above, including the design, location and capacity of temporary and/or permanent measures (such as bunding, sumps and/or capture devices) to fully retain BESS fire suppression water should a BESS fire occur
 - suitable storage, management and disposal of potentially contaminated BESS fire suppression water captured on site (in the event of a BESS fire)
 - the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all site water management measures, including the frequency of such activities – under normal operations
 - in the event of a BESS fire, the responsibilities and detailed requirements for the inspection, monitoring and maintenance of the BESS fire-water management system to ensure potentially contaminated BESS fire water is separated and contained from clean water systems
 - identify the individuals or positions responsible for inspection and maintenance activities under normal and emergency operations, and
 - include checklists for recording inspections and maintenance activities
 - incorporate a **waste management plan** that includes:
 - recommendations from the Waste and Decommissioning Assessment set out in the table of Condition 1, and
 - end-of-life management of spent solar panels, and spent components within battery modules, the battery module itself, and how the site design influences the decommissioning process. This should include engaging with suitably licensed waste contractors, prioritising recycling and

resource recovery wherever possible and maintaining detailed records of all waste movements and disposal methods.

- provide details of all fuels, chemicals and potentially hazardous materials (such as refrigerants, coolants, and/or oils) to be used on site including their use, storage, management (including spill management) and disposal to reduce potential water quality risks to nearby watercourses/drainage depressions and the existing farm dam.
13. The site shall be operated, monitored and maintained in accordance with the BESS-specific fire response plan and the OEMP, after all comments made by Water NSW during the consultation process have been appropriately resolved and incorporated in these plans.

Reason for Conditions 11 to 13 – To ensure appropriate site water management measures are designed, implemented and maintained to achieve a sustainable neutral or beneficial impact on water quality over the longer term.

Construction Activities

14. A Soil and Water Management Plan (SWMP) shall be prepared in consultation with Water NSW, by a person with knowledge and experience in the preparation of such plans. The SWMP shall:
- be developed prior to the issuance of a Construction Certificate and be to the satisfaction of the Principal Certifier
 - meet the requirements outlined in Chapter 2 of *NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)*
 - include controls suitable for the soil erosion risk, that prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system
 - detail inspection, maintenance and mitigation following rainfall events, and
 - specify how suitable groundcover will be achieved across the site within required timeframes.
15. The SWMP shall be implemented, and no works (including site establishment works) shall commence until effective erosion and sediment controls have been installed. The controls shall be regularly inspected, maintained, and retained until works have been completed and ground surface stabilised or groundcover re-established.

Reason for Conditions 14 & 15 – To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.

Under section 6.64 (3) of the SEPP, Council must provide Water NSW with a copy of its determination of the application within 10 days of the determination.

If you wish to discuss this matter further, please contact Rizwana Rumman via environmental.assessments@waterNSW.com.au.

Yours sincerely



NICOLE WALLWOOD
Catchment Assessment Specialist



Appendix B – Batemans Bay Local Aboriginal Land Council Submission



Batemans Bay Local Aboriginal Land Council

PO Box 542. Phone 02 4472 7390

34d Orient St, BATEMANS BAY NSW 2536

interimceo@bblalc.com.au

10 April 2026

Dear Manager

RE: Formal Submission – Aboriginal Cultural Heritage Concerns

DA.2026.0113 – Solar Farm and Battery Energy Storage Development

This submission is made on behalf of the Batemans Bay Local Aboriginal Land Council (BBLALC) to formally raise significant concerns and state our position regarding Development Application DA.2026.0113. The proposal involves the construction of a 4.99MW solar farm, battery energy storage systems (5MW / 10MWh), landscaping, and associated site works at 873 Wallaces Gap Road, Ballalaba NSW.

BBLALC notes with serious concern that the documentation provided to date contains no reference to Aboriginal Cultural Heritage assessment, survey, or consultation. This omission is unacceptable and represents a fundamental failure in the planning process.

Legislative and Cultural Obligations

The proposed development clearly triggers statutory obligations under:

- The [National Parks and Wildlife Act 1974 \(NSW\)](#)
- The [Environmental Planning and Assessment Act 1979 \(NSW\)](#)
- The [Aboriginal Land Rights Act 1983 \(NSW\)](#)

Under these laws:

- Aboriginal objects and places are protected whether recorded or not
- Due diligence and/or formal cultural heritage assessment is mandatory prior to development approval
- Local Aboriginal Land Councils are the recognised statutory representatives of Aboriginal people within their defined boundaries

BBLALC Position

Batemans Bay LALC formally asserts the following:

1. No development should proceed until a comprehensive Aboriginal Cultural Heritage Assessment has been undertaken.
2. All cultural heritage processes must be:
 - Led and facilitated through Batemans Bay LALC
 - Inclusive of Aboriginal knowledge holders and community representatives

3. The assessment must include:
 - o Cultural site surveys, including archaeological inspection
 - o Cultural landscape assessment (not limited to site-specific analysis)
 - o Consideration of intangible heritage values, including songlines, cultural use, and connection to Country
4. Any failure to undertake this process may constitute:
 - o A breach of the National Parks and Wildlife Act 1974 (NSW)
 - o Grounds for refusal or deferral of development consent

Expectations of the Proponent

BBLALC requires that [EDPR Australia](#):

- Immediately engage with Batemans Bay LALC as the primary Aboriginal stakeholder
 - Enter into a formal consultation and cultural heritage agreement
 - Fund all required surveys, consultation, and reporting processes
 - Ensure that cultural heritage findings directly inform project design, avoidance, and mitigation measures
-

Cultural Authority Statement

Batemans Bay LALC speaks as the recognised cultural authority for Country in this area.

Aboriginal cultural heritage is not a procedural requirement—it is a living system of knowledge, responsibility, and connection to Country. Any development that fails to properly recognise and respect this will be strongly opposed.

Conclusion

BBLALC will not support, and will formally object to, any planning approval process that proceeds without proper Aboriginal cultural heritage assessment and consultation.

We request immediate engagement to ensure compliance with statutory obligations and respect for Aboriginal cultural values.

Yours faithfully,



Thomas Slookee, Interim CEO Batemans Bay Local Aboriginal Land Council

Appendix C – Batemans Bay Local Aboriginal Land Council - Preliminary Cultural Land Assessment



Cultural Land Assessment – Ballalaba

A cultural land assessment was undertaken for the proposed stamped area at Ballalaba to identify any potential Aboriginal cultural heritage values and determine whether further investigation is required prior to any ground disturbance activities.

The assessment identified no visible surface artefacts, scarred trees, midden deposits, stone arrangements, or other superficial indicators of Aboriginal occupation within the proposed work area at the time of inspection. However, the absence of surface evidence does not preclude the presence of subsurface cultural material or the broader cultural significance of the landscape.

Ballalaba is situated within a culturally important landscape that contains known traditional travel routes, cultural corridors, songlines, and historical camping areas associated with the movement and occupation of Walbunja and neighbouring Aboriginal peoples. These cultural pathways have significant heritage value and form part of the broader cultural connection to Country.

Given the known cultural context of the area and the potential for buried archaeological deposits, it is recommended that a qualified archaeologist undertake a program of targeted test pit investigations within the proposed stamped area prior to any ground-disturbing works. Archaeological testing will assist in determining whether subsurface cultural materials are present and ensure that appropriate heritage management measures can be implemented if required.

This recommendation supports the protection of Aboriginal cultural heritage and aligns with best-practice cultural heritage assessment and due diligence requirements under relevant heritage legislation and cultural.

Before we can approve any land disturbance or activity, we recommend you follow the above suggestions of the cultural heritage assessment with the guidance and engagement of the Batemans Bay Local Aboriginal Land Council's site officers.

BBLALC Senior project manager Andrew White

BBLALC Chairperson Les Simon

Two handwritten signatures in blue ink are shown. The first signature is for Andrew White, and the second is for Les Simon.