

Our ref: OUT23/3551

Stephen O'Donoghue

Planning and Assessment Group
NSW Department of Planning and Environment

Email: [REDACTED]

7 March 2023

Subject: **Bowdens Silver Project (SSD-5765) Advice on Independent Planning Commission (IPC) questions regarding Harvestable Rights provisions**

Dear Stephen O'Donoghue

I refer to your request for advice sent on 3 March 2023 to the Department of Planning and Environment (DPE) Water seeking advice on questions from the IPC (below in blue) regarding Harvestable Water Rights. Our suggested response is in italics.

1. Given the requirement for the retention of contaminated water on-site, can the Department confirm the following:
 - a) Whether this water would be subject to the 'harvestable rights' provisions under the *Water Management Act 2000*, and if so, to what extent (in ML/yr over the life of the project?)

No, this water would not be subject to the harvestable rights provisions under the Water Management Act 2000. The Harvestable Rights provisions allow landholders in applicable rural areas to collect up to 10 percent of the average regional rainfall for their landholding in dams without requiring a licence. Harvestable rights dams must be located on a minor stream and capture rainfall runoff.

- b) If, as per (a) above, this water is subject to the 'harvestable rights' provisions, will take of this water be exempted from requiring a Water Access Licence (WAL)

As outlined above, the contaminated water is not subject to the harvestable rights provisions.

However, Clause 3 of Schedule 1 of the Water Management (General) Regulation 2018 allows an exemption for dams that prevent contamination of a water source. Please note the new [DPE Fact Sheet Interpreting excluded works dams \(www.dpie.nsw.gov.au/water/licensing-and-trade/licensing/water-licensing-and-works-approvals-exemptions\)](http://www.dpie.nsw.gov.au/water/licensing-and-trade/licensing/water-licensing-and-works-approvals-exemptions).

- c) If, as per (b) above, take of this water is exempted from requiring a WAL, how will any WAL exemptions be dealt with under the relevant Water Sharing Plan?

Excluded works dams (which include those that hold contaminated water) are exempted from requiring a WAL. These exemptions are not required to be considered under the relevant water sharing plan.

- d) If, as per (a) above, this water is subject to the 'harvestable rights' provisions, will

those harvestable rights result in a reduction to the Long Term Annual Average Extraction Limit (LTAAEL), and therefore Available Water Determinations/WAL allocations under the relevant Water Sharing Plan? If so, to what extent (in ML/yr over the life of the Project)?

As outlined above, this water is not subject to the 'harvestable rights' provisions. However DPE Water notes that harvestable rights provisions are included in the estimation of the LTAAEL. If a dam satisfies the harvestable rights provisions, this volume has been considered in the WSP development and therefore the LTAAEL and Available Water Determinations should be unaffected.

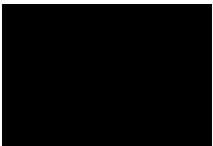
Should you have any further queries in relation to this submission please do not hesitate to contact DPE Water Assessments water.assessments@dpie.nsw.gov.au, or the following coordinating officer within DPE Water:

Liz Rogers – Manager Assessments

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M: [REDACTED]

Yours sincerely



Mitchell Isaacs
Chief Knowledge Officer

Department of Planning and Environment: Water