

24th September 2025

Mr Kurtis Wathen
Senior Environment Assessment Officer
NSW Department of Planning Housing and Infrastructure

Dear Kurtis Wathen,

RE: Mindaribba Local Aboriginal Land Council Submission – State Significant Infrastructure - Hunter Transmission Project SSI-70610456

Thank you for the opportunity to comment on the Environmental Impact statement (EIS) on the planned corridor for the Hunter Transmission Project (HTP). On behalf Mindaribba Local Aboriginal Land Council (LALC) we submit concerns regarding the Hunter Transmission Project EIS: - Application Number SSI-70610456 - State Significant Infrastructure – Energy Supply.

As coal plants close across the state part of NSW's Governments planned modernisation of its electricity grid is to create Renewable Energy Zones to ensure energy security for the Hunter, Sydney and the Illawarra. The Mindaribba LALCs footprint spans key LGAs intersected by the corridor (Maitland Cessnock and Singleton), and therefore Mindaribba is an essential party to the modernisation process.

The Mindaribba LALC (LALC) is Gazetted under NSW Aboriginal Land Rights Act 1983 section 52 (4), outlined below, has responsibilities and obligations to protect Aboriginal culture heritage within its boundaries; that includes local government areas of Newcastle, Maitland, Cessnock, Singleton, Dungog and Port Stephens. Mindaribba LALC Boundaries adjoin neighbouring LALCs of Karuah in the north, Worimi in the east, Awabakal in the southeast, Birabahn in the southwest and Wanaruah in the west.

NSWALR Act 1983 section 52

(4) Aboriginal culture and heritage.

A Local Aboriginal Land Council has the following functions in relation to Aboriginal culture and heritage--

(a) to take action to protect the culture and heritage of Aboriginal persons in the Council's area, subject to any other law,

(b) to promote awareness in the community of the culture and heritage of Aboriginal persons in the Council's area.

Mindaribba LALC recognise that as at September 2025 it has no registered Native Title holders and or Aboriginal Owners in Mindaribba LALC boundaries.

EnergyCo / DEECCW are aware that Mindaribba LALC is the legislated Local Aboriginal Land Council responsible for the footprint that spans key LGAs intersected by the EnergyCo corridor (Maitland, Cessnock and Singleton LGAs), and that there are no current, and or prior any registered Aboriginal owners under NSWALRA 1983 and or Native title holders under NT Act 1993 for this area.

The Mindaribba LALC would firstly like to make comment on the lack of consultation with Aboriginal Peoples in relation to ecology within the corridor. When considering Aboriginal culture and heritage, it is essential to recognise that its scope extends well beyond tangible evidence such as stone artefacts, rock art, scarred trees, or built structures. Aboriginal heritage is not confined to the material remnants of the past; it encompasses a living, interconnected system of knowledge, values, and relationships that continue to inform cultural identity and responsibilities today.

A core dimension of this system is the recognition of flora, fauna, landforms, and waters as culturally significant. Plants and animals are not viewed solely as environmental resources but as totemic symbols, spiritual ancestors, and kin. Totems establish enduring connections between individuals, families, clans, and their Country, shaping responsibilities for care, ceremony, and the transmission of knowledge. In this context:

- **Fauna** may function as spiritual guides, kinship markers, or law carriers, linking people to their ancestral beings and to specific obligations within Country.
- **Flora** may embody seasonal knowledge, provide ceremonial materials, or symbolise connections to storylines and creation narratives.
- **Land and waters** hold meaning as living entities, often embedded within Songlines that map cultural history, law, and custodianship across landscapes.

Accordingly, Aboriginal cultural heritage must be understood as both tangible and intangible, encompassing not only physical objects but also the ongoing relationships between people, plants, animals, and places. To reduce Aboriginal heritage to artefacts alone risks overlooking the depth of cultural meaning and the responsibilities that flow from these connections.

Recognition of this holistic perspective is critical for heritage management, planning, and policymaking. It ensures that assessments, approvals, and decisions respect Aboriginal peoples' ongoing custodianship and acknowledge that Country itself is a cultural entity, inseparable from heritage values.

Mindaribba LALC Concerns specific to inclusive Culture and Heritage strategies:

A. The Early, specific, and transparent stakeholder identification

The EIS focusses on Aboriginal engagement with culture and heritage largely in relation to landing pages and Factsheets do not show the **registered Aboriginal stakeholders list**, invitation letters, or a **consultation log** (who was contacted, when, about what). They also do not identify if Aboriginal Peoples have been invited to be involved in ecological surveys or comment in any way in relation to the disturbance of flora and fauna and traditional totemic connections to these totemic beings. The Mindaribba LALC has not been consulted in relation to ecology within the corridor, we requested this at the first meeting with Mara Consulting and EnergyCo. At the second meeting an ecologist attended but did not speak (Nathan Garvey). A third online meeting was organised where the ecologist advised us that EnergyCo sort to have us place our lands within the Tomalpin Woodlands into a biodiversity agreement – still no engagement in relation to intangible ecological concerns. Please advise where a list of those Aboriginal Peoples consulted can be found and how Mindaribba can be further involved in the ecology moving forward as this is of great concern to our people.

B. Quality of engagement (not just frequency)

There is an expectation that Aboriginal engagement is two-way and culturally safe, with clear influence on alternatives/design the material provided references “**extensive consultation**,” but doesn’t evidence how Aboriginal views in relation to tangible and intangible knowledge of culture and heritage and flora and fauna changed the corridor, tower siting, or construction methods. It would be beneficial to review a “you said / we did” table specific to Aboriginal feedback, not just general community.

C. Alignment with EnergyCo First Nations Guidelines (Roadmap projects)

There is an expectation that the Minister’s **First Nations Consultation Guidelines** require best-practice consultation and negotiation aimed at employment/income opportunities for local Aboriginal communities; EnergyCo says it will apply these in tenders. The risk here is that the EIS public pages don’t show **quantified targets, procurement set asides, or governance mechanisms** co-designed with Mindaribba as an essential party. Mindaribba would like to see the **First Nations outcomes plan** tied to not just non-Aboriginal business procurement packages. Mindaribba is not of the belief that a short-term project such as the construction of the HTP will be successful in securing “real” outcomes for our people. Significant outcomes will be achieved by building capacity through working within the operational sphere of Local Aboriginal Land Councils and other Aboriginal Organisations within the Hunter REZ – this option will provide training and longer-term job security for local mob within localised Aboriginal business. This way EnergyCo can successfully meet the NSW Governments Closing the Gap outcomes by providing “real” capacity building opportunities.

D. Cultural heritage features — impact assessment and mitigation gaps

Intangible cultural values & cultural landscapes

1. The ACHAR addresses objects and places, but also stories, songlines, views capes, access to Country—not just artefact scatters. Guidance requires considering significance beyond physical objects and including flora and fauna.
2. The interactive map highlights “sensitive areas,” but there’s no public summary of cultural landscape analysis or view-line protection at Aboriginal cultural viewpoints. Can these please be included.

Survey coverage & methodology transparency

3. No public summary of **survey effort (kilometres, stratified sampling), seasonality, or test-pit strategy**. Mindaribba would like a clear **methods table** and **monitoring commitments** during construction.

Decision rules for avoidance vs salvage

4. Expectation: hierarchy of **avoid → minimise → mitigate**, with **co-authored** salvage/keeping-place arrangements and clear triggers for **stop-work**.
5. Public material emphasises appears to be on “route refinement,” but doesn’t show **thresholds** for re-design to avoid significant places versus **defaulting to salvage**. Mindaribba seek explicit **“no-go” criteria** and Mindaribba’s role in agreeing them.

Cumulative impact framing

6. Expectation: for SSP/SSI, **cumulative impact assessment** should consider other linear infrastructure and regional change—important for cultural landscapes, does Chapter 9 cross-references the **CIA** and **SIA** so cultural cumulative effects aren’t siloed?

E. Impacts & benefits for the local Aboriginal community — what’s missing

Specific, measurable First Nations jobs & procurement

1. Expectation: the **First Nations Guidelines** point to increasing local Aboriginal employment/income; EnergyCo’s community benefits programs exist, but the exhibition material doesn’t state **HTP-specific, time-bound targets** or **set-asides**.

Benefit governance with Aboriginal leadership

2. Expectation: SIA/Engagement guidance pushes for **shared governance** and transparent benefit pathways. There is no clear structure for **Aboriginal-led decision-making** on community benefit investments, nor a **sustained revenue stream** tied to project milestones (beyond general CEBP references).

Access to Country during and after construction

3. Expectation: plans should maintain or improve access and embed cultural monitoring roles. Public pages don't outline access protocols, induction content, or paid cultural monitor positions across **all** heritage-sensitive works.

F. Practical Management Needs -

Consultation evidence & governance

1. Establish an **Aboriginal Cultural Advisory Group** with Mindaribba-nominated reps, with **decision gates** on micro-siting, tower height, access tracks, and construction sequencing (conditional under SSI).

Cultural heritage management and protections

2. Adopt a **co-authored Aboriginal Cultural Heritage Management Plan (ACHMP)** pre-construction that: defines **no-go areas**, set **stop-work triggers**, confirms **monitoring coverage**, **salvage protocols**, and **artefact custody/keeping-place** arrangements led by Mindaribba within Mindaribba LALC Boundaries.
3. Require **cultural landscape & view line analysis** to be integrated into final design: adjust **tower locations/heights** and **access alignments** to protect culturally significant vistas and pathways; publish the methodology and decisions.
4. Commit that **avoidance** is the default: publish **re-design thresholds** (when a site's significance triggers re-routing or different construction methods).

Socio-economic outcomes

5. Table a **First Nations Outcomes Plan** with: minimum % **Aboriginal employment hours**, **apprenticeships/traineeships**, **subcontract spend targets**, and **quarterly reporting**; link to contract incentives (EnergyCo First Nations Guidelines).
6. Ring-fence at minimum a 60% portion of the **Community & Employment Benefit Program** for **Aboriginal-led projects**, with an Aboriginal-majority local panel to select initiatives across **health, housing, education, ranger programs and culture**.
7. Codify **paid cultural monitor roles**, **cultural competency training** for the workforce, and **free access protocols** to Country during works (with clear contacts and response times). This must be delivered locally by local people and supported by the community and LALCs.

Cumulative change & long-term stewardship

8. Mindaribba LALC request that EnergyCo re-run cumulative impact for Aboriginal cultural heritage to include ecology with Mindaribba input and integrate findings into the ACHMP and SIA mitigation register. **ACHCRP (2010)** and **AHIP** guidance require structured Aboriginal consultation and clear management protocols where harm can't be avoided.

G. Request

- H. Mindaribba seek **condition** for a co-authored **ACHMP** and a **First Nations Outcomes Plan** with **public reporting**.
- I. Mindaribba request disclosure of the **consultation register** and “**you said / we did**” table specific to Aboriginal feedback on Culture and Heritage including Flora and Fauna (Ecology) before determination.
- J. Seek a **design-change protocol** (with Mindaribba sign-off) that triggers **micro-siting**/alternative construction methods where cultural values are at risk.

H. Culture and Heritage Requests and Concerns Conclusion

The Mindaribba LALC seeks a joint technical workshop (Mindaribba LALC, other Aboriginal Knowledge holders and Elders, Proponent Heritage Team, Proponent Ecologists, Birdlife Australia Representatives, DPHI, Heritage NSW) to walk through TR2 site by site with the interactive map on screen taking tangible and intangible cultural concerns into consideration and agree design changes live. This review will prioritise Aboriginal Self Determination and conservation protection of cultural values. The hope is that we have a less tolerant approach to “salvage- as – mitigation” where avoidance is practicable.

I. Mindaribba LALC Biodiversity protections, limitations & concerns

It appears that the EIS’s biodiversity work is set up the way NSW expects (BAM/BDAR), and it quantifies a very large credit obligation. The actual offset package (sites/credits contracted) is stated as not yet final and EnergyCo proposes to deliver it via a SODA informed by a regional Conservation Investment Strategy. The Mindaribba LALC is the largest freehold landowner within the Cessnock LGA with some of the most significantly biodiverse lands. Having only met with EnergyCo ecologists for under 1 hour in the last 2 years how will the SODA process support Aboriginal people within the Cessnock, Singleton and Maitland LGAs protect and conserve totemic flora and fauna and the surrounding environment particularly under and within the limitations of the Native Title Act?

J. Framework & deliverables

NSW requires a **Biodiversity Development Assessment Report (BDAR)** prepared under the **Biodiversity Assessment Method (BAM)** for SSI/CSSI, per the BC Act s7.9 and DPHI guidance.

1. EnergyCo states the biodiversity assessment was **carried out in line with BAM 2020**, with multi-season surveys, mapping, SAIL screening, and quantification of direct/indirect/prescribed impacts; the detailed **BDAR is in Chapter 12 + Technical Report 1**. This appears to align with NSW practice for major projects – why was Mindaribba not involved in these surveys when this was a request at the first meeting with EnergyCo?
2. The summary flags **serious and irreversible impact (SAIL) risks** for specific TECs and species, and describes route refinements that **avoided >200 ha** of clearing in high-value areas—again consistent with BAM’s avoid–minimise–offset hierarchy. Mindaribba LALC request more details in a face-to-face meetings to discuss this statement.

3. The EIS quantifies an obligation of **~17,109 ecosystem credits** and **~217,666 species credits (incl. prescribed/indirect)**, evidencing a BAM-style calculation Mindaribba LALC would like to understand this bottom line calculation.

K. Has the offset package been developed?

Scheme & pathway:

Offsets must meet the **NSW Biodiversity Offsets Scheme**. EnergyCo plans to deliver them via a **Strategic Offsets Delivery Agreement (SODA)**, with priorities set by a **Hunter–Central Coast Conservation Investment Strategy (CIS)**. The EIS provides the **credit numbers** and the **delivery mechanism (SODA)** but does **not** present a finalised set of offset sites/credits retired at exhibition—Mindaribba would like to see this published.

Regulatory backdrop:

Mindaribba understands that EnergyCo has delivered SODA as a “**new, lawful pathway**” (May 2025 regulation amendments) allowing DCCEE to secure like-for-like credits or undertake specified conservation actions consistent with the CIS; the proponent funds this and is deemed to have satisfied offset conditions when the SODA actions are delivered. Mindaribba seeks more information and consultation in relation to the SODA and its processes. We would like a clear understanding of how SODA will benefit Aboriginal landowners in our community in the same way it benefits non-Aboriginal Land Owners.

Credit calculation traceability

1. We would like to know how will each vegetation community/species impacted translate to ecosystem/species credits, and whether like-for-like rules drive the credit mix?

Offset delivery conditions

2. Mindaribba LALC would like to see draft approval conditions tying SODA milestones (and public reporting) to construction phases; ensuring the **CIS** is finalised and published before credit retirement commitments are relied upon.

Offset Delivery Plan

3. Mindaribba LALC would like to be involved in the creation of a **conditioned Offset Delivery Plan** linking SODA tranches to construction packages, with quarterly public reporting on credit procurement and conservation actions against the CIS.

The Mindaribba LALC has been a part of the Regent Honey Eater Recovery Team since 2020 with partners Taronga Conservation Trust, Birdlife Australia, Saving Our Species, Local Land Services and has released hundreds of zoo bred Regent Honey Eaters into the Tomalpin Woodlands. The Tomalpin Woodlands are the only known breeding places for this critically endangered bird in 2018 and 2022.

The EIS advises that over 97 Ha of Regent Honey Eater Habitat will be disturbed with a commitment to avoid or minimise via route refinement and downstream offsets. Mindaribba believes that this should be avoided. And seeks to understand Energy Co's plan in relation to the SODA and offset strategies to assist the Regent Honey Eater and Swift Parrot along with other Woodland Birds.

L. Likely / Potential Impacts on Regent Honeyeater Habitat and that impact on Aboriginal Peoples

Based on the overlap and what is known of the species ecology within the EIS, the following are probable or possible impacts:

<u>Impact type</u>	<u>Likely nature of effect on Regent Honeyeater habitat</u>
Vegetation clearing	Loss of feeding and foraging trees (nectar sources), especially mature eucalypts, ironbarks, spotted gums etc., which are important to the species. If clearing includes large mature trees, that is especially detrimental.
Fragmentation	Transmission corridors, access tracks, support sites may fragment habitat, increasing edge effects, reducing connectivity between feeding patches or breeding areas. This makes populations more isolated and vulnerable to both human and other more aggressive or predatorial woodland bird species.
Disturbance / indirect impacts	Noise, dust, human presence during construction, disturbance of breeding behaviour; change in fire regimes; invasion of weeds or pest species along disturbed tracks may degrade habitat around edges.
Loss or impact in "rich patches"	Regent Honeyeater is a "rich patch specialist" — they rely on certain trees flowering intensely. Disturbance or removal of such patches along the corridor may reduce feeding opportunities, especially in non-breeding seasons.
Cumulative loss / risk magnification	Adding this infrastructure to other existing habitat loss (bushfire, land clearing, climate change) will further stress already small populations.
Cultural Destruction	Regent Honey Eaters significantly connected to women and the business of women's roles and relationships within society. The impact of habitat decimation on this species may be too impactful to not place it into total extinction.

M. Mindaribba LALC Seeks information and Resolution on:

These are what Mindaribba sees as unresolved or opaque in the documentation, which matter for assessing that the "real" impacts to Regent Honeyeater habitat are properly understood and mitigated.

1. **Exact overlap with known breeding / foraging sites:**

It isn't obvious which of the known Regent Honeyeater breeding/foraging locations are within or immediately adjacent to the proposed corridor, or whether any such known sites will be directly impacted.

2. **Quality of habitat within corridor:**

How many of the habitat patches in the route are high quality (mature, high nectar yield, connectivity) vs degraded or marginal? This will effect how severe the impact is.

3. **Seasonal / temporal variation:**

Whether the clearing or disturbance coincides with flowering of key species or breeding times; and whether some routes or construction windows avoid those critical times. Mindaribba would request that this is mitigated and Aboriginal Rangers are utilised for nest protection.

4. **Mitigation specifics:**

Are there commitments to protect or enhance alternative habitat patches (restoration, revegetation) specifically benefiting the species? Are there measures for maintaining or improving connectivity? The general offset approach is there, but species-level targeting (especially for critically endangered woodland birds like regent honeyeater) isn't spelled out in what we have been presented.

5. **Monitoring and adaptivity:**

It's not clear how monitoring of impacts to Regent Honeyeater will occur, whether there are thresholds that trigger changes (e.g. additional avoidance, route changes, or design tweaks), and what transparency or Indigenous/local stakeholder roles will be in monitoring. Please advise?

N. Clarify / tighten protection

To reduce risk and improve outcomes for the regent honeyeater, we seek the following to be clarified via submission or within conditions moving forward:

1. A map overlay showing exactly which known or likely Regent Honeyeater habitat (breeding, foraging, movement corridors) lie in or near the proposed corridor, and what the expected loss or disturbance is for those.
2. Identification of "high value feed tree" patches and explicit design to avoid these (micro-siting, minimising clearing of mature individuals).
3. Timing of construction / clearing to avoid periods critical for breeding or peak flower nectar availability.
4. Specific restoration / revegetation commitments: planting of species used by regent honeyeater, ensuring connectivity.

5. Long-term monitoring program specific to Regent Honeyeater: presence / abundance pre-, during, post-construction; transparent reporting; adaptive management.
6. Offset site(s) selected in consultation with species experts and Mindaribba LALC Elders and Knowledge Holders that provide similar habitat (in quality, type, connectivity) and ideally improving habitat in locations known to be used by the birds, (for the purpose of this submission we would advise developer owned lands at Kurri Kurri that should be vested in the Mindaribba LALC Aboriginal Community into perpetuity).

O. Request

Mindaribba LALC seek clarity on the below:

1. **Species-level impact tables** in the BDAR: how many species credits allocated to Regent Honeyeater, how many hectares of habitat identified in survey / modelling that overlap with tower or line easement, and how much of that habitat is considered “high value” (feed trees, breeding potential).
2. **Maps with overlay of known / modelled Regent Honeyeater habitat**, marking:
 - Proposed tower/pylon locations / footings & easement width.
 - Any micro-siting alternatives considered.
 - Any lines of sight / view-scape features relevant (perhaps some feed tree patches visible, etc.).
3. **Survey effort / detectability**: whether regent honeyeaters were detected in field surveys; what survey seasons; use of targeted bird surveys, whether there is modelled presence / habitat suitability in the corridor validated by field data.
4. **Mitigation specific to the species**:
 - Retention of key feed tree species along the corridor (especially mature eucalypts, etc.).
 - Restrictions on clearing during flowering or breeding times.
 - Offsetting that's explicitly beneficial for Regent Honeyeater (e.g. plantings, habitat restoration).
 - Monitoring / adaptive management for that species post-construction.
5. **Clarity in SAI (Serious and Irreversible Impact) determinations**: Is any habitat for this species flagged SAI? What are trigger directions if SAI thresholds are reached?

P. Regent Honey Eater and Ecological Concerns Conclusion

In conclusion: the EIS recognises that the project will impact habitat relevant to the Regent Honeyeater and seems to have typical avoidance/minimisation plus offset measures. The document did not identify the cultural connection to local Aboriginal People under the Heritage Guidelines. Mindaribba didn't find in the public summary enough specific detail about which patches of high-value habitat will be lost, quality of habitat being impacted, or targeted mitigation specifically for this species. For species under extreme threat like the Regent Honeyeater, those species-specific

protections or design adjustments are really important, and there's room for the EIS to strengthen them. And Mindaribba LALC seeks commitment on this.

Q. Final Conclusion

Legislation and business often seek to focus Aboriginal Cultural Connection on stone artifacts, scar trees and cave paintings; although the **Definition of Aboriginal Culture and Heritage** is that Aboriginal culture and heritage encompasses both tangible and intangible values. It is not limited to physical evidence such as stone artefacts, rock art, or scarred trees, but also includes the living cultural relationships between people, flora, fauna, land, and waters. Plants and animals are recognised as totemic symbols that carry spiritual, kinship, and custodial responsibilities, while landforms and waterways hold cultural meaning through Songlines and ancestral narratives. Aboriginal heritage must therefore be understood holistically, as a continuing system of knowledge, law, and practice, where Country itself is a cultural entity requiring respect and care.

This EIS process and its documents have failed to join the very public connection of the Mindaribba Local Aboriginal Community to the Woodlands, Birds and other totemic life within the Cessnock LGA. Unfortunately, even with the Mindaribba Local Aboriginal Land Council consistently seeking ecological consultation and expressing our cultural connection to place, our attempts to discuss totemic landscapes, plants and animals were almost completely ignored, or worse totally misread as our connection and want being that of a transactional space. The Mindaribba LALC and its Community hope that those lines of importance can now be drawn clearer for the EnergyCo team. Our understanding is that our words through this submission will lead to further consultation and work in this area, along with the appropriate conditions placed on the proponent to truly "listen" to our words and our requests – not make assumptions that "you" are "the educated" – "the government" – and that "you know best". We have been doing this for in excess of 65, 000 years – we do know a thing or two.

Mindaribba looks forward to working with you on these requests and questions and to truly meeting the objectives of the Minister's **First Nations Consultation Guidelines** and the **NSW State Governments Closing the Gap Strategy** as you move forward building the project.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Tara Dever', with a large, stylized loop at the end.

Tara Dever

Chief Executive Officer

Mindaribba Local Aboriginal Land Council

