

# Central-West Orana Renewable Energy Zone Transmission project

## Amendment Report

### Appendix D: Updated statutory compliance requirements

March 2024

[www.energyco.nsw.gov.au](http://www.energyco.nsw.gov.au)



# Contents

<b>D1</b>	<b>Statutory compliance requirements.....</b>	<b>D-1</b>
D1.1	Statutory requirements for the amended project.....	D-1
D1.2	Matters for consideration relevant to the EP&A Act.....	D-5
D1.3	Other NSW legislation of relevance to the amended project.....	D-8
D1.4	Environmental Planning and Assessment Regulation 2021 checklist.....	D-16
D1.5	Commonwealth legislation.....	D-17
D1.5.1	Environmental Planning and Biodiversity Conservation Act 1999.....	D-17
D1.5.2	Environment Protection and Biodiversity Conservation Regulations 2000.....	D-20
D1.5.3	Other Commonwealth legislation.....	D-21

## List of tables

Table D-1	Statutory compliance requirements for the amended project.....	D-1
Table D-2	Matters for consideration.....	D-5
Table D-3	Other NSW legislation of relevance to the amended project.....	D-8
Table D-4	Environmental Planning and Assessment Regulation 2021 checklist.....	D-16
Table D-5	Potential impacts on MNES under the EPBC Act.....	D-18
Table D-6	Environment Protection and Biodiversity Conservation Regulations 2000 checklist.....	D-20

# D1 Statutory compliance requirements

This appendix outlines the updated statutory compliance requirements for the amended project and explains the environmental impact assessment and planning approval process for the amended project. This appendix supports the information provided in Chapter 4 (Statutory context) as well as Chapter 6 (Assessment of impacts). The appendix is consistent with the requirements of the *State Significant Infrastructure Guidelines* (DPE, 2022b), which proponents must have regard to under the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).

## D1.1 Statutory requirements for the amended project

Table D-1 summarises the statutory requirements for the amended project in accordance with Table 2 of section 3.5 of the *State significant infrastructure guidelines – preparing an environmental impact statement* (DPE, 2022d).

Table D-1 Statutory compliance requirements for the amended project

Category	Requirement
Power to grant approval – NSW	<p>The <i>Environmental Planning and Assessment Act 1979</i> (EP&amp;A Act) and the Environmental Planning and Assessment Regulation 2021 are the primary pieces of legislation regulating land use planning and development assessment in NSW. This legislation is supported by a range of environmental planning instruments (EPIs), including State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs).</p> <p>Sections 5.12 and 5.13 of the EP&amp;A Act provide for the declaration of State significant infrastructure (SSI) and critical State significant infrastructure (CSSI). On 23 November 2020, the New South Wales (NSW) Minister for Planning and Public Spaces made the Environmental Planning and Assessment Amendment (Central-West Orana Renewable Energy Zone Transmission Order) 2020. The Order declares the whole Central-West Orana Renewable Energy Zone (REZ) Transmission project to be CSSI by adding that project as a new clause, gazetted on 16 December 2020, in Schedule 5 of the State Environmental Planning Policy (State and Regional Development) 2011, now clause 23 in Schedule 5 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP), as follows:</p> <p><i>23 Central-West Orana REZ Transmission project</i></p> <ul style="list-style-type: none"><li>(1) <i>Development for the purposes of the Central-West Orana REZ Transmission project.</i></li><li>(2) <i>The Central-West Orana REZ Transmission project is a program of works to construct and operate the high-voltage electricity transmission infrastructure required to connect energy generation and storage projects within the Central-West Orana REZ to the existing electricity network.</i></li><li>(3) <i>The Central-West Orana REZ Transmission project includes the following –</i><ul style="list-style-type: none"><li>(a) <i>the construction and operation of new electricity transmission lines connecting from the existing electricity network south-west of Merriwa to south-west of Dunedoo and then to the existing electricity network west of Lake Burrendong,</i></li><li>(b) <i>the construction and operation of new electricity substations,</i></li><li>(c) <i>the augmentation of the existing electricity substation at Wollar,</i></li><li>(d) <i>ancillary development including, but not limited to the following –</i><ul style="list-style-type: none"><li>(i) <i>the carrying out of works to upgrade or augment existing electricity transmission lines and substation infrastructure,</i></li><li>(ii) <i>the construction and operation of access roads,</i></li><li>(iii) <i>the installation and operation of communication infrastructure and facilities, excluding microwave technology,</i></li></ul></li></ul></li></ul>



Category	Requirement
----------	-------------

(iv) the installation and operation of construction accommodation, compounds and power supplies.

(4) The development is to be carried out on land in the following local government areas –

- (a) Dubbo Regional,
- (b) Mid-Western Regional,
- (c) Upper Hunter Shire,
- (d) Warrumbungle Shire.

(5) In this section –

Central-West Orana REZ means the Central-West Orana Renewable Energy Zone. development does not include –

(a) tests or investigations for the assessment of the Central-West Orana REZ Transmission project including, but not limited to, the carrying out of the following –

- (i) surveys,
- (ii) sampling,
- (iii) environmental investigations,
- (iv) geotechnical borehole drilling,
- (v) test drilling,
- (vi) test excavations, or

(b) the construction of temporary access tracks and temporary site facilities to allow for the carrying out of tests or investigations described in paragraph (a), or

(c) minor works within existing switchyards

On the 21 February 2023, the (then) NSW Minister for Planning (the relevant minister now is the Minister for Planning and Public Spaces) made the Environmental Planning and Assessment Amendment (Central-West Orana Renewable Energy Zone Transmission Order) 2023. The Order amended the declaration to include:

(3) (b1) the construction and operation of battery energy storage systems,

and exclude:

(5) (d) upgrading, relocating or widening existing public roads –

- (i) carried out on land in the Central-West Orana REZ, and
- (ii) subject to a determination under the Act, Division 5.1.

Division 5.2 of the EP&A Act establishes the assessment and approval regime for SSI and CSSI projects. As CSSI, the amended project requires the approval of the NSW Minister for Planning and Public Spaces under section 5.14 of the EP&A Act.

Power to grant approval – Commonwealth

Matters of national environmental significance (MNES), such as Commonwealth listed threatened species and ecological communities, are protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Under the EPBC Act, proposed actions that are likely to have a significant impact on MNES must be referred to the Australian Minister for the Environment. The Minister will determine whether the action is a controlled action and therefore requires approval from the Minister under the EPBC Act. The Minister will also determine the method under which the environmental impact of the action will be assessed.

Energy Corporation of New South Wales (EnergyCo) referred the project to the Minister on 2 February 2023 (referral no. 2022/09353). The Australian Government's Department of Climate Change, Energy, the Environment and Water (DCCEEW), as delegate for the Australian Minister for the Environment and Water, determined on 2 March 2023 that the project is a controlled action on the basis of likely significant impacts to the following listed threatened species and communities (sections 18, 18A of the EPBC Act) and migratory species (sections 20 and 20A of the EPBC Act):

- Regent Honeyeater (*Anthochaera phrygia*)
- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland threatened ecological community (TEC)
- Satin Flycatcher (*Myiagra cyanoleuca*).

Two TECs and 37 species were also identified as having some risk of significant impact and identified for further consideration.

Category	Requirement
	<p>DCCEEW also determined that the project would be assessed under the NSW Assessment Bilateral Agreement.</p> <p>The NSW Assessment Bilateral Agreement provides for certain actions that are State significant development (SSD) or SSI within the meaning of the EP&amp;A Act to be accredited for the purposes of meeting the requirements for assessment and public exhibition of an action under the provisions of the EPBC Act. However, a separate EPBC Act approval is still required.</p> <p>The NSW Department of Planning and Environment (DPE) issued Supplementary Secretary's Environmental Assessment Requirements (SEARs) on 28 March 2023 to include the relevant Commonwealth requirements under the NSW Assessment Bilateral Agreement. This EIS has been prepared to address these requirements (refer to Appendix A (SEARs checklist)).</p> <p>Some of the amendments described in Chapter 3 of the Amendment Report would introduce new impacts outside of the original referral area. In order to capture these additional impacts, an application under section 156A of the EPBC Act will be submitted to the DCCEEW (Cth) requesting a variation to the proposal contained in the original EPBC referral.</p>
Permissibility	<p>State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) is a key environmental planning instrument that sets out the permissibility of infrastructure development and subsequently under which part of the EP&amp;A Act it is assessed.</p> <p>Clause 2.44 of the Transport and Infrastructure SEPP permits development for the purpose of electricity transmission or distribution network to be carried out by or on behalf of an electricity supply authority or public authority without consent on any land. However, development may not be carried out on land reserved under the <i>National Parks and Wildlife Act 1974</i> (NP&amp;W Act) without consent unless the development is (in general terms) authorised under that Act. This includes development that 'is carried out on land to which the NP&amp;W Act applies over which an easement has been granted and is not contrary to the terms or nature of the easement'.</p> <p>The amended project falls within the definition of an 'electricity transmission or distribution network' under clause 2.43 of the Transport and Infrastructure SEPP, which defines that term as including the following components:</p> <ul style="list-style-type: none"> <li>• above or below ground electricity transmission or distribution lines (including related bridges, cables, conductors, conduits, poles, towers, trenches, tunnels, access structures, access tracks and ventilation structures) and telecommunication facilities that are related to the functioning of the network</li> <li>• above or below ground electricity switching stations or electricity substations, feeder pillars or transformer housing, substation yards or substation buildings</li> <li>• systems for electricity storage associated with a component specified in paragraphs a. and b.</li> </ul> <p>EnergyCo is constituted under section 7(1) of the <i>Energy and Utilities Administration Act 1987</i>. Under section 36(1)(e) of that Act, EnergyCo is, for the purposes of any Act, a statutory body representing the Crown. As such, it is a 'public authority' within the meaning of section 1.4(1) of the EP&amp;A Act. Accordingly, it is a 'public authority' within the meaning of clause 2.3(1) of the Transport and Infrastructure SEPP and is, therefore, a 'public authority' for the purposes of clause 2.44 of that SEPP.</p> <p>Around 2.5 kilometres of the proposed Cassilis connection would traverse a section of land reserved under the NP&amp;W Act, being the Durrigere State Conservation Area. Section 153 of the NP&amp;W Act empowers the Minister administering the NP&amp;W Act (the NSW Minister for Environment and Heritage) to grant an easement through a state conservation area for the 'erection of standards, posts, wires and appliances for the conveyance or transmission of electricity'. EnergyCo has commenced discussions with the NSW National Parks and Wildlife Service concerning the creation of an easement for the amended project within the Durrigere State Conservation Area.</p> <p>The amended project is permissible without consent pursuant to clause 2.44 of the Transport and Infrastructure SEPP as it is defined as an electricity transmission or distribution network, and would be carried out by or on behalf of EnergyCo (a public authority), subject to securing an easement in accordance with section 153 of the NP&amp;W Act prior to any determination by the NSW Minister for Planning and Public Spaces under the EP&amp;A Act.</p> <p>Under clause 2.44(2) of the Transport and Infrastructure SEPP, a reference to development for the purpose of an electricity transmission or distribution network includes a reference to certain activities associated with the development, including (but not limited to) construction works, emergency or routine maintenance works and environmental management works. Certain maintenance and vegetation management works are considered exempt development under the provisions of clause 2.46 of the Transport and Infrastructure SEPP.</p>

Category	Requirement
Other NSW legislation and approvals	<p>A number of other approvals under NSW legislation have been integrated into the CSSI approval process under the EP&amp;A Act, and are either not required to be separately obtained for the amended project, or are required to be substantially consistent with the approved CSSI. Approvals or authorisations that cannot be refused if they are necessary for carrying out approved CSSI and are substantially consistent with the Division 5.2 approval, including:</p> <ul style="list-style-type: none"> <li>• an approval under Part 3 of the <i>Coal Mine Subsidence Compensation Act 2017</i> (CMSC Act)</li> <li>• an environment protection licence (EPL) under chapter 3 of the <i>Protection of the Environment Operations Act 1997</i> (POEO Act)</li> <li>• consent under section 138 of the <i>Roads Act 1993</i> (Roads Act) from the relevant roads authority for the erection of a structure, or the carrying out of work in, on or over a public road, or the digging up or disturbance of the surface of a road.</li> </ul> <p>With respect to the CMSC Act, EnergyCo would require approval as parts of the amended project would be located within the Mudgee mine subsidence district.</p> <p>With respect to EPLs, Schedule 1 of the POEO Act does not define electrical transmission lines or associated infrastructure (such as switching stations and substations) as a scheduled activity requiring an EPL.</p> <p>The crushing, grinding or separating of materials at locations along the amended project would likely be more than 30,000 tonnes per year, exceeding the threshold in Schedule 1 of the POEO Act. This activity would therefore constitute a scheduled activity and require an EPL. Licensing requirements for the amended project would be confirmed in consultation with the NSW Environment Protection Authority. The construction contractor would obtain an EPL to construct the amended project. Licensing requirements for the amended project would be considered in consultation with the NSW Environment Protection Authority (EPA).</p> <p>The amended project is unlikely to exceed the criteria listed in Schedule 1 of the POEO Act for the following scheduled activities:</p> <ul style="list-style-type: none"> <li>• helicopter-related activities (clause 20), as the activity at each construction compound would not have an intended capacity of more than 30 flight movements per week (where take-off and landing are separate flight movements)</li> <li>• sewage treatment (clause 36), as each plant would not have a processing capacity that exceeds 2,500 persons equivalent (as determined in accordance with guidelines established by an EPA Gazettal notice), or exceeds 750 kilolitres per day (whichever is the greater).</li> </ul> <p>With respect to Road Occupancy Licences, the amended project would potentially require temporary/partial closure(s) of classified and unclassified roads for the construction of the amended project (during, for example, stringing of transmission lines over public roads). Road works may also be required as part of the amended project to establish new access points for the energy hubs and to the transmission line alignment.</p> <p>EnergyCo requires consent from the relevant roads authority under section 138 of the Roads Act to undertake work on or over classified roads. However, by reason of clause 5(1) of Schedule 2 of the Roads Act, EnergyCo, as a public authority, is not required to obtain approval to carry out work on unclassified roads other than a Crown road (subject to that clause ceasing to have effect by proclamation).</p> <p>Approvals of potential relevance to the amended project which are not required under section 5.23(1) of the EP&amp;A Act, include:</p> <ul style="list-style-type: none"> <li>• a permit under sections 201, 205 or 219 of the <i>Fisheries Management Act 1994</i> (FM Act)</li> <li>• an approval under Part 4, or an excavation permit under section 139 of the <i>Heritage Act 1977</i> (Heritage Act)</li> <li>• an Aboriginal heritage impact permit under section 90 of the NP&amp;W Act</li> <li>• a bushfire safety authority under section 100B of the <i>Rural Fires Act 1997</i></li> <li>• various approvals under the <i>Water Management Act 2000</i> (WM Act), including water use approval under section 89, a water management work approval under section 90, and an activity approval (other than aquifer interference approvals) under section 91.</li> </ul> <p>Section 5.23(2) of the EP&amp;A Act specifies that Division 8 of Part 6 of the Heritage Act does not apply to prevent or interfere with the carrying out of approved SSI.</p>

Category	Requirement
	<p>Section 5.23(3) of the EP&amp;A Act specifies that directions, orders or notices cannot be made or given so as to prevent or interfere with the carrying out of approved CSSI. Of relevance to the amended project would be:</p> <ul style="list-style-type: none"> <li>• an interim protection order (within the meaning of the NP&amp;W Act)</li> <li>• an order under Division 1 (Stop work orders) of Part 6A of the NP&amp;W Act or Division 7 (Stop work orders) of Part 7A of the FM Act</li> <li>• a remediation direction under Division 3 (Remediation directions) of Part 6A of the NP&amp;W Act</li> <li>• an order or direction under Part 11 (Regulatory compliance mechanisms) of the <i>Biodiversity Conservation Act 2016</i> (BC Act)</li> <li>• an environment protection notice under chapter 4 of the POEO Act</li> <li>• an order under section 124 of the <i>Local Government Act 1993</i>.</li> </ul> <p>Refer to Table D-2 of this appendix for further detail, including other NSW legislation that continues to apply to the amended project.</p>
Pre-conditions to exercising the power to grant approval	No pre-conditions to exercising the power to grant approval have been identified as relevant to this amended project.
Mandatory matters for consideration	Refer to Section D1.2 of this appendix.

## D1.2 Matters for consideration relevant to the EP&A Act

As noted in Chapter 4 (Statutory context), section 5.22 of the EP&A Act provides that EPIs (such as LEPs and SEPPs) do not, with some exceptions, apply to SSI projects. Notwithstanding, an approval authority will consider certain matters within these instruments in deciding whether to grant approval.

A complete list of the EPIs that have been considered in addition to the Transport and Infrastructure SEPP and Planning Systems SEPP (as discussed in Section D1.1), as a matter of good practice in respect of addressing environmental impacts, is provided in Table D-2.

Table D-2 Matters for consideration

Instrument	Considerations	EIS/Amendment Report reference
<b>State Environmental Planning Policies</b>		
<p><i>State Environmental Planning Policy (Resources and Energy) 2021</i> (Resources and Energy SEPP)</p>	<p>The Resources and Energy SEPP contains provisions to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources.</p> <p>The amended project would include a section of the transmission line alignment that would cross land that is subject to mining leases and exploration licences. Pursuant to clause 2.15(2)(a) of the SEPP, development for the purpose of the construction, maintenance and use of electricity distribution lines is complying development if it is on the site of an approved mine or approved extractive industry.</p> <p>However, as the amended project has been declared as CSSI under the Transport and Infrastructure SEPP, and therefore not subject to development consent, the provisions of the Resources and Energy SEPP do not apply.</p>	<p>Potential impacts of the amended project on mine operations have been considered in Chapter 7 (Land use and property) of the EIS and Section 5.2 (Land use and property) of the Amendment Report.</p>

Instrument	Considerations	EIS/Amendment Report reference
<p><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP)</p>	<p>The Biodiversity and Conservation SEPP contains provisions for the conservation and management of areas of natural vegetation that provide habitat for koalas. The policy applies to a number of local government areas (LGAs) across NSW, including the following LGAs within which the amended project would be located:</p> <ul style="list-style-type: none"> <li>• Mid-Western Regional</li> <li>• Warrumbungle</li> <li>• Upper Hunter</li> <li>• Dubbo Regional.</li> </ul> <p>While the requirements of this SEPP would not apply to the amended project (as it would not be subject to consent under Part 4 of the EP&amp;A Act), potential impacts on koala populations have been considered as part of the EIS. The assessment has identified that offsets for this species would be required.</p>	<p>Consideration of the potential impacts to koalas has been included in:</p> <ul style="list-style-type: none"> <li>• Chapter 10 (Biodiversity) and Technical paper 4 – Biodiversity development assessment report (Technical paper 4) of the EIS</li> <li>• Section 5.5 (Biodiversity) and Appendix G (Updated Biodiversity Development Assessment Report) of the Amendment Report.</li> </ul>
<p><i>State Environmental Planning Policy (Primary Production) 2021</i> (Primary Production SEPP)</p>	<p>This SEPP aims to facilitate the orderly economic use and development of land for primary production and reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources. The SEPP is also intended to identify land which has been declared to be State significant agricultural land (SSAL). A draft SSAL map has been published by the NSW Department of Primary Industries and has been considered in the EIS to assess potential impacts on high value agricultural land. Overall, the amended project is not considered to adversely affect the objectives of this SEPP.</p>	<p>The amended project has been designed to minimise impacts on important agricultural land, and where practicable, utilise previously disturbed corridors such as existing electrical easements or mining areas (refer to Chapter 2 (Strategic context)).</p> <p>The amended project would still however impact on agricultural land, including land mapped as SSAL (draft). The impacts to agricultural land have been considered in:</p> <ul style="list-style-type: none"> <li>• Chapter 8 (Agriculture) and Technical paper 2 – Agriculture of the EIS</li> <li>• Section 5.3 (Agriculture) of the Amendment Report.</li> </ul>
<p><i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (Resilience and Hazards SEPP)</p>	<p>Chapter 3 of the Resilience and Hazards SEPP aims to impose conditions on potentially hazardous or offensive development to reduce or minimise any adverse impacts.</p> <p>During construction and operation of the amended project, potentially dangerous goods and hazardous substances are likely to be transported to and from the amended project, and may be stored on site. Typically, the materials and chemicals would only be required in small amounts and below an amount that would trigger requirements for consideration as a hazardous or offensive industry under the Resilience and Hazards SEPP.</p> <p>The Merotherie Energy Hub may also include a battery energy storage system (BESS), which can pose a hazard in the event that a fault in the battery storage system escalates into a fire.</p>	<p>Potential risks related to dangerous goods and hazardous materials during construction and operation, or risks related to the potential BESS at the Merotherie Energy Hub have been discussed in:</p> <ul style="list-style-type: none"> <li>• Chapter 16 (Hazard and risk) and Technical paper 11 – Preliminary hazard analysis of the EIS</li> <li>• Section 5.10 (Hazard and risk) of the Amendment Report.</li> </ul>
	<p>Chapter 4 of the Resilience and Hazards SEPP provides a State-wide approach to the remediation of contaminated land for the purpose of minimising the risk of harm to the health of humans and the environment. In accordance with Clause 4.6(1) of the Resilience and Hazards SEPP, a consent authority must not consent to the carrying out of development on any land unless:</p> <ul style="list-style-type: none"> <li>• it has considered whether the land is contaminated</li> <li>• if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or would be suitable, after remediation) for the purpose for which the development is proposed to be carried out</li> </ul>	<p>Consideration of potential contamination impacts associated with the amended project are addressed in:</p> <ul style="list-style-type: none"> <li>• Chapter 19 (Other impacts) and Technical paper 16 – Contamination (Technical paper 16) of the EIS</li> <li>• Section 5.13 (Contamination) of the Amendment Report.</li> </ul>



Instrument	Considerations	EIS/Amendment Report reference
	<ul style="list-style-type: none"> <li>if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land would be remediated before the land is used for that purpose.</li> </ul> <p>A Phase 1 contamination investigation has been undertaken for the project to inform the development of the project's design and EIS process. The outcomes of the contamination investigations concluded that based on the available data, the amended construction area is considered suitable for the amended project, subject to implementation of standard measures and management controls during site development. Operational phase contamination risk management is also considered to be manageable with the implementation of standard controls and procedures.</p>	
<b>Local Environmental Planning Policies</b>		
<p>Warrumbungle Local Environmental Plan 2013</p> <p>Mid-Western Regional Local Environmental Plan 2012</p> <p>Dubbo Regional Local Environmental Plan 2022</p> <p>Upper Hunter Local Environmental Plan 2013</p>	<p>Section 5.10 of each of the relevant LEPs identifies the need to conserve Aboriginal objects and Aboriginal places of heritage significance within each of the LGAs.</p> <p>Section 5.10 of each of the relevant LEPs identifies the need to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views within each of the LGAs. Each of the LEPs identify a schedule of registered heritage items and conservation areas.</p> <p>Part 2 of each of the LEPs identifies the relevant land zonings for each of the LGAs and the applicable permitted and prohibited development types. The zoning which is applicable to the amended project includes the following:</p> <ul style="list-style-type: none"> <li>RU1 Primary Production</li> <li>C1 National Parks and Nature Reserves</li> <li>C3 Environmental Management</li> <li>RU5 Village</li> <li>IN3 Heavy Industrial</li> <li>SP2 Infrastructure.</li> </ul>	<p>The potential Aboriginal heritage impacts associated with the amended project have been discussed in:</p> <ul style="list-style-type: none"> <li>Chapter 11 (Aboriginal heritage) and Technical paper 5 – Aboriginal cultural heritage assessment report (Technical paper 5) of the EIS</li> <li>Section 5.6 (Aboriginal heritage) of the Amendment Report.</li> </ul> <p>The potential non-Aboriginal heritage impacts associated with the amended project have been discussed in:</p> <ul style="list-style-type: none"> <li>Chapter 12 (Non-Aboriginal heritage) and Technical paper 6 – Non-Aboriginal heritage (Technical paper 6)</li> <li>Section 5.7 (Non-Aboriginal heritage) of the Amendment Report.</li> </ul> <p>While the LEPs listed guide local development within the LGA, the EP&amp;A Act expressly provides that LEPs do not apply to SSI and CSSI projects. However, the EIS has considered potential impacts to land use/land zoning in:</p> <ul style="list-style-type: none"> <li>Chapter 7 (Land use and property) and Chapter 8 (Agriculture) of the EIS</li> <li>Section 5.2 (Land use and property) and Section 5.3 (Agriculture) of the Amendment Report.</li> </ul>

Instrument	Considerations	EIS/Amendment Report reference
	Section 5.21 of each of the relevant LEPs identifies flood-related planning controls relevant to each of the LGAs including allowance for development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change.	The potential flooding impacts associated with the amended project have been discussed in: <ul style="list-style-type: none"> <li>Section 19.1 and Technical paper 15 – Flooding</li> <li>Section 5.12 (Hydrology and flooding) of the Amendment Report.</li> </ul>

## D1.3 Other NSW legislation of relevance to the amended project

As summarised in Chapter 4 (Statutory context), in accordance with sections 5.23 and 5.24 of the EP&A Act, some environmental planning legislation does not apply to approved CSSI or must be applied consistently with an approval for CSSI.

Environmental planning related legislation and regulations that may still be applicable to approved CSSI and, based on the scope of this amended project, may be relevant are outlined in Table D-3.

Table D-3 Other NSW legislation of relevance to the amended project

Instrument	Requirement and/or considerations	EIS reference
<i>Aboriginal Land Rights Act 1983</i>	<p>The <i>Aboriginal Land Rights Act 1983</i> Act establishes the NSW Aboriginal Land Council and local Aboriginal land councils (LALCs) and requires these bodies to:</p> <ul style="list-style-type: none"> <li>take action to protect the culture and heritage of Aboriginal persons in the LALC's area, subject to any other law</li> <li>promote awareness in the community of the culture and heritage of Aboriginal persons in the LALC's area.</li> </ul> <p>Under this Act, LALCs can claim Crown Land. If the claim is determined in favour of the LALC, the relevant land is transferred as freehold title to the LALC. 'Claimable Crown lands' includes Crown Lands that are not lawfully used or occupied and that are not needed, nor likely to be needed, for an essential public purpose.</p>	<p>The construction area for transmission lines would cross two parcels of Crown Land which are subject to undetermined land claims under the <i>Aboriginal Land Rights Act 1983</i>. This includes a small parcel of Crown Land adjacent to Laheys Creek one parcel to the south of the Golden Highway, where temporary access would be required to facilitate construction. EnergyCo would continue to liaise with the Local Land Services (LLS) and/or the relevant LALC (depending on the status of this claim) to gain access to these land parcels. EnergyCo is continuing to consult with the relevant LALCs in relation to the amended project.</p> <p>This is discussed in Chapter 7 (Land use and property) of the EIS and Section 5.2 (Land use and property) of the Amendment Report.</p>

Instrument	Requirement and/or considerations	EIS reference
<p><i>Biodiversity Conservation Act 2016</i> (BC Act)</p>	<p>The BC Act aims to conserve threatened species, populations and ecological communities through ensuring appropriate assessment, management and regulation of actions that may damage critical or other habitat for a listed threatened species, or may otherwise significantly affect a threatened species, population or ecological community.</p> <p>Under the BC Act, SSI (including CSSI) projects are required to prepare a biodiversity development assessment report (BDAR) to identify and assess biodiversity impacts under the provisions of the Act and offset those impacts by retiring biodiversity credits, determined using the Biodiversity Assessment Methodology (BAM).</p>	<p>Biodiversity impacts associated with the amended project have been assessed in accordance with the BC Act. The results of this assessment are presented in:</p> <ul style="list-style-type: none"> <li>• Chapter 10 (Biodiversity) and Technical paper 4 of the EIS.</li> <li>• Section 5.5 (Biodiversity) and Appendix G (Updated Biodiversity Development Assessment Report) of the Amendment Report.</li> </ul>
<p><i>Biosecurity Act 2015</i> (Biosecurity Act)</p>	<p>The <i>Biosecurity Act 2015</i> (Biosecurity Act) provides for the prevention, elimination, minimisation and management of biosecurity risks in NSW posed by biosecurity matter, which is defined in section 10 of the Biosecurity Act.</p> <p>Under the Act, weeds are defined as a plant that is a pest and a biosecurity risk exists where invasive weeds, now termed priority weeds under the Biosecurity Act, have the potential to negatively impact on the environment.</p> <p>The Act introduces a responsibility for landowners or land managers to control and prevent the introduction and spread of these priority weeds, which is to be known as a General Biosecurity Duty.</p>	<p>This EIS and Amendment Report has included an assessment of biodiversity impacts, including consideration of weeds (refer to Chapter 10 (Biodiversity) and Technical paper 4 of the EIS and Section 5.5 (Biodiversity) and Appendix G (Updated Biodiversity Development Assessment Report) of the Amendment Report).</p>
<p><i>Coal Mine Subsidence Compensation Act 2017</i> (CMSC Act)</p>	<p>The CMSC Act 2017 establishes a scheme under which property owners are entitled to compensation for damage to improvements or goods owned by the property owner from subsidence due to the extraction of coal. Property owners are also entitled to compensation to meet the reasonable and necessary expenses incurred or to be incurred as a result of such damage, as well as compensation for preventative or mitigative expenses.</p> <p>Part 3 of the Act contains provisions in relation to development within mine subsidence districts. Under section 21 of the CMSC Act, a person must not carry out work, or cause work to be done, in connection with the erection or alteration of an improvement within a mine subsidence district, except in accordance with the approval Subsidence Advisory NSW. For the purposes of the Act ‘improvement’ includes infrastructure, whether above or below the surface of the land.</p> <p>The amended project would require approval from Subsidence Advisory NSW as it would be located within the Mudjee mine subsidence district. Subsidence Advisory NSW has developed and applied surface development guidelines in accordance with the CMSC Act, to mitigate or eliminate the damage to surface structures from mine subsidence within mine subsidence districts.</p>	<p>Potential impacts on the amended project infrastructure due to mine subsidence have been considered in Chapter 16 (Hazard and risk) of the EIS and Section 5.10 (Hazard and risk) of the Amendment Report.</p> <p>Consultation with Subsidence Advisory NSW has been carried out for the amended project to identify subsidence related design requirements for the amended project (refer to Chapter 5 (Community and stakeholder engagement) of the EIS). These requirements would be incorporated into the continued development and refinement of the amended project design (refer to Chapter 3 (Project description) of the EIS and Appendix A (Updated project description) of the Amendment Report).</p>

Instrument	Requirement and/or considerations	EIS reference
<p><i>Contaminated Land Management Act 1997</i> (CLM Act)</p>	<p>The CLM Act outlines the circumstances in which notification to the EPA is required in relation to the contamination of land. The study area is mostly used for agricultural purposes and the risk of encountering and disturbing contaminated soils is generally low for most the construction area. The exception is:</p> <ul style="list-style-type: none"> <li>• where the amended project traverses active mining areas and rehabilitation areas at Moolarben Coal Mine and Wilpinjong Coal Mine, respectively. These sites present a low to high contamination risk during construction</li> <li>• at several farm dams within the construction area that may be impacted, which present a medium risk for isolated contamination due to the potential accumulation of nutrients and pesticides from adjacent agricultural activities.</li> </ul>	<p>A Phase 1 contamination investigation (refer to Technical paper 16 of the EIS and Section 5.13 (Contamination) of the Amendment Report) has been undertaken for the amended project to inform the continued development of the amended project design and EIS process.</p> <p>Further consideration of contamination risks and proposed measures to mitigate and manage these risks are summarised in Section 19.2 of Chapter 19 (Other impacts) of the EIS and Section 5.13 (Contamination) of the Amendment Report.</p>
<p><i>Crown Land Management Act 2016</i> (Crown Land Act)</p>	<p>This Act sets out the requirements for the management of Crown Land in NSW. This includes the permissions and authorisations needed when planning the development of activities on Crown Land as well as the process for the acquisition of Crown Land.</p> <p>The amended project would pass through one parcel of Crown Land associated with the travelling stock reserve which extends along Barneys Creek Road, as well as parcels of land associated with Crown roads (including paper roads), and watercourses including Laheys Creek and Wilpinjong Creek).</p>	<p>Impacts to Crown Land have been discussed in greater detail in Chapter 7 (Land use and property) of the EIS and Section 5.2 (Land use and property) of the Amendment Report.</p>
<p><i>Electricity Infrastructure Investment Act 2020</i> (Electricity Infrastructure Investment Act)</p>	<p>The Electricity Infrastructure Investment Act aims, among other things, to co-ordinate investment in new generation, storage and network infrastructure in NSW. It establishes a process under which the NSW Minister for Energy can declare a geographical area of the State a REZ and specify the generation, storage or network infrastructure that will be implemented in that zone. There are currently five REZs declared in the Act, including the Central-West Orana REZ.</p> <p>The Act also provides for the appointment of an Infrastructure Planner to, among other things, investigate, plan, co-ordinate and carry out planning, design, construction and operation of storage and network infrastructure.</p> <p>The Electricity Infrastructure Investment Act also gives power to the Minister to declare “access schemes” that operate in REZs. A REZ access scheme authorises (or prohibits) access to, and the use of, specified network infrastructure by operators of generation and storage infrastructure within a REZ. The declaration of an access scheme may specify how access rights are to be conferred on participants and the fees payable. These access schemes are intended to support investment in the network and provide investors with comfort that their project will be authorised to access a stable grid connection.</p>	<p>On 5 November 2021, the Central-West Orana REZ was formally declared by the (then) Minister for Energy and Environment (the relevant minister now is the Minister for Energy) and EnergyCo was appointed as the Infrastructure Planner to lead the delivery of REZs in NSW.</p> <p>Future connections to the amended project will be managed through the access scheme for the Central-West Orana REZ.</p>
<p><i>Fisheries Management Act 1994</i></p>	<p>A permit under section 219 of the <i>Fisheries Management Act 1994</i> is required for the blocking of fish passage.</p> <p>This approval is not required in accordance with section 5.23 of the EP&amp;A Act if planning approval is obtained as the amended project has been declared SSI (including CSSI).</p>	<p>Biodiversity impacts associated with the amended project have been assessed in accordance with the BC Act. The results of this assessment are presented in:</p> <ul style="list-style-type: none"> <li>• Technical paper 4 and summarised in Chapter 10 (Biodiversity) of the EIS</li> <li>• Section 5.5 (Biodiversity) and Appendix G (Updated Biodiversity Development Assessment Report) of the Amendment Report).</li> </ul>



Instrument	Requirement and/or considerations	EIS reference
Heritage Act 1977 (Heritage Act)	<p>Section 139 of the Heritage Act specifies that a person must not disturb or excavate land knowing, or suspecting, that the action may result in the discovery, exposure, movement, damage or destruction of a relic, unless the work is undertaken in accordance with an excavation permit. Additionally, section 146 of the Heritage Act requires that the discovery or location of a relic must be notified to the Heritage Council of NSW unless the Heritage Council of NSW is aware of the relic's location.</p> <p>The Heritage Council of NSW must be notified if a relic is uncovered during construction and if it is reasonable to believe that the Heritage Council of NSW is unaware of the location of the relic.</p> <p>Under the SSI (including CSSI) provisions for the amended project, exemptions and permits that would otherwise be required under Part 4 and section 139 of the Heritage Act are not required for approved SSI projects by reason of section 5.23 of the EP&amp;A Act.</p> <p>A number of heritage sites would be impacted by the amended project. The majority of these are not listed on a statutory heritage register. The comprise of built and potential archaeological sites.</p>	<p>Notwithstanding the application of the SSI provisions, the heritage impacts associated with the amended project have been assessed in accordance with the Heritage Act. The results of this assessment are presented in:</p> <ul style="list-style-type: none"> <li>• Technical paper 5, Technical paper 6 and summarised in Chapter 11 (Aboriginal heritage) and Chapter 12 (Non-Aboriginal heritage) of the EIS respectively</li> <li>• Appendix H (Updated Aboriginal Cultural Heritage Assessment Report) and summarised in Section 5.6 (Aboriginal heritage) of the Amendment Report</li> <li>• Section 5.7 (Non-Aboriginal heritage) of the Amendment Report.</li> </ul>
Land Acquisition (Just Terms Compensation) Act 1991 (Land Acquisition Act)	<p>The Land Acquisition Act applies to the acquisition of land (by agreement or compulsory process) by a public authority authorised to acquire the land. It sets out the process for land acquisition and the matters which must be taken into account in determining compensation payable to a landowner for the acquisition of the relevant interest in land.</p> <p>The provisions of the Land Acquisition Act would apply to the acquisition of land (and interests in land) by EnergyCo for the amended project.</p>	<p>Further discussion of potential land acquisition associated with the amended project is discussed in:</p> <ul style="list-style-type: none"> <li>• Chapter 3 (Project description), Chapter 5 (Community and stakeholder engagement) and Chapter 7 (Land use and property) of the EIS</li> <li>• Appendix A (Updated project description) of the Amendment Report.</li> </ul>
National Parks and Wildlife Act 1974 (NP&W Act)	<p>The NP&amp;W Act establishes statutory provisions for the preservation and management of national parks, historic sites, state conservation areas and certain other areas, as well as the protection of certain Aboriginal objects. The NP&amp;W Act provides for the conservation of elements of the natural environment, as well as the conservation of objects, places or features of cultural value to Aboriginal people and the people of NSW.</p> <p>The amended project would traverse through one portion of the Durrigere State Conservation Area. Several other areas protected by the NP&amp;W Act are located near the amended project, including the Goulburn River National Park, Dapper Nature Reserve, Munghorn Gap Nature Reserve, Yarrobil National Park, Goodiman State Conservation Area, Coolah Tops National Park and other portions of the Durrigere State Conservation Area.</p> <p>Under the provisions of section 86 of the NP&amp;W Act, a person must not harm or desecrate a known Aboriginal object unless authorised by an Aboriginal heritage impact permit issued under section 90 of that Act.</p> <p>Under the provisions of section 5.23(1) of the EP&amp;A Act, a permit that would otherwise be required under section 90 of the NP&amp;W Act is not required for approved SSI projects.</p>	<p>Notwithstanding the provisions of section 5.23(1) of the EP&amp;A Act, a detailed assessment of potential impacts to Aboriginal heritage associated with the amended project has been undertaken. The results of this assessment are presented in:</p> <ul style="list-style-type: none"> <li>• Technical paper 5 and summarised in Chapter 11 (Aboriginal heritage) of the EIS</li> <li>• Appendix H (Updated Aboriginal Cultural Heritage Assessment Report) and summarised in Section 5.6 (Aboriginal heritage) of the Amendment Report.</li> </ul> <p>Consideration of the potential impacts on biodiversity values of nature conservation areas near the amended project has been included in:</p> <ul style="list-style-type: none"> <li>• Chapter 10 (Biodiversity) and Technical paper 4 of the EIS</li> <li>• Section 5.5 (Biodiversity) and Appendix G (Updated Biodiversity Development Assessment Report) of the Amendment Report).</li> </ul>

Instrument	Requirement and/or considerations	EIS reference
	<p>Under the provisions of section 153 of the EP&amp;A Act, the Minister administering the NP&amp;W Act (the NSW Minister for Environment and Heritage) has the power to grant an easement through a state conservation area for the 'erection of standards, posts, wires and appliances for the conveyance or transmission of electricity'. EnergyCo has commenced discussions with the NSW National Parks and Wildlife Service concerning the creation of an easement for the amended project within the Durrigere State Conservation Area. An easement would be secured prior to any project determination by the NSW Minister for Planning and Public Spaces under the EP&amp;A Act.</p>	
<p><i>Native Title New South Wales Act 1994</i> (Native Title (NSW) Act)</p>	<p>The Native Title (NSW) Act provides for the recognition of native title in relation to land or waters in NSW in accordance with the <i>Commonwealth Native Title Act 1993</i> (refer to Section D1.5). The <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010</i> (DECCW 2010) stipulates that, where relevant, consultation must be conducted with Native title holders or registered native title claimants in accordance with the Native Title (NSW) Act.</p> <p>The amended project would not affect land to which an Indigenous Land Use Agreement applies. Searches of the registers maintained by the National Native Title Tribunal identified two known native title claims under the (Commonwealth) <i>Native Title Act 1993</i> (NC2011/006 and NC2018/002) in the amended project area, which have not been determined.</p>	<p>Consultation with relevant Aboriginal groups has been undertaken as part of the preparation of the Aboriginal cultural heritage assessment report (Technical paper 5) of the EIS and Appendix H (Updated Aboriginal Cultural Heritage Assessment Report) of the Amendment Report.</p> <p>The Aboriginal cultural heritage assessment report (Technical paper 5) of the EIS and Appendix H (Updated Aboriginal Cultural Heritage Assessment Report) of the Amendment Report for the amended project includes an assessment of native title and Aboriginal heritage impacts. The status of the undetermined claims has been considered as part of the assessment (refer to Chapter 11 (Aboriginal heritage) of the EIS and Section 5.6 (Aboriginal heritage) of the Amendment Report).</p> <p>EnergyCo would continue to liaise with the LLS and/or the relevant LALC (depending on the status of this claim) to gain access to these land parcels. EnergyCo is continuing to consult with the relevant LALC in relation to the amended project.</p>
<p><i>Protection of the Environment Operations Act 1997</i> (POEO Act)</p>	<p>The POEO Act establishes, among other things, pollution management, pollution incident reporting and the procedures for issuing licences for environmental protection on aspects such as waste, air, water and noise pollution control.</p> <p>An EPL is required under chapter 3 of the POEO Act to undertake a scheduled activity (listed in Schedule 1 of the Act) or scheduled development work (outlined in section 47 of the Act).</p> <p>The amended project is unlikely to meet the requirements of a scheduled activity as defined in Schedule 1 of the POEO Act (refer to Table D-1).</p>	<p>Appropriate management and mitigation have been identified in relation to these aspects, including in:</p> <ul style="list-style-type: none"> <li>• Chapter 15 (Noise and vibration), Chapter 18 (Waste management), Chapter 19 (Other impacts) and Chapter 21 (Environmental management) of the EIS</li> <li>• Section 5.9 (Noise and vibration), Section 5.12 (Hydrology and flooding), Section 5.13 (Contamination), Section 5.14 (Air quality) and Appendix E (Updated mitigation measures) of the Amendment Report.</li> </ul>

Instrument	Requirement and/or considerations	EIS reference
<p><i>Rail Safety Act 2008</i> (Rail Safety Act)</p>	<p>The principal object of the Rail Safety Act of relevance to the amended project is the regulation of the carrying out of various activities within in railway corridors.</p> <p>The amended project would cross two existing railways. Key railway line crossings would consist of:</p> <ul style="list-style-type: none"> <li>• three crossings of the Sandy Hollow/Gulgong Railway line which is operated by Australian Rail Track Corporation (ARTC) and is referred to as the Ulan Line. The crossings are located along Ulan Road and the Ulan-Wollar Road adjacent to the existing mining operations</li> <li>• three crossings of the Wallerawang/Gwabegar Railway line which is operated by ARTC and UGL Regional Linx Country Rail Network. One crossing is located about four kilometres south of the rail line’s intersection with the Castlereagh Highway and the other crossings are located about two and 11 kilometres further south.</li> </ul> <p>Activities associated with the amended project that would occur across these rail corridors would predominantly be related to stringing conductors over the rail corridors.</p>	<p>EnergyCo has met with ARTC to brief them about the project, to identify locations where the alignment would cross ARTC operated rail line and to understand ARTC requirements in relation access to their property by external parties. EnergyCo would continue to consult with ARTC in relation to design development and construction planning to minimise impacts on rail operations during construction and operation of the amended project.</p> <p>Potential requirements associated with impacts on rail operations during transmission line stringing have been considered as part of:</p> <ul style="list-style-type: none"> <li>• Technical paper 13 – Traffic and transport (Technical paper 13), and are summarised in Chapter 17 (Traffic and transport) of the EIS</li> <li>• Appendix J (Traffic and Transport Impact assessment Addendum) and summarised in Section 5.11 (Traffic and transport) of the Amendment Report.</li> </ul> <p>These requirements would be incorporated into the continued development and refinement of the amended project design (refer to Chapter 3 (Project description) of the EIS and Appendix A (Updated project description) of the Amendment Report).</p>
<p><i>Roads Act 1993</i> (Roads Act)</p>	<p>The principal object of the Roads Act of relevance to the amended project is the regulation of the carrying out of various activities on public roads.</p> <p>Part 9 of the Roads Act nominates the requirements for undertaking works within a public road, including the requirement to obtain consent under section 138 for carrying out works in, on or over a public road (this includes the erection of structures), and the digging up or disturbance of the surface of a public road.</p> <p>With respect to Road Occupancy Licences, the amended project would potentially require temporary/partial closure(s) of classified and unclassified roads for the construction of the project (during, for example, stringing of transmission lines over public roads). Road works may also be required on unclassified roads as part of the project to establish new access points for the energy hubs and to the transmission line alignment.</p> <p>EnergyCo would require consent from the relevant roads authority under section 138 of the Roads Act to undertake work on or over classified roads. However, by reason of clause 5(1) of Schedule 2 of the Roads Act, EnergyCo, as a public authority, is not required to obtain approval to carry out work on unclassified roads other than a Crown road (subject to that clause ceasing to have effect by proclamation).</p>	<p>Potential requirements associated with impacts to existing roads as a result of the construction and operation of the amended project have been considered as part of:</p> <ul style="list-style-type: none"> <li>• Technical paper 13, and are summarised in Chapter 17 (Traffic and transport) of the EIS</li> <li>• Appendix J (Traffic and Transport Impact assessment Addendum) and summarised in Section 5.11 (Traffic and transport) of the Amendment Report.</li> </ul> <p>Roads works are proposed to a number of local unclassified roads identified in Section 3.3.4 (Local road and intersection upgrades) of the Amendment Report.</p> <p>Chapter 17 (Traffic and transport) of the EIS also identifies that road occupancy licences may be required for unclassified and classified roads during construction.</p>

Instrument	Requirement and/or considerations	EIS reference
<i>Rural Fires Act 1997</i> (RF Act)	<p>The objects of the RF Act are focused on the prevention, mitigation and suppression of bush and other fires in rural fire districts, and the co-ordination of firefighting and prevention across NSW.</p> <p>Section 100B applies to bushfire prone land and empowers the Commissioner of the NSW Rural Fire Service to issue a bushfire safety authority. The bushfire safety authority authorises certain types of development, subject to compliance with matters considered by the Commissioner to be necessary to protect persons, property and/or the environment.</p> <p>Under the provisions of section 5.23(1) of the EP&amp;A Act, this authority that would otherwise be required under section 100B of the RF Act is not required for approved SSI (including CSSI) projects.</p>	<p>Potential hazards associated with bushfire risk to the amended project and as a result of the amended project (including during construction), have been considered as part of Technical paper 10 – Bushfire and summarised in Chapter 16 (Hazard and risk) of the EIS and Section 5.10 (Hazard and risk) of the Amendment Report.</p>
<i>Waste Avoidance and Resource Recovery Act 2001</i> (WARR Act)	<p>The WARR Act aims to encourage the most efficient use of resources to reduce environmental harm in accordance with the principles of ESD.</p>	<p>The amended project would consume some natural resources and would produce waste. Waste and resource impacts associated with the amended project have been assessed in Chapter 18 (Waste management) of the EIS and Appendix A (Updated project description) of the Amendment Report.</p>
<i>Water Management Act 2000</i> (WM Act) and <i>Water Management (General) Regulation 2018</i>	<p>The overarching objective of the WM Act is to provide for the sustainable and integrated management of the water resources of the State and including the application of the principles of ESD.</p> <p>Water use approvals, which authorise and confer a right on the holder of the approval to use water for a particular purpose at a particular location, are dealt with in section 89 of the WM Act.</p> <p>Section 90 of the WM Act identifies three kinds of water management works approvals, being a water supply work approval, a drainage work approval and a flood works approval, with all three of these approvals confer a right on the holder of the approval to construct and use the specified works at a specified location.</p> <p>There are two kinds of activity approvals that are dealt with in section 91 of the WM Act, being a controlled activity and aquifer interference, both of which confer a right on the holder to carry out the specified activity at the specified location.</p> <p>Under the provisions of section 5.23(1) of the EP&amp;A Act, a water use approval pursuant to section 89 of the WM Act, a water management work approval pursuant to section 90 of the WM Act, and an activity approval (other than an aquifer interference approval) pursuant to section 91 of the WM Act are not required and accordingly, do not apply to approved SSI projects (including CSSI).</p> <p>Under the WM Act, a water access licence is required where water is taken for consumptive use or incidentally by an aquifer interference activity from a water source (rivers, lakes, estuaries and groundwater) where a water sharing plan has commenced, unless an exemption applies. Exemptions from water licence and approval requirements are outlined in Schedule 4 of the Water Management (General) Regulation 2018. Exemptions that apply to public authorities (such as EnergyCo) for requiring an access licence include:</p>	<p>Extraction of groundwater (e.g. for construction water supply) and groundwater dewatering would be required during construction. Consideration of the NSW Aquifer Interference Policy and the requirement for a water access licence for the amended project have been included in:</p> <ul style="list-style-type: none"> <li>• Section 19.3 of Chapter 19 (Other impacts) and Technical paper 17 – Groundwater</li> <li>• Section 5.12 (Hydrology and flooding) of the Amendment Report.</li> </ul>



Instrument	Requirement and/or considerations	EIS reference
	<ul style="list-style-type: none"> <li>• dust suppression (Schedule 4 1(5))</li> <li>• the taking of up to three megalitres of groundwater from a groundwater source in a water year when groundwater is intercepted during excavation required for the construction of a building, road or infrastructure, if the taking of that groundwater is not for the purpose of its consumption or supply (Schedule 4 1(7)).</li> </ul> <p>The NSW Aquifer Interference Policy (DPI, 2012) provides a framework for the regulation, licencing and assessment of groundwater activities to meet the requirements of the WM Act to ensure that the granting of water licences and approvals results in 'no more than minimal harm' to any water source or dependent ecosystem.</p> <p>As discussed in Section 19.1 (Hydrology, flooding and water quality), water would be sourced from existing regulated sources, purchased from the existing water market or council facilities and accessed via existing, licensed water extraction infrastructure where practicable. Extraction of groundwater is also proposed as part of the requirements for water during construction. As such, a water access licence would be required for the project under sections 56 and 61 of the WM Act. A water access licence entitles licence holders to specified volumetric entitlements in the available water within a particular water management areas or water source and to take water at specified times, rates or circumstances from specified areas or locations. The volumetric entitlement is measured by the number of units assigned to the water access licence and the annual volumetric value of a unit for that water source as determined by the Minister administering the WM Act. Units can be transferred from one water access licence to another. A water access licence is held personally and may be transferred and otherwise dealt with in accordance with the WM Act.</p> <p>In addition, groundwater dewatering may occur where excavations or piles intersect with the groundwater table, and is likely to exceed three megalitres of groundwater per year, meaning that licences or approvals under the water regulatory regimes may be required. Dewatering estimates and the need for water access licences would be confirmed during detailed design.</p>	

## D1.4 Environmental Planning and Assessment Regulation 2021 checklist

Table D-4 identifies the form and content requirements of the EIS in accordance with clauses 190 and 192 of the EP&A Regulation and indicates where they have been addressed in the EIS.

Table D-4 Environmental Planning and Assessment Regulation 2021 checklist

Requirement	EIS reference
<b>190. Form of the environmental impact statement</b>	
<p>1. An environmental impact statement must contain the following information –</p> <ul style="list-style-type: none"> <li>a. the name, address and professional qualifications of the person who prepared the statement,</li> <li>b. the name and address of the responsible person,</li> <li>c. the address of the land:               <ul style="list-style-type: none"> <li>i. to which the development application relates, or</li> <li>ii. on which the activity or infrastructure to which the statement relates will be carried out,</li> </ul> </li> <li>d. a description of the development, activity or infrastructure</li> <li>e. an assessment by the person who prepared the statement of the environmental impact of the development, activity or infrastructure, dealing with the matters referred to in this Division.</li> </ul>	Refer to certification at the front of the EIS.
<p>2. The person preparing the statement must consider –</p> <ul style="list-style-type: none"> <li>b. for State significant infrastructure – the State Significant Infrastructure Guidelines.</li> </ul>	Preparation of the EIS has had regard to the <i>State Significant Infrastructure Guidelines</i> (DPE, 2022h) while meeting the requirements of the SEARs (issued 7 October 2022 and supplementary SEARs (issued on 28 March 2023).
<p>3. An environmental impact statement must also contain a declaration by a relevant person that –</p> <ul style="list-style-type: none"> <li>a. the statement has been prepared in accordance with this Regulation, and</li> <li>b. the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure, and</li> <li>c. the information contained in the statement is not false or misleading, and</li> <li>d. for State significant infrastructure – the statement contains the information required under the <i>Registered Environmental Assessment Practitioner Guidelines</i>.</li> </ul>	Refer to declaration page at the front of the EIS.
<p>4. In this section –</p> <p>registered environmental assessment practitioner means a person who is registered or certified under a professional scheme that is specified as a registered environmental assessment practitioner scheme in the <i>Accredited Registered Environmental Assessment Practitioner (REAP) Schemes</i> published on the NSW Planning Portal on 1 July 2021.</p> <p>Registered Environmental Assessment Practitioner Guidelines means the Registered Environmental Assessment Practitioner Guidelines prepared by the Planning Secretary as in force from time to time and published on the Department’s website.</p> <p>relevant person means –</p> <ul style="list-style-type: none"> <li>a. for State significant infrastructure – a registered environmental assessment practitioner, or</li> <li>b. otherwise – the person who prepares the environmental impact statement.</li> </ul>	Refer to declaration page at the front of the EIS.

Requirement	EIS reference
<b>192. Content of environmental impact statement</b>	
4. An environmental impact statement must contain the following –	
a. a summary of the environmental impact statement,	Executive Summary of the EIS
b. a statement of the objectives of the development, activity or infrastructure,	Chapter 2 (Strategic context) of the EIS
c. an analysis of feasible alternatives to the carrying out of the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,	Chapter 2 (Strategic context) of the EIS
d. an analysis of the development, activity or infrastructure, including –	Chapter 3 (Project description) of the EIS
i. a full description of the development, activity or infrastructure, and	
ii. a general description of the environment likely to be affected by the development, activity or infrastructure and a detailed description of the aspects of the environment that are likely to be significantly affected, and	Chapter 2 (Strategic context) of the EIS Chapter 7 to Chapter 20 of the EIS
iii. the likely impact on the environment of the development, activity or infrastructure, and	Chapter 7 to Chapter 20 of the EIS
iv. a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and	Chapter 7 to Chapter 20 of the EIS
v. a list of the approvals that must be obtained under another Act or law before the development, activity or infrastructure may lawfully be carried out,	Chapter 4 (Statutory context) of the EIS and this appendix
e. a compilation, in a single section of the environmental impact statement, of the measures referred to in paragraph (d)(iv),	Chapter 21 (Environmental management) of the EIS
f. the reasons justifying the carrying out of the development, activity or infrastructure, considering biophysical, economic and social factors, including the principles of ecologically sustainable development set out in section 193.	Chapter 7 (Justification) of the EIS

## D1.5 Commonwealth legislation

### D1.5.1 Environmental Planning and Biodiversity Conservation Act 1999

MNES such as Commonwealth listed threatened species and ecological communities, are protected under the EPBC Act. Under the EPBC Act, proposed actions that are likely to have a significant impact on MNES must be referred to the Australian Minister for the Environment. The Minister will determine whether the action is a controlled action and therefore requires approval from the Minister under the EPBC Act. The Minister will also determine the method under which the environmental impact of the action will be assessed.

EnergyCo referred the project to the Minister on 2 February 2023 (referral no. 2022/09353). DCCEEW, as delegate for the Australian Minister for the Environment and Water, determined on 2 March 2023 that the project is a controlled action on the basis of likely significant impacts to the following listed threatened species, TEC (sections 18, 18A of the EPBC Act) and migratory species (sections 20 and 20A of the EPBC Act):

- Regent Honeyeater (*Anthochaera phrygia*)
- White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland TEC
- Satin Flycatcher (*Myiagra cyanoleuca*).

Two TECs and 37 species were also identified as having some risk of significant impact and identified for further consideration.

DCCEEW also determined that the project would be assessed under the NSW Assessment Bilateral Agreement.

The NSW Assessment Bilateral Agreement provides for certain actions that are SSD or SSI within the meaning of the EP&A Act to be accredited for the purposes of meeting the requirements for assessment and public exhibition of an action under the provisions of the EPBC Act. However, a separate EPBC Act approval is still required.

DPE issued Supplementary SEARs on 28 March 2023 to include the relevant Commonwealth requirements under the NSW Assessment Bilateral Agreement. This EIS has been prepared to address these requirements (refer to Appendix A (SEARs checklist)).

Some of the proposed amendments would introduce new impacts on MNES outside of the referral area. In order to capture these additional impacts, an application under section 156A of the EPBC Act will be submitted to the DCCEEW (Cth) requesting a variation to the proposal contained in the original EPBC referral.

The amendments which introduce new impacts to MNES to that described in the original EPBC referral application generally comprise the following:

- local road upgrades along Merotherie Road between the Golden Highway and the Merotherie Energy Hub (including intersection upgrades (where required), replacement of the existing bridge over the Talbragar River, and upgrading road drainage
- replacement of the existing low weir on Spring Ridge Road, just north of Dapper Road, with a low level bridge or box culvert arrangement), and upgrade of the Spring Ridge Road and Dapper Road intersection
- potential upgrading of the intersections of Ulan Road and Neeleys Lane, and Golden Highway and Ulan Road.

The variation request will include all relevant information prescribed by section 5.08 of the Environment Protection and Biodiversity Conservation Regulations 2000, and identify the new impacts to MNES as a result of the applicable proposed amendments compared to the original proposal described in the EPBC referral

### Matters of National Environmental Significance

As detailed in Section 5.5 (Biodiversity) of the Amendment Report, the assessment has concluded that the amended project is likely to have a significant impact on two EPBC listed threatened flora species, two EPBC listed threatened fauna species and one EPBC listed TEC. No significant impact is expected on threatened migratory species.

A summary of the potential impacts on MNES as a result of the amended project is presented in Table D-5.

Table D-5 Potential impacts on MNES under the EPBC Act

MNES	Matters within the amended project area
World heritage properties	The amended project would not impact on any items of world heritage.
National heritage places	The amended project would not impact on any items of national heritage or national heritage places.
Wetlands of international importance	The amended project would not impact on any wetlands of national or international importance.



MNES	Matters within the amended project area
Commonwealth listed threatened species and ecological communities	<p>The results of likelihood of occurrence assessments have identified 11 EPBC listed threatened flora species and 20 EPBC listed threatened fauna species with a moderate or higher likelihood of occurrence within the biodiversity study area (refer to Appendix C of Appendix G (Updated Biodiversity Development Assessment Report)).</p> <p>Based on the significance assessments completed for these species (refer to Appendix G (Updated Biodiversity Development Assessment Report) of the Amendment Report), it was identified that the amended project is likely to have a significant impact on two EPBC listed threatened flora species, <i>Euphrasia arguta</i> (listed as critically endangered) and <i>Indigofera efoliata</i> (Leafless Indigo) (listed as endangered), and two EPBC listed threatened fauna species, the Regent Honeyeater (<i>Anthochaera Phrygia</i>) and Large-eared Pied Bat (<i>Chalinolobus dwyeri</i>) (listed as critically endangered and vulnerable, respectively). Offsets for these species, alongside other EPBC-listed fauna and flora species, have been identified Appendix G (Updated Biodiversity Development Assessment Report) and Section 5.5.5 of the Amendment Report.</p> <p>Two threatened ecological communities (TECs) listed under the EPBC Act would be directly impacted by the amended project. These include:</p> <ul style="list-style-type: none"> <li>• Grey Box (<i>Eucalyptus microcarpa</i>) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia – Endangered</li> <li>• White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland – Critically Endangered.</li> </ul> <p>Based on the significance assessments completed for these TECs, it was concluded that the amended project is likely to have a significant impact on the White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community. Offsets for both TECs have been identified in Appendix G (Updated Biodiversity Development Assessment Report) and Section 5.5.5 of the Amendment Report.</p>
Commonwealth listed migratory species	<p>The results of likelihood of occurrence assessments identified nine migratory species that have a moderate or higher likelihood of occurrence within the biodiversity study area (refer to Appendix C of Appendix G (Updated Biodiversity Development Assessment Report)). This includes the Satin Flycatcher (<i>Myiagra cyanoleuca</i>), White-throated Needletail (<i>Hirundapus caudacutus</i>), Black-faced Monarch (<i>Monarcha melanopsis</i>), Yellow Wagtail (<i>Motacilla flava</i>), Rufous Fantail (<i>Rhipidura rufifrons</i>), Common Sandpiper (<i>Actitis hypoleucos</i>), Sharp-tailed Sandpiper (<i>Calidris acuminata</i>), Latham's Snipe (<i>Gallinago hardwickii</i>) and Fork-tailed Swift (<i>Apus pacificus</i>). None of these species have been recorded in the biodiversity study area.</p> <p>As documented in Technical paper 4 (where further detail is provided), the amended project is considered unlikely to substantially modify, destroy or isolate an area of important habitat for any EPBC Act listed migratory species, unlikely to result in an invasive species that is harmful to the migratory species becoming established in an area of important habitat for the migratory species, and is unlikely to seriously disrupt the lifecycle of an ecologically significant proportion of a population of migratory birds.</p>
Nuclear action	The project would not result in any nuclear action nor would any nuclear activity need to be undertaken.
Commonwealth marine area	<p>The amended project would not result in any impacts to Commonwealth marine areas.</p> <p>The Fork-tailed Swift, a migratory marine species, has a moderate likelihood of occurrence within the biodiversity study area. As outlined earlier within this table, the amended project is unlikely to have a significant impact on this species.</p> <p>Listed marine species under the EPBC Act are only afforded protection in Commonwealth marine areas including water, air and seabed that are not in State or Territory waters, hence consideration of these species was not relevant to the amended project.</p>
Great Barrier Reef Marine Park	The amended project would not impact on the Great Barrier Reef Marine Park.
Protection of water resources from coal seam gas development and large coal mining	The amended project is not related to a coal seam gas development and large coal mining development.

## D1.5.2 Environment Protection and Biodiversity Conservation Regulations 2000

Table D-6 identifies the form and content requirements of the EIS in accordance with Schedule 4 of the EPBC Regulation as required by the supplementary SEARs and indicates where they have been addressed in the EIS.

Table D-6 Environment Protection and Biodiversity Conservation Regulations 2000 checklist

Requirement	EIS reference
<b>Schedule 4 Matters to be addressed by draft public environment report and environmental impact statement</b>	
5. Other approvals and conditions	
5.01 Information given under paragraph 2.01(f) must include:	Chapter 4 (Statutory context) of the EIS This appendix
a. details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including:	
i. what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy;	Chapters 7 to 20 of the EIS Technical papers 1 to 18 of the EIS
ii. how the scheme provides for the prevention, minimisation and management of any relevant impacts;	Chapters 7 to 20 of the EIS Technical papers 1 to 18 of the EIS
b. a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;	This appendix
c. a statement identifying any additional approval that is required;	This appendix
d. a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.	Chapter 21 (Environmental management) of the EIS
6. Environmental record of person proposing to take the action	
6.01 Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:	There are no current or previous proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against the person (EnergyCo) proposing the action.
a. the person proposing to take the action; and	
b. for an action for which a person has applied for a permit, the person making the application.	

Requirement	EIS reference
<p>6.02 If the person proposing to take the action is a corporation--details of the corporation's environmental policy and planning framework.</p>	<p>EnergyCo is a NSW Government statutory authority established under the <i>Energy and Utilities Administration Act 1987</i>. The NSW Government has appointed EnergyCo in November 2021 as the Infrastructure Planner responsible for delivering the transmission network in REZs in NSW. EnergyCo operates under the direction of the NSW Minister for Energy.</p> <p>EnergyCo is in the process of finalising their Environmental Policy Statement. It states that EnergyCo is committed to conducting its activities and services in a manner that protects the environment, prevents pollution and meets compliance obligations.</p> <p>To uphold this commitment the EnergyCo Central-West Orana REZ will:</p> <ul style="list-style-type: none"> <li>• conduct its activities in an environmentally responsible and competent manner so as to manage the potential for pollution and environmental impact</li> <li>• integrate environmental management considerations into the planning, design, siting, construction, maintenance and operation of its infrastructure</li> <li>• develop a sense of environmental responsibility throughout all levels of EnergyCo Central-West Orana REZ</li> <li>• establish a program for periodical review of the environmental objectives and targets as identified by EnergyCo Central-West Orana REZ</li> <li>• promptly implement preventative and corrective actions wherever identified</li> <li>• liaise with and encourage our suppliers and subcontractors to achieve a high level of environmental performance</li> <li>• regularly monitor assess and review our activities in relation to environmental performance to ensure compliance with environmental commitments</li> <li>• engage with the community, customers, employees, government and other stakeholders regarding potential environmental or cultural impacts associated with our plans and activities.</li> </ul> <p>EnergyCo Central-West Orana REZ will maintain a commitment to continual improvement in its environmental performance in the way it operates to support achievement of the Central-West Orana REZ project objectives.</p>

### D1.5.3 Other Commonwealth legislation

#### Native Title Act 1993

The *Native Title Act 1993* provides for the recognition of native title and establishes ways in which future dealings affecting native title may proceed, sets the standards for those dealings and establishes a mechanism for determining claims to native title. Section 8 states that the *Native Title Act 1993* is not intended to affect the operation of any law of a state or a territory that is capable of operating concurrently with the Act. The *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW, 2010) stipulates that, where relevant, consultation must be conducted with Native title holders or registered native title claimants.

The Register of Indigenous Land Use Agreements did not identify any agreements that apply to the construction or operational area. The project would not impact the three existing native title claims identified within the study area applied to the assessment of impacts to land use and property (refer to Chapter 7 (Land use and property) of the EIS).