MALABAR

MAXWELL UNDERGROUND MINE

CONTAMINATED MATERIALS PROTOCOL

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1 INTRODUCTION

1.1 Background

Maxwell Ventures (Management) Pty Ltd (Maxwell), a wholly owned subsidiary of Malabar Resources Limited (Malabar) owns and operates the Maxwell Underground Mine (the site). The site is located in the Upper Hunter Valley of New South Wales (NSW), east-southeast of Denman and south-southwest of Muswellbrook. The site is approved to extract a maximum of 8 million tonnes of run-of-mine coal per year over a period of 26 years. The site boundary is shown in **Figure 1**.

The site consists of the following areas:

- Underground area comprising the proposed area of underground mining operations and the mine entry area (MEA) to support underground mining and coal handling activities and provide for personnel and materials access;
- Maxwell Infrastructure (formerly Drayton mine) comprising previous open cut mining areas, existing coal handling and preparation plant, train load-out facilities and rail loop, Antiene rail spur and other infrastructure and services; and
- Transport and services corridor between the underground area and Maxwell Infrastructure comprising the proposed site access road, covered overland conveyor, power supply and other ancillary infrastructure and services.

The area within and surrounding the site, which has previously been known as Mt Arthur South, Saddlers Creek and Drayton South, has long been identified as having a significant in-situ coal resource. Prospecting for coal commenced in the late 1940s, with exploration intensifying during the 1960s and 1970s. Open cut coal extraction and mining activities commenced at Maxwell Infrastructure in 1983 and ceased in October 2016. The previous open cut mining area is currently in the rehabilitation phase of the mine operations.

The development consent for State Significant Development 9526 (SSD 9526) was granted on 22 December 2020 under clause 8A of the *State Environmental Planning Policy* (State and Regional Development) 2011 and section 4.5(a) of the *Environmental Planning and Assessment (EP&A) Act 1979*.

The development consent was modified on 19 November 2021 (MOD1) to allow for the repositioning of infrastructure primarily at the MEA and realignment of a section of the site access road. The development consent was further modified (MOD2) on 19 October 2022 to allow for the following:

- Re-orientation of the longwall panels in the Woodlands Hill, Arrowfield and Bowfield Seams resulting in a minor increase in the approved underground mining extent.
- Reduction in the width of some of the longwall panels in the Woodlands Hill Seam.
- Repositioning of the upcast ventilation shaft site and associated infrastructure.
- Other minor works and ancillary infrastructure components (e.g. access road and ancillary water management infrastructure for the repositioned ventilation shaft site).

Another modification was made to the development consent (Maxwell MOD3) on 22 September 2025 to allow for the transfer of tailings from Mt Arthur Coal to the Maxwell UG Mine East Void, and tailings and coarse rejects from the Maxwell CHPP to the North Void.

The site also incorporates the development formerly authorised under the Maxwell Infrastructure Project Approval (PA) 06_0202. Development Consent DA 106-04-00 for the existing rail loop and Antiene Rail Spur was granted on 2 November 2000 under Section 76(A)9 and 80 of the EP&A Act. DA 106-04-00 was modified on 18 September 2023 (Antiene MOD1) to align with the approved operating life of the Maxwell Underground Mine (i.e. until 2047).

1.2 Purpose and Scope

The purpose of this Contaminated Materials Protocol (CMP) is to describe the procedures to be implemented in the event that potentially contaminated material is identified during construction, and to

outline the measures to ensure compliance with the requirements of SafeWork NSW and relevant guidelines. This CMP is one of a series of Environmental Management documents that together form the Environmental Management System for the site.

This CMP applies to all construction activities that have the potential to encounter potentially contaminated soil within the SSD 9526 development application area. The *Protection of the Environment and Operations Act 1997* (POEO Act) defines contaminated soil as '*Soil or sediment that contains a substance at a concentration above the concentration at which the substance is normally present in soil or sediment from the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment, where harm to the environment includes any direct or indirect alteration of the environment that has the effect of degrading the environment.'*

1.3 Objectives

The objectives of this CMP are to:

- Ensure all relevant statutory requirements are met;
- Describe the management of potentially contaminated material identified during construction to minimise environmental harm including procedures for the testing, removal and disposal of potentially contaminated material; and
- Describe measures to ensure compliance with the requirements of SafeWork NSW and relevant guidelines.

2 PLANNING

2.1 Regulatory Requirements

This CMP describes the management of potentially contaminated material identified during construction of the Maxwell UG mine, to meet relevant requirements within SSD 9526. The requirements for a CMP and where they are addressed in this document are detailed in **Appendix 1**.

2.2 Context

A land contamination assessment was undertaken by JBS&G (2019) for the Environmental Impact Statement (Maxwell EIS) (2019) for SSD 9526. The EIS is available at https://www.planningportal.nsw.gov.au/major-projects/project/10151. The assessment of the Maxwell Underground area and surface development area comprised a Stage 1 – Preliminary Investigation, as described in the *Managing Land Contamination Planning Guidelines: SEPP 55 –Remediation of Land* (Department of Urban Affairs and Planning and Environment Protection Authority, 1998). The Stage 1 Preliminary Investigation included a desktop review of previous land uses and aerial photographs, and a site inspection to identify any potentially contaminated areas.

The land within the Maxwell Underground area is primarily cleared, open paddock grazing land, with some areas of remnant forest and open woodland, as well as agricultural infrastructure, including farm dams, land contouring, access tracks and fencing. Edderton Road bisects the western portion of the site from north to south. The northern section of the transport and services corridor is within the Maxwell Infrastructure site. The site generally consists of mining and rehabilitation areas including coal processing facilities and workshops. The southern portion of the transport and services corridor and the mine entry area are similar to the Maxwell Underground area, with some areas of remnant forest and open woodland with typical agricultural infrastructure. The Edderton Road realignment area consists of open paddocks, some areas of remnant forests and woodlands and a dam.

Areas of interest that were inspected as part of the land contamination assessment included former and current structures, material storage areas and selected dams. Areas of environmental concern (AECs) and associated contaminants of potential concern, determined during the land contamination assessment are presented in **Table 1** and shown on **Figure 1.** These areas are not within the indicative surface development area and as such it is not anticipated that these AECs will be disturbed.

Table 1. AEC's and associated contaminants of potential concern

ID Number *	Area of Environmental Concern	Contaminants of Potential Concern
1	Sheep Dip, Nissen Hut and surface soils impacted by asbestos containing material	Arsenic and organochlorine pesticides (OCPs).
2 and 3	Residence and shed structures	Heavy metals and asbestos.
2 and 3	Surface staining on and adjacent to structures	Heavy metals and asbestos.
3	Fill material (within the creek bed)	Heavy metals, polycyclic aromatic hydrocarbons (PAHs), OCPs, polychlorinated biphenyls (PCBs), total recoverable hydrocarbons (TRH)/benzene, toluene, ethylbenzene and xylenes (BTEX) and asbestos.

** ID number as shown on Figure 1.*

JBS&G (2019) concluded that there was a low potential for gross or widespread contamination within the surface development area and Maxwell Underground area as a result of historical and or current site uses. Based on the review of available information and site inspection, no contamination was identified that would preclude the development of the site as an underground mine. JBS&G (2019) did not recommend remediation of the AEC's to make the site suitable for supporting underground mining. However, in the event that an AEC will be disturbed or developed, JBS&G recommended that an assessment and management plan (inclusive of a hazardous materials survey for former structures) be prepared.

Any potential disturbance of known AECs will be identified through the internal Ground Disturbance Permit (GDP) Procedure discussed in **Section 3.2**. Disturbance within known AECs will be managed in accordance with the process described in **Section 3.3**. JBS&G (2019) recommended that a protocol to manage unexpected finds be developed and implemented for any future ground disturbance works. This protocol is described in **Section 3.4**.

A preliminary site investigation (PSI) of the Maxwell Infrastructure area was completed by ERM in 2017. The investigation included a desktop review of available information and preliminary sampling of potential AECs. With regards to the Maxwell Infrastructure area, there were no requirements for remediation measures to be undertaken to make the site suitable for supporting underground mining (JBS&G 2019). Preferential pathways, where they exist, are controlled by the implementation of site environmental management and monitoring plans. JBS&G (2019) noted that remediation may be required with a change of land use (after mining ceases) however this will be assessed as part of the mine closure planning process.

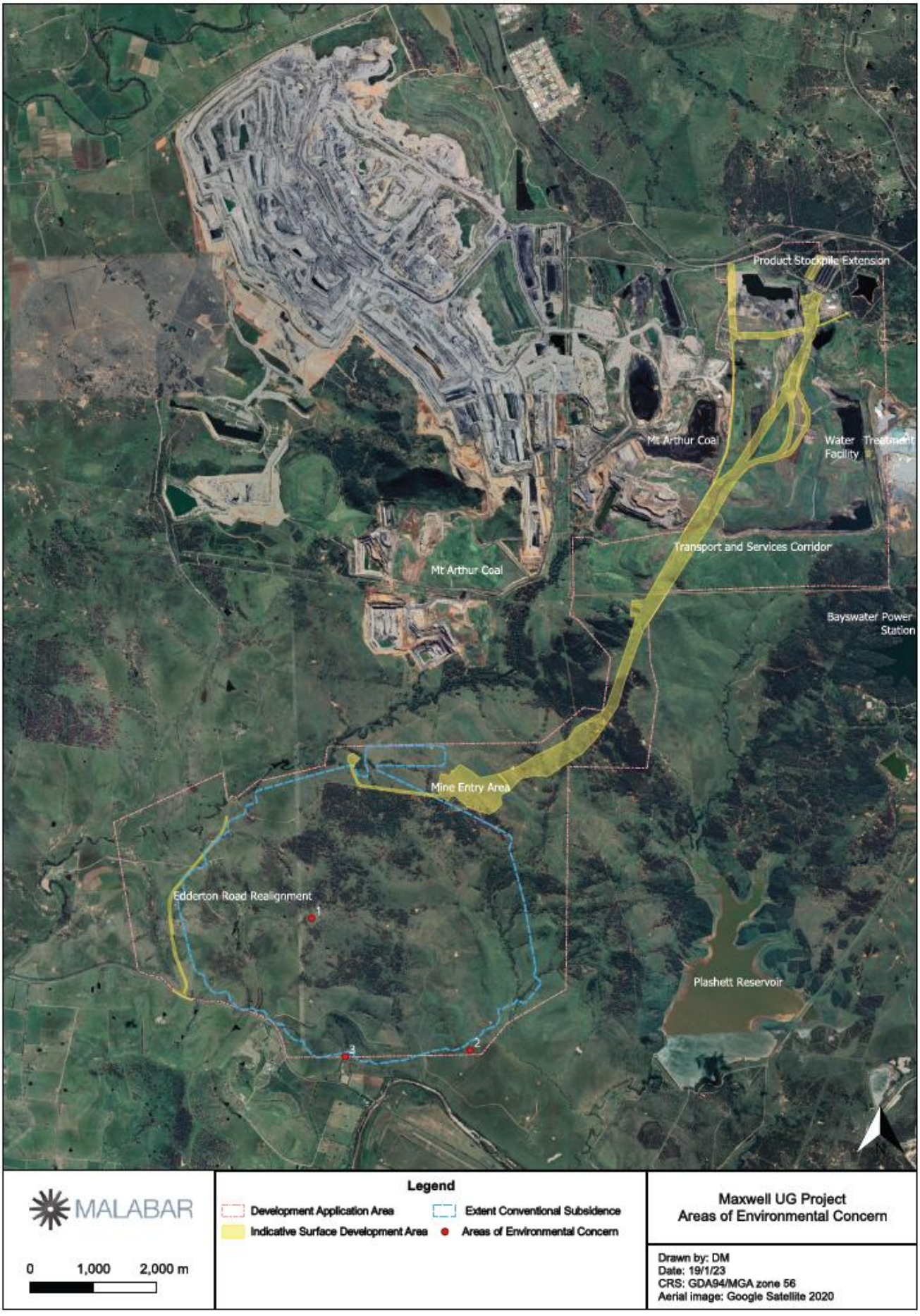

Figure 1. Areas of Environmental Concern at the Maxwell UG Mine

3 IMPLEMENTATION

3.1 Indicators for Potential Contamination

Indicators of potential contamination in soils include:

- Discolouration of the soil, including staining and horizontal layers of discolouration.
- Odours from soil.
- Oily sheen on water leaving soils.
- Non-friable asbestos ('fibro').
- Friable asbestos (e.g. thermal lagging on pipes and in ceiling insulation).

3.2 Ground Disturbance Permit

Prior to ground disturbance occurring during construction, an approved GDP shall be obtained from the Maxwell Environment department in accordance with Maxwell's internal *Ground Disturbance Permit Procedure*. The GDP will review the proposed ground disturbance location against AECs identified in **Table 1** and any known sources of land contamination.

3.3 Disturbance within an AEC

In the event that an AEC as identified in **Table 1**, is proposed to be disturbed and or developed, an assessment and management plan (including a hazardous material survey for former structures) will be undertaken by a suitably qualified person to determine the appropriate mitigation measures and removal actions.

3.4 Protocol for Unexpected Finds

The performance criteria for management of unknown potentially contaminated material identified during construction is that contaminated material does not cause environmental harm to receptors. The performance indicators are outcomes of regular inspections during supervision of construction works and regular water quality monitoring of potential receiving waterways.

The following steps shall be implemented to achieve the performance criteria:

1. Cease excavation and all other work in the vicinity of the potentially contaminated material.

2. Notify the area supervisor immediately, who will contact the Environmental Coordinator.

3. If there is a potential risk to human health or to cause pollution to the environment, appropriate controls will be implemented (i.e. barricading, signage, installation of bunding or water diversions).

4. The Environmental Coordinator will engage a suitably qualified person to undertake a PSI. The PSI will include:
    - Review of existing documentation;
    - A conceptual site model;
    - A sampling and analytical quality plan; and
    - Site contamination characterisation (based on the likely contaminants).

5. In the event that asbestos is the likely contaminant, Maxwell's internal *Asbestos Management Plan* (AMP) must be followed. The AMP details the statutory requirements for managing and removing asbestos or asbestos containing material in accordance with the SafeWork codes of practice on how to manage and control asbestos in the workplace and how to safely remove asbestos.

6. Prior to any contamination investigation (i.e. field inspections or sampling), a risk assessment will be prepared for review and approval by the Malabar Environment, Community and Approvals Manager (or delegate).

7. Sampling will be undertaken in accordance with the sampling and analytical quality plan prepared and will be compliant with the *Guide to the investigation and sampling of sites with potentially contaminated soil, Part 1: Non-volatile and semi-volatile compounds, AS 4482.1* (Standards Australia, 2005).

8. Analysis will be undertaken by a NATA accredited laboratory who are experienced in the analytical requirements for potentially contaminated material.

9. If contamination is confirmed through the PSI, the Environmental Coordinator shall coordinate preparation of a plan for remediation by a suitably qualified person.

10. Prior to any remedial work, a risk assessment will be prepared for review and approved by the Malabar Environment, Community and Approvals Manager (or delegate).

11. The supervisor will coordinate remediation activities in accordance with the plan for remediation.

12. Excavated contaminated material shall be managed as follows:

    a) Soils that have been contaminated by hydrocarbons shall be treated on site in accordance with Malabar's *Bioremediation Management Plan*. The Environmental Coordinator shall coordinate on site treatment of contaminated soil.

    b) Soils not suitable for treatment on site in accordance with the *Bioremediation Management Plan* shall be classified in accordance with *Waste Classification Guidelines – Part 1: Classification of waste* (EPA 2014) and then transported to a place that can lawfully accept it in accordance with the POEO Act (in accordance with Schedule 2 Condition B64 of SSD 9526 and Schedule 2, Part B, Condition B8 of DA 106-04-00). The Environmental Coordinator shall coordinate waste classification of contaminated soil and transport to a place that can lawfully accept it.

    c) Soil identified as containing asbestos containing material, shall be managed in accordance with the AMP.

13. Following remediation, the Environmental Coordinator shall coordinate validation assessments (if required) and ensure they are undertaken in accordance with recommendations from a suitably qualified person.

14. Works shall not recommence in the area until approval has been obtained from the Environmental Coordinator.

15. The unexpected find of contaminated soil will be recorded as follows:
    a) Location of the find.
    b) Results of soil investigations.
    c) Soil treated on site shall be recorded in accordance with the *Bioremediation Management Plan*.
    d) For excavated material transported off-site the following shall be recorded:
        i. Volume of material transported.
        ii. Waste classification of material.
        iii. Facility waste was transported to.
        iv. Receipt documentation from transporter and/or licensed facility.

4 MEASUREMENT AND EVALUATION

4.1 Incident and Non-Compliance Notification

An incident is defined in SSD 9526 and DA 106-04-00 as an occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance.

In accordance with Schedule 2, Part E, Condition E9 of SSD 9526 and Schedule 2, Part B, Condition C5 of DA 106-04-00, Maxwell must notify the Department within 24 hours of becoming aware of an incident. The notification must be made via the NSW planning portal (Major Projects) and address details of the incident including:

a) date, time and location;

b) a brief description of what occurred and why it has been classified as an incident;

c) a description of what immediate steps were taken in relation to the incident; and

d) identifying a contact person for further communication regarding the incident.

Maxwell shall provide the DPHI with a subsequent incident report in accordance with Appendix 7 of Development Consent SSD-9526.

A *Pollution and Incident Response Management Plan* (PIRMP) is maintained in accordance with the requirements of the Part 5.7A of the *Protection of the Environment Operations Act 1997* and Chapter 7, Part 3A of the *Protection of the Environment Operations* (General) Regulation 2009. Any pollution incident that causes actual or potential material harm will be reported to the relevant agencies immediately after it is identified, as described in the PIRMP. A copy of the PIRMP is located on Malabar's website at https://malabarresources.com.au/corporate-governance/.

In accordance with Schedule 2, Part E, Condition E10 of SSD 9526 and Schedule 2, Part C, Condition C6 of DA 106-04-00, Maxwell shall notify DPHI within seven days of becoming aware of a non-compliance. The notification shall be in writing via the Department's Major Projects Website and identify the development (including the development application number and name), set out the condition of SSD 9526 that the Project is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

4.2 Adaptive Management and Contingency Plan

In accordance with Schedule 2, Part E, Condition E4 of SSD 9526 and Schedule 2, Part C, Condition C2 of DA 106-04-00, where any exceedance of performance measures has occurred, Maxwell shall, at the earliest opportunity:

- Take all reasonable and feasible steps to ensure that the exceedance of the performance criteria in **Section 3.4** ceases and does not recur;
- Consider all reasonable and feasible options for remediation (where relevant) and submit a report to DPIE describing those options and any preferred remediation measures or other course of action. The options for remediation detailed in **Section 3.4** would be followed; and
- Implement reasonable remediation measures as directed by the Planning Secretary.

In accordance with Schedule 2, Part E, Condition E5 (f) of SSD 9526, the following contingency plan is used to manage any unpredicted impacts and their consequences, and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible:

- Review the unpredicted impact with consideration of any relevant activities and monitoring data;
- Identify the most likely source of the unpredicted impact;
- Review the existing process and current dust controls; and
- Implement appropriate mitigation measures.

4.3 Complaints Handling

The site maintains a 24-hour community hotline (1800 653 960) for any issues or enquiries. In addition to the community hotline, the site can also be contacted by emailing info@malabarresources.com.au.

If a complaint or enquiry is received regarding contaminated material identified during construction, it is investigated as soon as reasonably practicable and managed in accordance with Maxwell's internal *Community Complaints and Enquiries Procedure*. Details such as complainant name, contact details, nature of concern, date, time and method of receival are recorded. While details of the enquiry vary depending on the nature and source of the enquiry, the following actions may result:

- Confirmation of whether the complainant would like the matter raised as a complaint or an enquiry.
- Identify further details which may assist in determining the cause of the complaint.
- Carry out an inspection of the site or conduct an assessment of monitoring results to identify the source.
- Identify if there is an exceedance or non-compliance with any consent or licence condition.
- Identify, where necessary and practical, methods to manage the source of the complaint and minimise the chance of a recurrence or the potential to generate further complaints.

All enquiries and/or complaints are recorded in an enquiries database. A summary of complaints is presented to the Community Consultative Committee (CCC) and included in the Annual Review and EPL Annual Return.

5 AUDIT, REVIEW AND IMPROVEMENT

5.1 Review Schedule

The suitability of this CMP will be reviewed in accordance with Schedule 2, Part E, Condition E7 of SSD 9526 and Schedule 2, Part C, Condition C3 of DA 106-04-00, that is within three months of:

- the submission of an incident notification under condition E9/C5;
- the submission of an Annual Review under condition E11;
- the submission of an Independent Environmental Audit under condition E13/C7;
- the approval of any modification of the conditions of SSD 9526 or DA 06-04-00; or
- notification of a change in development phase under condition A13.

In accordance with Condition E8 and Schedule 2, Part C, Condition C4 of DA 106-04-00, if necessary, to improve the environmental performance of the site, cater for a modification or comply with a direction, this plan will be revised. The revised plan will be submitted to DPHI for approval within six weeks of the review.

5.2 Reporting

In accordance with Schedule 2, Part E, Condition E11 of SSD 9526, by the end of March in each year after the commencement of the development, or other timeframe agreed by the Planning Secretary, an Annual Review report will be submitted to DPHI. The Annual Review will include the following:

- A description of the development that was carried out in the previous calendar year and the development proposed to be carried out over the current calendar year.
- A summary of potentially contaminated material identified during construction and how it was managed.
- A comprehensive review of complaints related to contaminated land over the previous calendar year.
- A description of non-compliances which occurred in the previous calendar year and actions that were (or are being) taken to rectify the non-compliance and avoid reoccurrence.
- Evaluation of the effectiveness of the contaminated material management measures.
- Measures to be implemented over the next calendar year to improve the environmental performance of the development.

In accordance with Schedule 2, Part E, Condition E12 of SSD 9526 copies of the Annual Review shall be submitted to Muswellbrook Shire Council and made available to the CCC and any interested person upon request.

In accordance with Schedule 2, Part E, Condition E17(a) of SSD 9526, the Annual review will be publicly available on Malabar's website at https://malabarresources.com.au/corporate-governance/.

5.3 Auditing

In accordance with Schedule 2, Part E, Condition E13 of SSD 9526 and Schedule 2, Part C, Condition C7 of DA 106-04-00, within one year of commencement of development under SSD 9526 and within one year of approval of Antiene MOD1, and every three years after, unless the Planning Secretary directs otherwise, Maxwell will commission and pay the full cost of an Independent Environmental Audit of the development. The audit shall:

(a) be led by a suitably qualified, experienced and independent auditor whose appointment has been endorsed by the Planning Secretary;

(b) be conducted by a suitably qualified, experienced and independent team of experts (including any expert in field/s specified by the Planning Secretary) whose appointment has been endorsed by the Planning Secretary;

(c) be carried out in consultation with the relevant agencies and the CCC;

(d) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent, water licences and mining leases for the development (including any assessment, strategy, plan or program required under these approvals);

(e) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent;

(f) recommend appropriate measures or actions to improve the environmental performance of the development and any assessment, strategy, plan or program required under the abovementioned approvals and this consent; and

(g) be conducted and reported to the satisfaction of the Planning Secretary.

In accordance with Schedule 2, Part E, Condition E14 of SSD 9526 and Schedule 2, Part C, Condition C8 of DA 106-04-00, within three months of commencing an Independent Environmental Audit, or other timeframe agreed by the Planning Secretary. Maxwell shall submit a copy of the audit report to the Planning Secretary, and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations shall be implemented to the satisfaction of the Planning Secretary.

5.4 Access to Information

In accordance with Schedule 2, Part E, Condition E17 of Development Consent SSD 9526 and Schedule 2, Part C, Condition C11 of DA 106-04-00, before the commencement of construction and within 3 months of the approval of Antiene MOD1 until the completion of all rehabilitation required under SSD 9526 and DA 106-04-00, Maxwell will make the following information and documents (as they are obtained, approved or as otherwise stipulated within the conditions of SSD 9526 and DA 106-04-00) that are relevant to this plan publicly available on Malabar's website (https://malabarresources.com.au/corporate-governance/):

- this CMP;
- the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
- minutes of CCC meetings;
- regular reporting on the environmental performance of the development in accordance with the reporting requirements in any plans or programs approved under the conditions of this consent;

- a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
- a summary of the current phase and progress of the development;
- contact details to enquire about the development or to make a complaint;
- a complaints register, updated monthly;
- the Annual Reviews of the development; and
- audit reports prepared as part of any Independent Environmental Audit of the development and the Applicant's response to the recommendations in any audit report.

This information shall be kept up to date, to the satisfaction of the Planning Secretary.

5.5 Records Management

All data arising from the investigation, treatment and disposal of contaminated material will be maintained in accordance with the Environmental Management Strategy and maintained on the premise for a period of at least four years.

5.6 Continuous Improvement

Feedback from implementation of this plan and any complaints will be used to assess impacts and determine where improvements or further mitigation measures are required. These measures will be reported on in the Annual Review.

5.7 Document Review History

A summary of the document history is outlined in **Table 2**.

Table 2. Document revision status

Issue	Issue Date	Review Team	Details of Change / Communication
1	April 2021	Robyn Skinner Donna McLaughlin	Document prepared following approval of SSD Consent 9526 for the Maxwell UG Project.
1.1	June 2021	Robyn Skinner Donna McLaughlin	Document updated following feedback from DPIE.
2	February 2022	Alex Newton Donna McLaughlin	Document updated following approval of Modification 1.
3	January 2023	Robyn Skinner Donna McLaughlin	Document updated following approval of Modification 2.
4	October 2023	Donna McLaughlin Alex Newton	Document updated following approval of Modification 1 of development consent DA 106-04-00 for the Drayton Rail Loop and Antiene Rail Spur.
5	December 2025	Donna Tiananga Trescinda Brown Alex Newton	Administrative update following IEA and approval of Modification 3.

6 INFORMATION, TRAINING AND INSTRUCTION

6.1 Competent Persons

Suitably qualified, competent and experienced persons shall be involved in the design, planning and implementation of this plan and related procedures.

6.2 Training

All construction personnel working on the site are to be inducted on the identification and notification of potentially contaminated materials. From time to time, workforce communication and toolbox talks allow for discussion of the objectives and requirements of this and any other relevant Management Plans.

To ensure the effective implementation of this plan relevant personnel will undergo environmental training on contaminated material management. This training will take place before the commencement of work by any contractor or sub-contractor, whose work may identify contaminated material.

7 RESPONSIBILITIES

Responsibilities associated with this management plan are outlined **Table 3**.

Table 3. Responsibilities

Position	Responsibilities
General Manager	• Provide adequate resources for the implementation of this Plan.
Environment, Community and Approvals (EC&A) Manager	• Oversee the implementation of this Plan. • Notify regulatory authorities and affected stakeholders of incidents in accordance with this Plan. • Coordinate periodic reviews of this Plan. • Ensure all personnel are trained in accordance with this Plan.
Environmental Coordinator	• Assist the EC&A Manager as required in the implementation of this Plan. • Coordinate implementation of the *Ground Disturbance Permit Procedure*. • Review Ground Disturbance Permits against AECs identified in Table 1. • Coordinate investigations of unexpected finds of potentially contaminated materials. • Coordinate the management of records and reporting. • Manage complaints in accordance with the *Community Complaints and Enquiries Procedure*. • Provide training to all relevant personnel.
Supervisors	• Notify the Environmental Coordinator of any unexpected finds of potentially contaminated soil. • Implement the procedure for unexpected finds of potentially contaminated soil as defined in this Plan.
All Personnel	• Awareness of procedure for unexpected finds of potentially contaminated soil as part of site induction. • Report any unexpected finds of potentially contaminated soil. • Manage any unexpected finds of potentially contaminated soil

8 DOCUMENT INFORMATION

8.1 References

Department of Urban Affairs and Planning and Environment Protection Authority (1998) *Managing Land Contamination Planning Guidelines: SEPP 55 –Remediation of Land*.

Environment Protection Authority (EPA) (2014) *Waste Classification Guidelines – Part 1: Classification of waste*.

Environmental Resources Management Australia Pty Ltd (ERM) (2017) *Drayton Coal Mine – Preliminary Site Investigation.*

JBS&G Australia Pty Ltd (2019) *Land Contamination Assessment (including Preliminary Investigation), Maxwell Project*.

SafeWork NSW (2019) *Code of Practice – How to management and control asbestos in the workplace.*

SafeWork NSW (2019) *Code of Practice – How to safely remove asbestos.*

Standards Australia (2205) *Guide to the investigation and sampling of sites with potentially contaminated soil, Part 1: Non-volatile and semi-volatile compounds*, AS 4482.1-2005.

8.2 Definitions and Abbreviations

Term	Definition
Antiene MOD1	Drayton Rail Loop and Antiene Rail Spur (DA 106-04-00) Modification 1
BTEX	Benzene, toluene, ethylbenzene and xylenes
CCC	Community Consultative Committee
DA	Development Approval
DPHI	Department of Planning, Housing and Infrastructure
DPIE	NSW Department of Planning, Industry and Environment
EPA	NSW Environment Protection Authority
Maxwell MOD1	Maxwell Underground Project (SSD 9526) Modification 1
Maxwell MOD2	Maxwell Underground Project (SSD 9526) Modification 2
Maxwell MOD3	Maxwell Underground Project (SSD 9526) Modification 3
MEA	Mine Entry Area
OCP	Organochlorine pesticides
PA	Project Approval (Development Consent)
PAH	Polycyclic aromatic hydrocarbons
PIRMP	Pollution and Incident Response Management Plan
SSD	State Significant Development
SWMS	Safe Work Method Statements
Toolbox Talk	A forum where information is presented to the crews
TRH	Total recoverable hydrocarbons

APPENDIX 1 – REGULATORY REQUIREMENTS

State Significant Development Consent 9526

Clause	Requirement	Section of Plan
B67	Prior to commencing construction under this consent, the Applicant must prepare a Contaminated Materials Protocol to the satisfaction of the Planning Secretary. This protocol must describe the procedures to be implemented in the event that potentially contaminated material is identified during construction, including:	
	(a) Procedures for the testing, removal and disposal of potentially contaminated material; and	3.4
	(b) Measures to ensure compliance with the requirements of SafeWork NSW and relevant guidelines.	3.4
B68	The Applicant must implement the Contaminated Materials Protocol as approved by the Planning Secretary.	Noted
E5	Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:	
	(a) a summary of relevant background or baseline data;	2.2, 3.1
	(b) details of:	
	(i) the relevant statutory requirements (including any relevant approval, licence or lease conditions);	2.1
	(ii) any relevant limits or performance measures and criteria; and	3.4
	(iii) the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;	3.4
	(c) any relevant commitments or recommendations identified in the document/s listed in condition A2(c);	Appendix 2
	(d) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;	3.4
	(e) a program to monitor and report on the:	
	(i) impacts and environmental performance of the development; and	3.4, 5.2
	(ii) effectiveness of the management measures set out pursuant to condition E5(c);	5.2
	(f) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;	4.2
	(g) a program to investigate and implement ways to improve the environmental performance of the development over time;	5.6
	(h) a protocol for managing and reporting any:	
	(i) incident, non-compliance or exceedance of any impact assessment criterion or performance criterion);	4.1
	(ii) complaint; or	4.3
	(iii) failure to comply with other statutory requirements;	4.1
	(i) public sources of information and data to assist stakeholders in understanding environmental impacts of the development; and	5.4
	(j) a protocol for periodic review of the plan.	5.1
	Note: *The Planning Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*	

Clause	Requirement	Section of Plan
E7	Within three months of: (a) the submission of an incident report under condition E9; (b) the submission of an Annual Review under condition E11; (c) the submission of an Independent Environmental Audit under condition E12; (d) the approval of any modification of the conditions of this consent (unless the conditions require otherwise); or (e) notification of a change in development phase under condition A13; The suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.	5.1
E8	If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review. Note: This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.:	5.1
E9	The Applicant must notify the Department within 24 hours of becoming aware of an incident. The notification must be made via the NSW planning portal (Major Projects) and address details of the incident including: (a) date, time and location; (b) a brief description of what occurred and why it has been classified as an incident; (c) a description of what immediate steps were taken in relation to the incident; and (d) identifying a contact person for further communication regarding the incident.	4.1
E9A	The Applicant must provide the Department with a subsequent incident report in accordance with Appendix 7 (Incident Notification and Reporting Requirements).	4.1
E10	Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing and must be submitted via the NSW Planning Portal (Department's Major Projects Website).The notification must identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply, the reasons for the non-compliance (if known), and what actions have been undertaken, or will be undertaken, and when, to address the non-compliance. Note: A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.	4.1

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Clause	Requirement	Section of Plan
C2	The Applicant must assess and manage development-related risks to ensure that there are no exceedances of the criteria and performance measures in this consent. Where any exceedance of these criteria or performance measures has occurred, the	**4.2**

Clause	Requirement	Section of Plan
	Applicant must, at the earliest opportunity: (a) Take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur; (b) Consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and (c) Implement reasonable remediation measures as directed by the Planning Secretary.	
C3	Within three months of: (a) the submission of an incident report under condition C5 or C6; (b) the submission of an Independent Environmental Audit under condition C7; (c) the approval of any modification of the conditions of this consent (unless the conditions require otherwise); the suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.	**5.1**
C4	If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review. ***Note:*** *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*	**5.1**
C5	The Applicant must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing via the Department's Major Projects Website and identify the development (including the development application number and name) and set out the location and nature of the incident	**4.1**
C6	Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non- compliance. The notification must be in writing via the Department's Major Projects Website and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance. ***Note:*** *A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.*	**4.1**
C7	Within one year of approval of Mod 1, and every three years after, unless the Planning Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the development. The audit must: (a) be led by a suitably qualified, experienced and independent auditor whose appointment has been endorsed by the Planning Secretary; (b) be conducted by a suitably qualified, experienced and independent team of experts (including any expert in field/s specified by the Planning Secretary) whose appointment has been endorsed by the Planning Secretary; (c) be carried out in consultation with the relevant agencies;	**5.3**

Clause	Requirement	Section of Plan
	(d) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent, water licences and mining leases for the development (including any assessment, strategy, plan or program required under these approvals); (e) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent; (f) recommend appropriate measures or actions to improve the environmental performance of the development and any assessment, strategy, plan or program required under the abovementioned approvals and this consent; and be conducted and reported to the satisfaction of the Planning Secretary.	
C8	Within three months of commencing an Independent Environmental Audit the Applicant must submit a copy of the audit report to the Planning Secretary, and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Planning Secretary.	**5.3**
C11	Within 3 months of the approval of Mod 1, until the completion of all rehabilitation required under this consent, the Applicant must: (a) make the following information and documents (as they are obtained, approved or as otherwise stipulated within the conditions of this consent) publicly available on its website: (i) the documents listed in condition A2(c) of this consent; (ii) all current statutory approvals for the development; (iii) all approved strategies, plans and programs required under the conditions of this consent; (iv) a summary of the current phase and progress of the development; (v) contact details to enquire about the development or to make a complaint; (vi) a complaints register, updated monthly following the receipt of any complaints; (vii) audit reports prepared as part of any Independent Environmental Audit of the development and the Applicant's response to the recommendations in any audit report; (viii) any other matter required by the Planning Secretary; and (b) keep such information up to date, to the satisfaction of the Planning Secretary	**5.4**

APPENDIX 2 – MAXWELL EIS AND SUPPORTING DOCUMENT COMMITMENTS

Source	Details	Reference
EIS Section 6.6.4	Prior to undertaking any of the following activities, Malabar would undertake a hazardous material survey (e.g. to assess the potential for asbestos-containing material) and would develop and implement appropriate mitigation measures (and removal actions) for any identified contamination: • soil excavation or disturbance near the identified former sheep dip; • disturbance of any soil that may contain fragments of asbestos-containing materials; • demolition or other works on rural residences and structures (including the Nissen hut); • soil excavation in areas of surface staining adjacent to rural structures; and disturbance of any previously-imported fill material.	3.3

APPENDIX 3 – REGULATORY APPROVAL

Department of Planning, Housing and Infrastructure

Our ref: SSD-9526-PA-192

Donna Tiananga
Environment, Community and Approvals Manager
Maxwell Ventures (Management) Pty Ltd
Thomas Mitchell Drive
Muswellbrook, NSW, 2333

28/01/2026

Subject: Maxwell Underground – Contaminated Materials Protocol

Dear Ms. Tiananga

I refer to your submission requesting review and approval fo a revised Contaminated Materials Protocol in accordance with Schedule 2, Condition B67 of the Development Consent for Maxwell Underground Mine (SSD-9526).

I note the Contaminated Materials Protocol was revised following submission of an Independent Environmental Audit on 24 July 2025, the approval of Modification 3 of SSD-9526 and DPHI letter of 7/10/2025 (SSD-9526-PA-173).

Accordingly, as nominee of the Planning Secretary, I approve the revised Contaminated Materials Protocol (Rev 5, dated December 2025).

Please ensure you make the document publicly available on the project website at the earliest convenience.

If you wish to discuss the matter further, please contact Wayne Jones on (02) 6575 3406.

Yours sincerely

Stephen O'Donoghue
Director
Resource Assessments

As nominee of the Planning Secretary