Australian Government
Department of Climate Change, Energy, the Environment and Water

Compliance Audit Report

Maxwell Coal Mine, Hunter Valley, NSW (EPBC 2018/8287)

Maxwell Ventures (Management) Pty Ltd

Report prepared by
Environmental Audit Section

3 December 2025

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Document Control

Version	Description	Approval	Date
0.1	Draft Audit Report	Simone Davey – Senior Auditor	4 November 2025
0.2	Draft released to Auditee	Kim Morgan – Assistant Director	5 November 2025
0.3	Amended draft released to Auditee	Kim Morgan – Assistant Director	2 December 2025
1	Final Audit Report	Kim Morgan – Assistant Director	3 December 2025

Audit Details

Report Title	Compliance audit of Maxwell Coal Mine, Hunter Valley, NSW (EPBC 2018/8287)
Auditee Name	Maxwell Ventures (Management) Pty Ltd
Main Auditee Contact Details	Dominic Brown Acting Environment, Community and Approvals Manager 952 Thomas Mitchell Drive, Muswellbrook, NSW 2333 Australia dbrown@malabarresources.com.au
Other Auditee Personnel	Alex Newton - Environment and Approvals Coordinator
Audit Lead	Simone Davey – Senior Auditor audit@dcceew.gov.au
Audit Team	Kim Morgan – Assistant Director
Audit Date	April 2025 to December 2025
On-site Audit Details	Date of on-site audit: 4 June 2025 Maxwell Underground Coal Mine, Muswellbrook, NSW 2333 Australia Attendees: Rob Hayes – General Manager Dominic Brown – Acting Environment, Community & Approvals Manager Tasman Willis – Environmental Coordinator Jonathan Kool – Land & Property Coordinator Simone Davey – Lead Auditor, DCCEEW Kim Morgan – Assistant Director, DCCEEW Gil Bloxham - Senior Compliance Officer, NSW Dept of Planning, Housing & Infrastructure (DPHI) Phil Rose, Senior Compliance Officer - DPHI Mat Muir, Compliance Officer - DPHI

Background

On 10 March 2021, a delegate for the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approved the Maxwell Coal Mine, Hunter Valley, NSW (EPBC 2018/8287). The approval contains 26 conditions and includes requirements to comply with specific conditions on the New South Wales development consent (SSD-9526), including protection of water resources and listed threatened species and communities. A variation to conditions 10 and 11, and four definition changes was approved on 14 December 2021. A further variation to condition 4 and three definition changes was approved on 3 February 2025.

The action commenced on 16 May 2022, and the site is operational. Management of land rehabilitation, regeneration and enhancement conservation areas are ongoing. The approval has effect until 30 June 2057.

On 4 April 2025, the Department of Climate Change, Energy, the Environment and Water (department) commenced a compliance audit to determine if Maxwell Ventures (Management) Pty Ltd (auditee) was complying with the conditions of the EPBC 2018/8287 approval. The compliance audit was enabled under condition 15 of the approval and was undertaken by an experienced auditor from the department.

Audit Methodology

This section of the report details the methodology for the compliance audit of Maxwell Coal Mine, Hunter Valley, NSW, against the conditions of the EPBC 2018/8287 approval and its associated plans. Information to assess compliance may be gathered from internal holdings, open-source searches, information requests, and on-site audits.

Audit Objective

The objective of the audit was to effectively assess the auditees compliance with the conditions of the approval and associated management plans.

Audit Criteria

The audit checklist and criteria were developed to address obligations required under the relevant approval instrument and measures required by associated management plans. Conditions may have multiple elements and therefore be required to be broken down into separate criteria to assess compliance.

Audit Scope

The audit scope defines the boundaries for both the auditor and auditee for the collection of data and assessment of compliance. The scope of this audit was to assess the compliance status of all twenty-six conditions of approval.

Audit Process

The compliance audit commenced in April 2025.

On 4 April 2025, a letter of intent to audit was sent to the auditee to ensure they were suitably informed to participate in the audit. The letter outlines the scope of the audit.

The auditor initially undertook a desktop audit of information available to the department. An on-site audit was conducted on 4 June 2025 and included an opening meeting, discussions with Maxwell Coal personnel, document review, inspection of selected areas, and a closing meeting. Departmental auditors were accompanied by compliance officers from the DPHI, who attended to inspect regeneration and enhancement conservation areas relevant to the New South Wales development consent.

Where additional information or clarification was required, the auditor requested information through a Request for Information (RFI). The RFI was sent to the auditee on 18 September 2025, and a response was provided to the department on 14 October 2025.

The analysis of all collected data and preparation of audit findings were completed in December 2025.

Audit Terminology

The following terms were used to record findings during this audit.

Compliant	Sufficient and appropriate information presented to demonstrate the compliance of a particular requirement.
Non-compliant	Evidence has been collected to demonstrate that a condition or requirement has not been met and/or the approval holder has not provided sufficient documentation or evidence to substantiate compliance with a condition or requirement.
Not applicable	An element of the criteria was not activated or was not required within the scope of the audit.
Observation	An observation may be made about issues relevant to the protection of a matter of national environmental significance when the issue is not strictly related to compliance or non-compliance with a condition.

Audit Findings

This section details the findings of the compliance audit. Of the 26 conditions assessed under the approval, the audit determined the following:

- Compliance with 10 of the 26 conditions of approval examined (3, 10-12, 14-17, 25, 26).
- Non-compliance with seven conditions of approval examined (1, 2, 4-6, 18, 19).
- Nine conditions within the scope of the audit were not applicable at the time of the compliance audit (7-9, 13, 20-24).

Summary of audit findings

A summary of the audit findings for each condition examined are contained in the table below. For a full list of conditions, please refer to the EPBC Act approval provided at **Attachment A**.

Condition	Audit Finding	Summary
1	Non-Compliant	The auditee has not complied with condition B40 of the state development consent (SSD-9526).
2	Non-Compliant	The auditee has not complied with condition B36, B40, and B44 of SSD-9526.
3	Compliant	The auditee provided the department with the final version of the Water Management Plan (WMP).
4	Non-compliant (historical)	The auditee did not provide the department with revisions to the WMP.
5	Non-compliant	The auditee did not install all monitoring bores before commencing the action.
6	Non-compliant (historical)	The auditee did not notify the department of an exceedance with surface water in March 2022.
7	Not Applicable	There has not been any exceedance or predicted exceedances within scope that required an Impact Response Plan.
8	Not Applicable	There has not been requirement an Impact Response Plan.
9	Not Applicable	There has not been requirement an Impact Response Plan.
10	Compliant	The auditee has not exceeded more than the approved clearing limits.
11	Compliant	The auditee complied with the relevant conditions of Part C of SSD-9526.
12	Compliant	The auditee notified the department of the commencement of the action.
13	Not Applicable	The commencement of the action occurred within the 5-year time frame.
14	Compliant	The auditee demonstrated accurate and complete compliance records.
15	Compliant	The auditee provided electronic copies of compliance records when requested by the department.
16	Compliant	The auditee submitted to the department and published all plans on their website.
17	Non-Compliant (historical)	The auditee did not prepare the 2022 Compliance report as required by the condition of approval.
18	Non-Compliant (historical)	The auditee did not notify the department of incidents or non-compliances with commitments made in plans.
19	Non-Compliant (historical)	The auditee did not provide the department with details of incidents or non-compliances with commitments made in plans.
20	Not Applicable	An independent audit has not been requested by the department.
21	Not Applicable	An independent audit has not been requested by the department.
22	Not Applicable	An independent audit has not been requested by the department.
23	Not Applicable	Mining operations are still underway and are allowed to continue until 2047.
24	Not Applicable	The action is still active.
25	Compliant	The auditee notified the department of proposed changes to SSD-9526 relating to protected matters.
26	Compliant	The auditee notified the department of proposed changes SSD-9526 relating to protected matters.

Detailed audit findings for non-compliant and not determined conditions are discussed below.

Non-compliant findings

The auditee was found to be **non-compliant** with seven of the 26 conditions examined. The below tables provide details of the findings for each non-compliant condition.

Condition 1

The approval holder must ensure there is no **adverse effect** on the **function** of a **water resource** as a result of the action.

The approval holder must achieve and maintain the **performance measures** required by condition B40 and C1 of the **State development consent** and demonstrate, with evidence, in each **compliance report**, whether these **performance measures** have been achieved, and if so, are being maintained.

Finding

The 2025 Independent Environmental Audit (IEA) of the auditee's NSW development consent (SSD-9526) identified non-compliance with condition B40. This non-compliance relates to hydrocarbon storage and directly relates to condition 1 of the EPBC approval. There were several issues related to storage containers being outside the required bunded areas.

At the time of the audit, the auditee was still undertaking the revision of the recommendations to address corrective actions identified in the 2025 IEA. Proposed actions to address corrective requirements were submitted to DPHI in July 2025. On 19 November 2025, the auditee confirmed the remedial actions in line with the IEA's recommendations have been completed. Given the 2025 IEA findings, condition 1 has been determined non-compliant.

Condition 2

For the protection of **water resources,** the **approval holder** must comply with conditions B27, B28, B35, B36, B37, B38, B39, B40, B41, B42, B43 and B44 of Part B and C1, C2, C8 and C1O of Part C of the **State development consent** (to the extent the conditions in Part C relate to a **water resource**).

Finding

On 15 March 2022, the auditee reported a non-compliance with condition schedule 2 of condition B36 of the NSW development consent (SSD-9526) to the NSW Department of Planning, Industry and the Environment (DPE) and the NSW Environment Protection Authority (EPA) following an event on 8 March 2022. It was reported the DC2 Dam, and the Rail Loop Dam started to overflow via their designated spillways.

On 3 April 2023 the department received the 2022-23 Annual Compliance Report (ACR) which reported that the project was non-compliant with condition 4. The department undertook an investigation into all conditions of the approval and identified potential non-compliance with condition 2, condition 11, condition 17, condition 18, and condition 19.

On 22 February 2024, the department issued a show cause notice to the auditee regarding potential non-compliance with conditions 2, 4,17,18 and 19. On 1 March 2024, the department received a response from the auditee which provided further details of the event and advised no further action was taken by DPE or EPA. In response to the non-compliance with condition 2, the department issued a warning letter to the auditee on 5 April 2024, advising no further action would be taken in relation to this matter.

The 2025 Independent Environmental Audit (IEA) of the auditee's NSW development consent (SSD-9526) identified non-compliance with condition B40 and B44. These non-compliances relate to hydrocarbon storage and the implementation of the Water Management Plan. Non-compliance was found specifically with Section 5.8 of the Surface Water Management Plan, for failure to report against EIS predictions and report trends in data in the Annual Review. Recommendations of repairing minor erosion that runs into Sediment Dam 2. This was completed by the auditee on 7 May 2025. It was also recommended to complete additional erosion and sediment controls in the area of the pad associated with the old access road near the overpass. On 19 November 2025, the auditee confirmed the remedial actions in line with the IEA's recommendations have been completed. Given the self-reporting and 2025 IEA findings, condition 2 has been determined non-compliant. It is noted the non-compliance with condition 2 (B36) was addressed by the department on 5 April 2024 and no further action will be recommended.

Condition 4

The **approval holder** must notify the **Department** in writing of any proposed changes to the **Water Management Plan** within 2 **business days** of formally proposing such a change or becoming aware of a proposal to revise the **Water Management Plan.** If the NSW Planning Secretary approves a revised version of the **Water Management Plan**, the **approval holder** must provide the **Department** with the approved revised **Water Management Plan** within 2 **business days** of becoming aware of its approval by the NSW Planning Secretary.

Finding

The auditee did not notify the department on proposals made to the Water Management Plan (WMP) that was updated in August 2022 and February 2023 within the required 2-day timeframe. An updated plan was submitted to the department on 24 March 2023. On 22 Feb 2024, the department issued a show cause notice to the auditee. On 1 March 2024, the department received a response from the auditee which provided further details and acknowledged the oversight.

On 5 April 2024, the department issued a warning letter and infringement notice concerning conditions 2, 4, 17, 18 and 19. In relation to condition 4, the letter gave notice of a recommendation for a directed variation. The direction to vary condition 4 was issued to the auditee on 3 February 2025.

Given the department was not notified of proposed changes within the specified timeframe, condition 4 has been determined non-compliant. It is noted the non-compliance with condition 4 has been addressed by the department on 5 April 2024 and no further action will be recommended.

Condition 5

In addition to the Groundwater Management **Plan** monitoring requirements specified in condition B42 of the **State development consent**, the **approval holder** must:

a. Establish and maintain a network of groundwater monitoring bores across the **Development Application Area** designed to detect changes in groundwater levels. These monitoring bores must be installed prior to the **commencement of the action**.

b. Monitor groundwater levels in each bore (required under condition 5.a.) at least once every 3-months, starting within one week from the and continue until the **completion of the action**; and

Publish on the **website** all groundwater monitoring data from all bores, updated at least once every 3 months to add the most recent readings and maintain the data on the **website** until the **completion of the action**. The monitoring data must include hydrographs for all monitoring bores and explain what the data means in relation to the groundwater **performance measures** specified in the **State development consent**.

Finding

On 18 September 2025, the department sent the auditee a Request for Information (RFI). On 14 October 2025, the auditee provided their response which informed the department of an additional five monitoring bores that were installed after the action had commenced to increase the level of monitoring.

Given all monitoring bores were required to be installed prior to commencement of the action, condition 5 has been determined non-compliant. The department does note the additional bores were installed to improve groundwater monitoring.

Refer to observations and auditee comments for further information.

Condition 6

If, at any time until the end date of this approval:

a. the **approval holder** detects an **exceedance** of any **performance measures** (including any **trigger level**), specified in the approved **Groundwater Management Plan** or Surface Water Management **Plan** required by condition B42 of the **State development consent**; and/or

b. the groundwater model, including any updated version of the groundwater model required under condition B42 of the State development consent, predicts an **exceedance** of the groundwater performance criteria (including trigger levels), specified in the approved **Groundwater Management Plan**, the **approval holder** must notify the **Department** of the exceedance within 10 **business days** of detecting or predicting the exceedance.

Finding

On 15 March 2022, the auditee reported a non-compliance with schedule 2 of condition B36 of the NSW development consent (SSD-9526) to NSW Department of Planning, Industry and the Environment (DPE) and the NSW Environment Protection Authority (EPA) following an event on 8 March 2022. The non-compliance related to surface water being discharged offsite following heavy rainfall.

On 22 Feb 2024, the department issued a show cause notice to the auditee regarding potential non-compliance with conditions 2, 4, 17,18 and 19. On 1 March 2024, the department received a response from the auditee providing further details.

On 5 April 2024, the department issued a warning letter and infringement notice concerning conditions 2, 4, 17, 18 and 19.

As condition 6 has a direct link to the matters issued in the warning letter, condition 6 has been determined non-compliant. It is noted the non-compliance with condition 6 has been addressed by the department on 5 April 2024 and no further action will be recommended.

Condition 17

The **approval holder** must prepare a **compliance report** addressing compliance with each of the conditions of this approval, including implementation of any management **plans** and strategies from the **State development consent** that are referred to in this approval, every calendar year, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister.** The **approval holder** must:

a. publish each **compliance report** on a **website** within 3 months following the relevant 12 month period;

b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the website's link for the **compliance report** within five **business days** of the date of publication;

c. keep all **compliance reports** publicly available on the **website** until this approval expires;

d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and

e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: Compliance reports may be published on the **Department's website**.

Finding

On 31 March 2023, the auditee submitted the 2022 compliance report to the department. The 2022 compliance report provided inaccurate details of compliance regarding conditions 2, 18 and 19 meaning the report did not satisfy the requirements of condition 17.

On 22 Feb 2024, the department issued a show cause notice to the auditee regarding potential non-compliance with conditions 2, 4,17,18 and 19. On 1 March 2024, the department received a response from the auditee which provided further details and acknowledged the oversight.

On 5 April 2024, the department issued a warning letter and infringement notice concerning conditions 2, 4, 17, 18 and 19.

As the report did not satisfy the specified requirements for the 2022 report, condition 17 has been determined non-compliant. It is noted the non-compliance with condition 17 was addressed by the department on 5 April 2025 and no further action will be recommended.

Condition 18

The **approval holder** must notify the **Department** in writing of any: **incident**, or non-compliance with the conditions, or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:

a. any condition which is in breach;

b. a short description of the **incident** and/or non-compliance; and

the location (including co-ordinates), date, and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.

Finding

The department has no record of being notified of the potential non-compliance with condition 2 and condition 4, required no later than two business days after becoming aware of the incident or non-compliance.

On 22 Feb 2024, the department issued a show cause notice to the auditee regarding potential non-compliance with conditions 2, 4, 17,18 and 19. On 1 March 2024, the department received a response from the auditee which provided further details and acknowledged the oversight.

On 5 April 2024, the department issued a warning letter and infringement notice concerning conditions 2, 4, 17, 18 and 19.

As the department was not notified of non-compliance with conditions 2 and 4, condition 18 has been determined non-compliant. It is noted the non-compliance with condition 18 was addressed by the department on 5 April 2025 and no further action will be recommended.

Condition 19

The **approval holder** must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:

a. any corrective action or investigation which the **approval holder** has already taken or intends to take in the immediate future

b. the potential impacts of the **incident** or non-compliance, and

c. the method and timing of any remedial action that will be undertaken by the **approval holder**.

Finding

The department has no record of notification of details or corrective actions being undertaken regarding the non-compliance with condition 2 and condition 4, required no later than 10 business days after becoming aware of the incident or non-compliance.

On 22 Feb 2024, the department issued a show cause notice to the auditee regarding potential non-compliance with conditions 2, 4, 17,18 and 19. On 1 March 2024, the department received a response from the auditee which provided further details and acknowledged the oversight.

On 5 April 2024, the department issued a warning letter and infringement notice concerning conditions 2, 4, 17, 18 and 19.

As the department was not provided the details of non-compliance with conditions 2 and 4, condition 18 has been determined non-compliant. It is noted the non-compliance with condition 19 was addressed by the department on 5 April 2025 and no further action will be recommended.

Observations

The auditors made the following observation during the audit:

On 14 October 2025, the auditee identified that five monitoring bores had been installed since commencement of the action. This includes three in December 2022 and two in January 2025.

On 17 October 2025, the auditee provided further information explaining the monitoring bores that were installed post construction were installed to enhance the monitoring network where a deficiency in data collection has been identified by their hydrogeologist. These bores were installed prior to the commencement of second workings where groundwater levels were unlikely to materially change prior to second workings commencing.

Where relevant, the department amended the draft audit report to reflect the comments and additional information provided by the auditee.

Auditee comments

On 19 November 2025, the auditee provided the department with a response on the draft audit report, particularly in relation to the non-compliance identified with condition 5.

In summary, two bores were installed prior to the commencement of the action in accordance with condition 5 of the EPBC Approval. In relation to the additional five bores, the auditee noted Section 5.2.3 of the November 2021, the Ground Monitoring Plan (GMP) explicitly allowed for staged installation of monitoring bores, stating "*the groundwater monitoring program proposed by HydroSimulations (2019) included future groundwater monitoring locations for bores to be installed prior to commencement of second workings*." Table 7 in section 5.2.3 of the November 2021 GMP identified five proposed additional groundwater monitoring sites.

The auditee stated that while these additional bores were installed prior to the commencement of second workings, rather than the commencement of the action, it is considered the bores still meet the intention of condition 5 which is related to monitoring of changes in groundwater levels. Therefore, the intention of the groundwater monitoring program was satisfied notwithstanding any technical non-compliance.

On 3 December 2025, the auditee advised they had no further comment upon review of the amended draft audit report.

ATTACHMENTS

Attachment	
Attachment A	Approval decision notification (EPBC 2018/8287) – 10 March 2021
Attachment B	Letter of intent to Audit – dated 4 April 2025
Attachment C	Request for information – dated 18 September 2025
Attachment D	Auditee response to draft report – dated 19 November 2025

FINAL REPORT DISTRIBUTION

- Maxwell Ventures (Management) Pty Ltd
- Department of Climate Change, Energy, the Environment and Water