Australian Government
National Environmental Protection Agency

Variation of conditions attached to approval

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

This decision to vary conditions of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Approved action

approval holder	Maxwell Ventures (Management) Pty Ltd ACN: 002 028 257
approved action	To develop and operate an underground mining operation and utilise the existing Maxwell Infrastructure in the upper Hunter Valley, New South Wales. [See EPBC Act referral 2018/8287 and variation request dated 14 June 2019].
period for which the approval has effect	This approval has effect until 30 June 2057.

Variation

variation of conditions attached to approval	The variation is: Delete condition 5 attached to the approval and substitute with the condition specified in the table below. Delete the definition of **compliance report(s)** and **sensitive ecological data** and substitute with the definitions specified in the table below.
date of effect	This variation has effect on the date this instrument is signed.

Person authorised to make decision

name and position	Andy Huxham A/g Branch Head Environment Assessments (NSW, ACT)
signature	
date of decision	6 October 2026

date of decision	conditions attached to approval
Original dated 10/03/2021	**Part A – Conditions specific to the action** **Water Resources** The objective of conditions 1 to 9 is to minimise the impacts of the action on a **water resource**. 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.
Original dated 10/03/2021	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 C10 of Part C of the **State development consent** (to the extent the conditions in Part C relate to a **water resource).**
Original dated 10/03/2021	3) The **approval holder** must provide the **Department** with the final version of the **Water Management Plan** required by condition B42 of the **State development consent** within 2 **business days** of its approval by the NSW Planning Secretary.
Variation dated 03/02/2025	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.
As varied on the date this instrument was signed	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. An initial network of monitoring bores must be installed prior to **commencement of the action.** Additional monitoring bores may be installed, as

	required, in accordance with the approved **Water Management Plan**. b. Monitor groundwater levels in each bore (required by condition 5.a.) and at least once every 3 months, starting within one week from the **commencement of the action** and continue until the **completion of the action**; and c. 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 date 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.**
Original dated 10/03/2021	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**.
Original dated 10/03/2021	7) If the **approval holder** detects or predicts an **exceedance** as described in condition 6, the **approval holder** must publish on the **website** an Impact Response **Plan** that has been **peer reviewed**. Each Impact Response **Plan** must: a. be prepared by a **suitably qualified water resources expert**; b. describe all potential and actual impacts to **water resources** arising from the **exceedance**; c. include conceptual modelling, as well as a review of all historical monitoring data to determine the stressor-response relationships for any potential **GDEs** and consideration of potential contributing activities;

		d. include local scale numerical modelling with consideration of potential contributing activities; e. derive a scientifically-robust rectification strategy based on multiple lines of evidence and field data to support the assessment of the **environmental value of water resources** (including the groundwater dependence of any **GDEs**) within the predicted impact area; f. identify if any further investigations are required to be undertaken to determine the cause of, and/or corrective actions for, the **exceedance**; g. include the mitigation and management measures that the **approval holder** has taken and/or proposes to take to reverse the **exceedance**, including data demonstrating the effectiveness of the mitigation and management measures; h. provide justification for how the proposed mitigation and management measures will achieve and maintain the requirements of condition 1; and i. include a peer review, to be undertaken by an **independent suitably qualified water resources expert**, that includes details of how the **approval holder** has addressed any inadequacies raised in the peer review. The **approval holder** must publish the Impact Response **Plan** report within 3 months of the detection of prediction of an **exceedance**, unless an alternative timeframe is agreed to by the **Minister**. The **approval holder** must notify the **Department** within 2 **business days** of the report being published and retain the report on the **website** for the life of the approval.
Original dated 10/03/2021	8)	Where the **Minister** is not satisfied that the rectification strategy outlined in the Impact Response **Plan** will ensure condition 1 will be, or is likely to be, achieved and maintained, the **Minister** may direct the **approval holder** to undertake specific corrective action(s) to manage impacts to **water resources.**
Original dated 10/03/2021	9)	The **approval holder** must not commence mining, other than **first workings**, of subsequent coal seams until the Impact Response **Plan** has been approved by the **Minister**. The approved Impact Response **Plan** must be implemented.
Variation dated 14/12/2021	**Listed threatened species and ecological communities**	

	The objective of conditions 10 to 11 is to minimise impacts and compensate for residual impacts of the **action** on **EPBC listed threatened species and ecological communities.**
	10) Within the **Development Application Area**, the **approval holder** must not clear more than: a. 12.1 hectares of the Central Hunter Valley Eucalypt Forest and Woodland **EPBC Act** listed ecological community. b. 139 hectares of the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland EPBC Act listed ecological community. c. 38.7 hectares of Pink-tailed Legless Lizard (*Aprasia parapulchella*) habitat. d. 157.1 hectares of Striped Legless Lizard (*Delma impar*) habitat. e. 22.2 hectares of Regent Honeyeater (*Anthochaera phyrgia*) habitat. f. 25 hectares of Swift Parrot (*Lathamus discolor)* habitat.
Variation dated 14/12/2021	11) The **approval holder** must comply with conditions B47, B48, B50, B50A, B51, B52, B76, B77, B78, B79, B80, B81 and B82 of Part B and C1, C2, C3, C4 and C8 of Part C of the **State development consent** (to the extent these conditions relate to **EPBC Act threatened species and ecological communities**).
	Part B – Administrative conditions
Original dated 10/03/2021	**Notification of date of commencement of the action** 12) The **approval holder** must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
Original dated 10/03/2021	13) If the **commencement of the action** does not occur within 5 years from the date of this approval, then the **approval holder** must not commence the action without the prior written agreement of the **Minister**.
Original dated 10/03/2021	**Compliance records** 14) The **approval holder** must maintain accurate and complete **compliance records.**

Original dated 10/03/2021	15) If the **Department** makes a request in writing, the **approval holder** must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request. **Note: Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's website** or through the general media.
Original dated 10/03/2021	**Submission and publication of plans** 16) The **approval holder** must: a. submit **plans** electronically to the **Department** for approval by the **Minister**; i. publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management **plan** is submitted to the **Minister** or the **Department,** unless otherwise agreed to in by writing by the **Minister**; ii. publish the **Water Management Plan** on the **website** within 20 **business days** of the date the **plan** is approved by the NSW Planning Secretary; iii. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and iv. keep **plans** published on the **website** until the end date of this approval.
Original dated 10/03/2021	**Annual compliance reporting** 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**.
Original dated 10/03/2021	**Reporting non-compliance** 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 c. 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.
Original dated 10/03/2021	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**.

Original dated 10/03/2021	**Independent audit** 20) The **approval holder** must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
Original dated 10/03/2021	21) For each **independent audit**, the **approval holder** must: a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**, b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**, and c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
Original dated 10/03/2021	22) The **approval holder** must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.
Original dated 10/03/2021	**Completion of the action** 23) The **approval holder** must comply with condition A6 in Schedule 2 of the **State development consent**.
Original dated 10/03/2021	24) Within 30 days after the **completion of the action**, the **approval holder** must notify the **Department** in writing and provide **completion data**.
Original dated 10/03/2021	**Changes to State development consent** 25) The **approval holder** must notify the **Department** in writing of any proposed change to the **State development consent** that may relate to **protected matters** within 2 **business days** of formally proposing a change or within 5 **business days** of becoming aware of any proposed change.
Original dated 10/03/2021	26) The **approval holder** must notify the **Department** in writing of any change to the **State development consent** conditions that may relate to **protected matters**, within 10 **business days** of a change to conditions being finalised.

date of decision	definitions attached to approval
Original dated 10/03/2021	**Adverse effect** means the failure to achieve and/or maintain a **performance measure** specified in Table 4 of the **State development consent** and as defined in the **Water Management Plan** approved by the NSW Government as a result of the action.
Original dated 10/03/2021	**Approval holder** means the person to whom the approval is granted as identified on the approval notice for EPBC 2018/8287, or to whom the approval is transferred under S145B of the **EPBC Act**, or a person who may take the action in accordance with section 133(2A) of the **EPBC Act**.
Original dated 10/03/2021	**Associated user(s)** means groundwater supply bores, **aquatic GDEs, terrestrial GDEs** and **subterranean GDEs**.
Original dated 10/03/2021	**Aquatic GDEs** means groundwater dependent ecosystems dependent on the surface expression of groundwater, including: i. river baseflow systems, aquatic and riparian ecosystems that exist in or adjacent to streams (including the hyporheic zone (subsurface interface between surface and groundwater bodies)) which are fed by groundwater; and ii. **wetlands** (aquatic communities and fringing vegetation dependent on groundwater-fed lakes and **wetlands**), including palustrine (non-tidal wetlands dominated by vegetation) and lacustrine (lake) **wetlands** that receive groundwater discharge, and can include spring and swamp ecosystems.
Original dated 10/03/2021	**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
Original dated 10/03/2021	**Clear** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.
Original dated 10/03/2021	**Commencement of the action** means the first instance of any specified activity associated with the action including clearing of vegetation and construction of any infrastructure. **Commencement of the action** does not include minor physical disturbance necessary to: i. undertake pre-clearance surveys or monitoring programs; ii. install signage and/or temporary fencing to prevent unapproved use of the **Development Application Area**;

	iii. protect environmental and property assets from fire, weeds and pests, including construction of fencing, and use/or maintenance of existing surface access tracks; and iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.
Original dated 10/03/2021	**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.
Original dated 10/03/2021	**Completion of the action** means the time at which all activities associated with the action have ceased.
Original dated 10/03/2021	**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the **approval holder's** possession or that are within the **approval holder's** power to obtain lawfully.
As varied on the date this instrument was signed	**Compliance report(s)** means written reports: i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the plans, ii. consistent with the **Department's** *Annual Compliance Report Guidelines: Reporting under the Environment Protection and Biodiversity Act 1999*, *Commonwealth of Australia, 2023*, iii. including a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period, and iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
Original dated 10/03/2021	**Department** means the Australian Government agency responsible for administering the **EPBC Act**.
Original dated 10/03/2021	**Development Application Area** means the area shown marked with brown shading and labelled as 'Development Application Area' at Annexure 1 to this approval.
Original dated 10/03/2021	**Environmental value** means a quality or physical characteristic of the associated user that is conducive to ecological health, public amenity, or safety.

Original dated 10/03/2021	**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
Variation dated 14/12/2021	**EPBC Act listed threatened species and ecological communities** means: i. Pink-tailed Legless Lizard (*Aprasia parapulchella*), ii. Striped Legless Lizard (*Delma impar*), iii. Regent Honeyeater (*Anthochaera phrygia*), iv. Swift Parrot (*Lathamus discolor*), v. Central Hunter Valley eucalypt forest and woodland ecological community, and vi. White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community.
Variation dated 03/02/2025	**Exceedance** means reaching a value in respect of a **performance measure** and/or measured parameter which is beyond the specified trigger value, limit, threshold or similar. If the specified trigger value, limit, threshold or similar is a minimum, exceedance means reaching a value smaller than the minimum. If the specified trigger value, limit, threshold or similar is expressed as a range, **exceedance** means reaching a value either greater than the maximum or smaller than the minimum.
Original dated 10/03/2021	**First workings** means development of main headings, longwall gate roads, related cut throughs and other workings for mine access and ventilation. **First workings** does not include the extraction of coal made accessible by the **first workings**.
Original dated 10/03/2021	**Function** means the ecosystem components, processes and benefits or services that characterise the **associated user** including support for biological diversity or species composition.
Original dated 10/03/2021	**GDE means** a groundwater dependent ecosystem
Original dated 10/03/2021	**Incident** means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised by this approval.
Original dated 10/03/2021	**Independent audit** means an audit conducted by an independent and suitably qualified person as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019).*

Original dated 10/03/2021	**Independent suitably qualified water resources expert** means a person with at least a postgraduate degree (or equivalent) in a relevant discipline (such as hydrology or hydrogeology) and a minimum of 10 years relevant experience in water resources assessment, include at least one year of experience in Australia, who is independent of the **suitably qualified water resources expert**.
Original dated 10/03/2021	**Minister** means the Minister administering the **EPBC Act** and includes any delegate of the Minister.
Original dated 10/03/2021	**Peer-reviewed** means a review carried out by a person who meets the criteria for an **independent suitably qualified water resources expert** and who is independent to any other **suitably qualified water resources expert(s)** used under the requirements of condition 7.
Original dated 10/03/2021	**Performance measures** means the water management performance measures specified in Table 4 and Table 9 of the **State development consent**.
Original dated 10/03/2021	**Plan(s)** means any of the documents required to be prepared, and/or implemented by the **approval holder** and published on the **website** in accordance with these conditions (including those plans required by the **State development consent** and required under the **EPBC Act** conditions).
Original dated 10/03/2021	**Protected matters** means a **water resource** and, the following **EPBC Act listed threatened species and ecological communities**: Pink-tailed Legless Lizard (*Aprasia parapulchella*), Striped Legless Lizard (*Delma impar*), Regent Honeyeater (*Anthochaera phrygia*), Swift Parrot (*Lathamus discolor),* Central Hunter Valley eucalypt forest and woodland ecological community and White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community.
As varied on the date this instrument was signed	**Sensitive ecological data** means data as described in the *Policy on Accessing and Sharing Biodiversity Data*, *Commonwealth of Australia 2024*.
Original dated 10/03/2021	**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.
Variation dated 14/12/2021	**State development consent** means the State development consent for application number SSD- 9526 approved on 22 December 2020, or a

	subsequent revised version as approved by the Independent Planning Commission of NSW (or its delegate).
Original dated 10/03/2021	**Subterranean GDEs** means groundwater dependent ecosystems partially or completely dependent on aquifer ecosystems, including stygofauna.
Original dated 10/03/2021	**Suitably qualified water resources expert** means a person with at least a postgraduate degree (or equivalent) in a suitable discipline (such as hydrology or hydrogeology) and a minimum of 10 years relevant experience in water resources assessment, include at least one year of experience in Australia.
Original dated 10/03/2021	**Terrestrial GDEs** means land-based groundwater dependent ecosystems that are partially or wholly dependent on the subsurface presence of groundwater.
Original dated 10/03/2021	**Trigger level** means a trigger level specified in the approved Groundwater Management **Plan** or Surface Water Management **Plan** (including the trigger action response plans) required by condition B42 of the **State development consent** that relate to exceedance of the performance measures in Table 4 or remedial action and not early-warning triggers.
Variation dated 03/02/2025	**Water Management Plan** means the document titled *Water Management Plan V. 4*, dated 06/02/2023, or the latest subsequent revised version that has been approved in writing by the NSW Planning Secretary.
Original dated 10/03/2021	**Water Resource** means surface water or groundwater; or a watercourse, lake, wetland or aquifer (whether or not it currently has water in it); and includes all aspects of the water resource (including water, organisms and other components and ecosystems that contribute to the physical state and environmental value of the water resource), as defined in the Water Act 2007 (Cth).
Original dated 10/03/2021	**Website** means a set of related web pages located under a single domain name attributed to the **approval holder** and available to the public.
Original dated 10/03/2021	**Wetland/s** means land intermittently or permanently inundated with water that is usually slow moving or stationary, shallow, can be fresh, brackish or saline, and where the inundation affects the plant and animal communities present and the type and productivity of soil.

date of decision	Annexure
Variation dated 14/12/2021	Annexure A – Development Application Area

Australian Government
National Environmental Protection Agency

Annexure A – Development Application Area

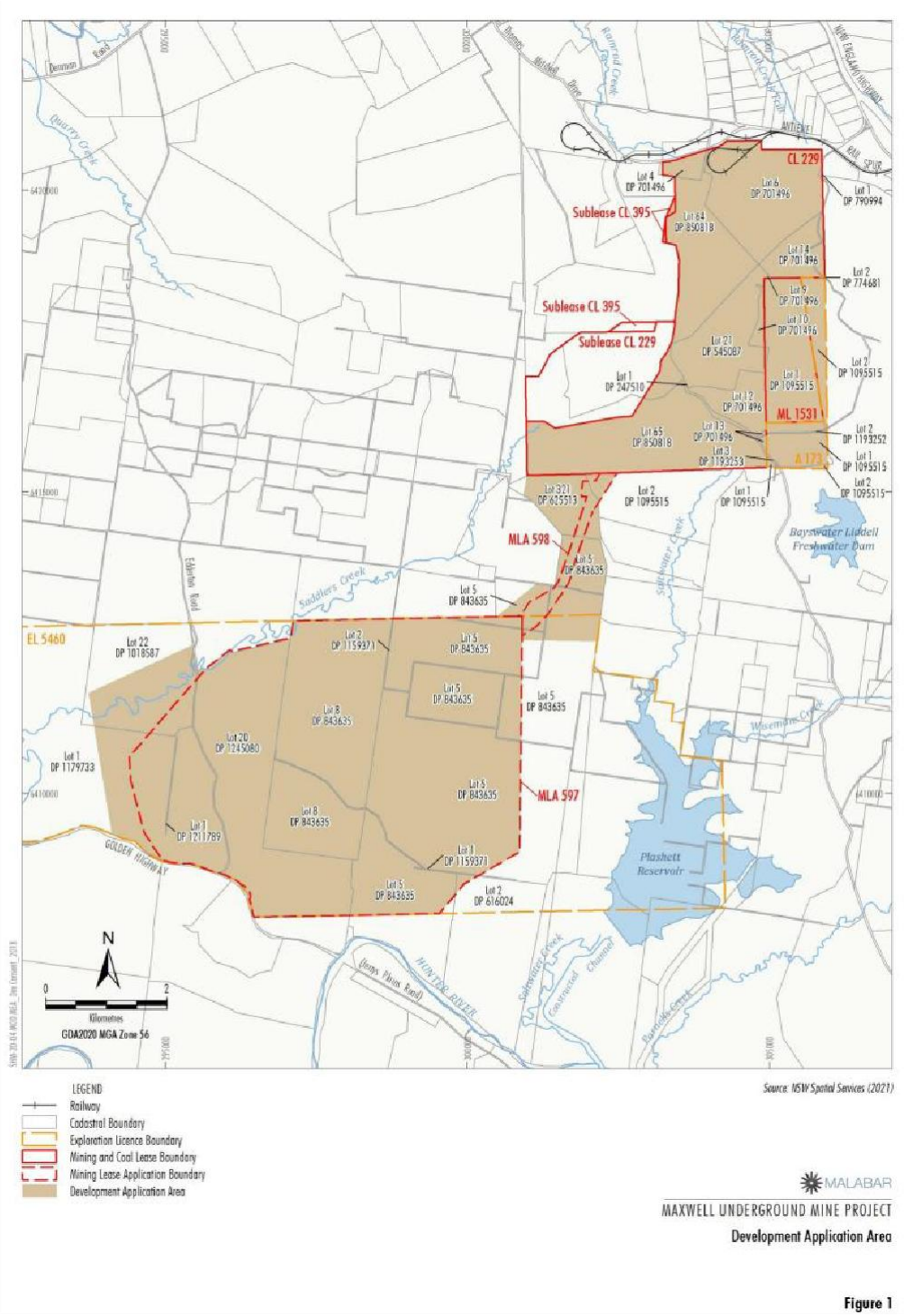

Figure 1