

# Notice of Modification

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission, as the declared consent authority 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 Act 1979*, modifies the development consent referred to in Schedule 1, as set out in Schedule 2.

Name

Member of the Commission

Name

Member of the Commission

Sydney

XX Month 2020

## SCHEDULE 1

The development consent (SSD 5465) granted by the Executive Director, Development Assessment Systems and Approvals as delegate for the Minister for Planning and Infrastructure on 23 December 2013 for the Chain Valley Extension Project.

## SCHEDULE 2

1. In Schedule 1, delete the words "LakeCoal Pty Limited" and replace with "Delta Coal Pty Limited".
2. In the list of Definitions, delete the following terms "Applicant", "Coal haulage route", "Department", "Development", "DPI Fisheries", "DPI Water", "DRE", "EA", "EPA", "Feasible", "First workings", "Heritage item", "Incident", "Land", "Material harm to the environment", "Mining operations", "Minister", "MSB", "OEH", "Privately-owned land", "Rehabilitation", "RMS", "ROM coal", "Second workings", "Secretary", and their definitions and insert the following definitions in alphabetical order:

Aboriginal Object / Place	Has the same meaning as the definition of the term in section 5 of the NP&W Act
Affected Councils	LMCC and/or CC Council
Applicant	Delta Coal Pty Limited, or any person carrying out development under this consent
BCD	Biodiversity and Conservation Division within the Department
BMP	Biodiversity Management Plan
Calendar year	A period of 12 months from 1 January to 31 December
CC Council	Central Coast Council
Coal haulage route	The route proposed in the EIS for haulage of coal by trucks between the site and the Port of Newcastle (as shown in Appendix 5)
Department	Department of Planning, Industry and Environment
Development	The development described in the EIS, as amended by the SEE (Mod 1), SEE (Mod 2) and SEE (Mod 3)
DPIE Crown Lands	Crown Lands Group within the Department
DPIE Water	Water Group within the Department
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EPBC Act	Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>
Feasible	Means what is possible and practical in the circumstances
First Workings	The extraction of coal from underground workings by bord and pillar mining methods (including herringbone pattern workings) and from main headings, gateroads and cut-throughs and the like, provided that such workings are long-term stable and do not generate more than 20 mm of vertical subsidence at the surface
Fisheries NSW	Fisheries Branch of the Primary Industries Group within the Department

Heritage item	An Aboriginal object, an Aboriginal place, or a place, building, work, relic, moveable object, tree or precinct of heritage significance, that is listed under any of the following: <ul style="list-style-type: none"> <li>• the State Heritage Register under the Heritage Act 1977;</li> <li>• a state agency heritage and conservation register under section 170 of the Heritage Act 1977;</li> <li>• a Local Environmental Plan under the EP&amp;A Act;</li> <li>• the World Heritage List;</li> <li>• the National Heritage List or Commonwealth Heritage List under the EPBC Act; or</li> <li>• anything identified as a heritage item under the conditions of this consent</li> </ul>
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm that may or may not be or cause a non-compliance
Land	Has the same meaning as the definition of the term in in section 1.4 of the EP&A Act, except where the term is used in the noise and air quality conditions in Schedules 3 and 5 of this consent where it is defined to mean the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at NSW Land Registry Services at the date of this consent
Material harm	Is harm to the environment that: <ul style="list-style-type: none"> <li>• involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or</li> <li>• results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul>
MEG	Regional NSW – Mining, Exploration and Geoscience
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Mining operations	The carrying out of underground mining, including the extraction, processing, stockpiling and transportation of coal on the site and the emplacement of coarse/fine reject material resulting from underground mining
Minister	The Minister for Planning and Public Spaces, or delegate
Modification 1	The modification to the development as described in SEE (Mod 1)
Modification 2	The modification to the development as described in SEE (Mod 2)
Modification 3	The modification to the development as described in SEE (Mod 3)
Non-compliance	An occurrence, set of circumstances or development that is in breach of this consent
NP&W Act	<i>National Parks and Wildlife Act 1974</i>
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Privately-owned land	Land that is not owned by a public agency, Delta Electricity (or its subsidiary) or a mining company (or its subsidiary)
Public infrastructure	Linear and related infrastructure that provides services to the general public such as roads, railways, water supply, drainage, sewerage, gas supply, electricity telephone, telecommunications, etc.
Registered Aboriginal Parties	As described in the <i>National Parks and Wildlife Regulation 2009</i>
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RFS	NSW Rural Fire Service
ROM	Run-of-mine
RR	Regional NSW - Resources Regulator
SA NSW	Subsidence Advisory NSW
Second workings	Extraction of coal by longwall, miniwall, pillar extraction, pillar splitting or pillar reduction methods, and inclusive of any first workings methods that would generate more than 20 mm of vertical subsidence at the surface
SEE (Mod 3)	Statement of Environmental Effects titled ' <i>Statement of Environmental Effects, Chain Valley Colliery – Modification 3</i> ', dated May 2019, prepared by EMM Consulting, including the associated Response to Submissions dated August 2019 and prepared by EMM Consulting
SPB	Seagrass Protection Barrier is the area of land defined by: <ol style="list-style-type: none"> <li>(a) on the surface by the extent of the seagrass beds; and</li> <li>(b) in the seam, where the seam is intersected by lines drawn: <ul style="list-style-type: none"> <li>• landwards from the landwards boundary of the seagrass beds; and</li> <li>• lakewards from the lakewards boundary of the seagrass beds, at an angle of 26.5 degrees from the vertical as illustrated in Figure 1A in Appendix 3</li> </ul> </li> </ol>

Subsidence Zone A	The area shown as Zone A in Figure 1 in Appendix 3 in which long-term stable mining systems generating no more than 20 mm of surface subsidence may be utilised
Subsidence Zone B	The area shown as Zone B in Figure 1 in Appendix 3 in which mining systems generating no more than 780 mm of surface subsidence may be utilised
TfNSW	Transport for NSW

3. Delete the reference to “DRE” in condition 3 of Schedule 3.
4. Delete the references to “DRE” in conditions 5 and 6 of Schedule 4 and replace with “MEG”.
5. Delete all references to “DRE” where occurring and replace with “RR”.
6. Delete all references to “DPI Water” where occurring and replace with “DPIE Water”.
7. Delete all references to “OEH” where occurring and replace with “BCD”.
8. Delete all references to “RMS” where occurring and replace with “TfNSW”.
9. Delete all references to “MSB” where occurring and replace with “SA NSW”.
10. Delete all references to “Secretary” where occurring and replace with “Planning Secretary”.
11. Delete all references to “shall” where occurring, with the exception of the second sentence of condition 1 of Schedule 4 and in condition 5 of Schedule 4, and replace with “must”.
12. Delete all references to “WSC” where occurring and replace with “CC Council”.
13. Delete all references to “Table 6” and replace with “Table 4”.
14. Delete all references to “Table 7” and replace with “Table 5”.
15. Delete all references to “Table 8” and replace with “Table 6”.
16. Delete all references to “Table 9” and replace with “Table 7”.
17. Delete all references to “Tables 8 and 9” and replace with “Tables 6 and 7”.
18. Delete condition 1 of Schedule 2 and replace with:
  1. In addition to meeting the specific performance measures and criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.
19. Delete conditions 2 to 4 of Schedule 2 and replace with:
  2. The development may only be carried out:
    - (a) in compliance with the conditions of this consent;
    - (b) in accordance with the statement of commitments in Appendix 9;
    - (c) in accordance with the Subsidence Zones in Appendix 3;
    - (d) in accordance with all written directions of the Planning Secretary; and
    - (e) generally in accordance with the EIS, SEE (Mod 1), SEE (Mod 2) and SEE (Mod 3).
  3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
    - (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
    - (b) the implementation of any actions or measures contained in any such document referred to in condition 3(a).

4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document/s listed in condition 2(e). In the event of an inconsistency, ambiguity or conflict between any of the document/s listed in condition 2(e), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.
15. In condition 8(a) of Schedule 2, delete “Port Waratah Coal Services” and replace with “the Port of Newcastle”.
16. Delete conditions 13, 14 and 18 of Schedule 2.
17. In the notes under condition 15 of Schedule 2 delete:
  - (a) “Part 4A of the EP&A Act” and replace with “Part 8 of the EP&A Act”; and
  - (b) “Section 15 of the Mine Subsidence Compensation Act 1961” and replace with “section 21 of the Coal Mine Subsidence Compensation Act 2017”.
18. In condition 17 of Schedule 2 delete the words “The Applicant shall ensure that all plant and equipment used at the site is:” and replace with “All plant and equipment used on site, or to monitor the performance of the development must be:”.
19. Following condition 19 of Schedule 2 insert the following:

**COMMUNITY CONSULTATIVE COMMITTEE**

20. A Community Consultative Committee (CCC) must continue to operate for the development in accordance with the Department’s *Community Consultative Committee Guidelines: State Significant Projects* (2019). The CCC must continue to operate during the life of the development, or other timeframe agreed by the Planning Secretary.

**Notes:**

- *The CCC is an advisory committee only.*
- *In accordance with the Guidelines, the Committee should comprise an independent chair and appropriate representation from the Applicant, Affected Councils and the local community.*

21. With the approval of the Planning Secretary, the Applicant may combine the CCC required by this consent with any similar CCC required by a consent or approval for any adjoining mine subject to common, shared or related ownership or management.

**EVIDENCE OF CONSULTATION**

22. Where conditions of this consent require consultation with an identified party, the Applicant must:
  - (a) consult with the relevant party prior to submitting the subject document;
  - (b) provide details of the consultation undertaken including:
    - i. the outcome of that consultation, matters resolved and unresolved; and
    - ii. details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

**STAGING, COMBINING AND UPDATING STRATEGIES, PLANS OR PROGRAMS**

23. With the approval of the Planning Secretary, the Applicant may:
  - (a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
  - (b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined);
  - (c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development); and
  - (d) combine any strategy, plan or program required by this consent with any similar strategy, plan or program required by an adjoining mining consent or approval, in common ownership or management.
24. If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.
25. If the Planning Secretary agrees, a strategy, plan or program may be staged without addressing particular requirements of the relevant condition of this consent if those requirements are not applicable to the particular stage.

## APPLICATION OF EXISTING STRATEGIES, PLANS OR PROGRAMS

26. The Applicant must continue to apply existing management strategies, plans or monitoring programs approved prior to the approval of Modification 3, until the approval of a similar plan, strategy or program following the approval of Modification 3.

## PROTECTION OF PUBLIC INFRASTRUCTURE

27. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- repair, or pay the full costs associated with repairing, any public infrastructure<sup>a</sup> that is damaged by carrying out the development; and
  - relocate, or pay the full costs associated with relocating, any public infrastructure<sup>a</sup> that needs to be relocated as a result of the development.

<sup>a</sup>This condition does not apply to any damage to roads caused as a result of general road usage or to damage that has been compensated under the *Mining Act 1992*.

## COMPLIANCE

28. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

## APPLICABILITY OF GUIDELINES

29. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of inclusion (or later update) in the condition.
30. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, in respect of ongoing monitoring and management obligations, agree to or require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.
24. In condition 4 of Schedule 3:
- after the words “and every 12 months thereafter” insert “for each calendar year in which coal haulage from the site is undertaken utilising public roads,”; and
  - after the words “approved by the Planning Secretary” insert “at least one month prior to undertaking the audit,”.
25. In condition 6 of Schedule 3, after the word “development” insert the following “, unless otherwise agreed by the Planning Secretary”.
26. Delete the last sentence of condition 9 of Schedule 3 and replace with:
- The Applicant must implement the Noise Management Plan as approved by the Planning Secretary.
27. In the first sentence of condition 11 of Schedule 3, replace “exceedance” with “exceedances” and replace “Tables 3, 4 and 5” with “Table 3”.
28. In condition 11 of Schedule 3, delete Tables 3, 4 and 5, and replace with:

Table 3: Air quality criteria

Pollutant	Averaging period	Criterion
Particulate matter < 2.5 µm (PM <sub>2.5</sub> )	Annual	<sup>a, c</sup> 8 µg/m <sup>3</sup>
	24 hour	<sup>b</sup> 25 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	<sup>a, c</sup> 25 µg/m <sup>3</sup>
	24 hour	<sup>b</sup> 50 µg/m <sup>3</sup>
Total suspended particulate (TSP) matter	24 hour	<sup>b</sup> 50 µg/m <sup>3</sup>
<sup>d</sup> Deposited dust	Annual	<sup>b</sup> 2 g/m <sup>2</sup> /month <sup>a</sup> 4 g/m <sup>2</sup> /month

**Notes:**

- <sup>a</sup> Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to all other sources).
- <sup>b</sup> Incremental impact (i.e. incremental increase in concentrations due to the development on its own).
- <sup>c</sup> Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Planning Secretary.
- <sup>d</sup> Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

- 11A. The air quality criteria in Table 3 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or land to exceed the air quality criteria, and the Applicant has advised the Department in writing of the terms of this agreement.
29. In condition 12(e) of Schedule 3 delete “note d to Tables 3-5” and replace with “note c to Table 3”.
30. Delete the last sentence of condition 13 of Schedule 3 and replace with:
- The Applicant must implement the Air Quality Management Plan as approved by the Planning Secretary.
31. Delete condition 17 of Schedule 3 and replace with:
- The Applicant must manage sewage generated by the development in accordance with the requirements of an EPL.
32. Delete the last sentence of condition 18 of Schedule 3 and replace with:
- The Applicant must implement the Water Management Plan as approved by the Planning Secretary.
33. In the note to condition 18 of Schedule 3, delete “condition 4 of schedule 2” and replace with “condition 3 of Schedule 2”.
34. Delete the last sentence of condition 20 of Schedule 3 and replace with:
- The Applicant must implement the Biodiversity Management Plan as approved by the Planning Secretary.
35. Delete condition 21 of Schedule 3 and its subtitle and replace with:

**Protection of Aboriginal Heritage**

21. The Applicant must ensure that the development does not cause any direct or indirect impact on any identified heritage item located outside the approved disturbance area, beyond those predicted in the documents listed in condition 2(e) of Schedule 2.

**Heritage Management Plan**

- 21A. The Applicant must prepare a Heritage Management Plan for the development to the satisfaction of the Planning Secretary. This Plan must:
- be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Planning Secretary;
  - be prepared in consultation with BCD and Registered Aboriginal Parties;
  - include consideration of the Aboriginal and non-Aboriginal cultural context and significance of the site;
  - describe the procedures and management measures to be implemented on the site or within any offset area to:
    - ensure all workers receive suitable Aboriginal cultural heritage inductions prior to carrying out any activities which may cause impacts to Aboriginal objects or Aboriginal places, and that suitable records are kept of these inductions;
    - protect, monitor and manage identified non-Aboriginal heritage, Aboriginal objects and Aboriginal places (including any proposed archaeological investigations of potential subsurface objects and salvage of objects within the approved disturbance area) in accordance with the commitments made in the document/s listed in condition 2(e) of Schedule 2 and including the ongoing monitoring of site 45-7-0189 at Summerland Point;

- iii. protect non-Aboriginal heritage, Aboriginal objects and Aboriginal places located outside the approved disturbance area from impacts of the development;
  - iv. manage the discovery of suspected human remains and any new Aboriginal objects or Aboriginal places, including provisions for burials, over the life of the development;
  - v. maintain and manage reasonable access for relevant Aboriginal stakeholders to Aboriginal objects and Aboriginal places (outside of the approved disturbance area); and
  - vi. facilitate ongoing consultation and involvement of Registered Aboriginal Parties in the conservation and management of Aboriginal cultural heritage on the site; and
- (e) include a strategy for the care, control and storage of Aboriginal objects salvaged on site, both during the life of the development and in the long term.

The Applicant must implement the Heritage Management Plan approved by the Planning Secretary.

36. In condition 25 of Schedule 3, delete “to the satisfaction of the RR” and replace with “in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*.”
37. In Table 5 of condition 25 of Schedule 3:
- (a) delete the row entitled “Rehabilitation Materials”; and
  - (b) delete the words “Mine Subsidence Compensation Act 1961” and replace with “Coal Mine Subsidence Compensation Act 2017”.
38. In condition 27 of Schedule 3:
- (a) delete “in consultation with BCD, DPIE Water, CC Council, LMCC and the CCC, and to the satisfaction of RR” and replace with “in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*.”;
  - (b) insert a new sub-condition:  
“(a) be prepared in consultation with BCD, DPIE Water, CC Council, LMCC and the CCC;”
  - (c) renumber sub-conditions (a) to (f) as sub-conditions (b) to (g);
  - (d) delete “Planning Secretary and the RR for Approval” from renumbered sub-condition (b) and replace with “RR”; and
  - (e) delete the sentence following renumbered sub-condition (g).
39. Insert following condition 27 of Schedule 3:

## **EXPLORATION ACTIVITIES AND SURFACE INFRASTRUCTURE**

### **Exploration Activities and Minor Surface Infrastructure Management Plan**

28. Prior to carrying out exploration activities on the site under this consent that would cause temporary surface disturbance, or exploration activities within the waters or lake bed of Lake Macquarie, or the construction and/or upgrade of minor surface infrastructure on the site, the Applicant must prepare an Exploration Activities and Minor Surface Infrastructure Management Plan for the development to the satisfaction of the Planning Secretary. This Plan must:
- (a) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
  - (b) be prepared in consultation with MEG, NSW Maritime Division of TfNSW, NSW Fisheries and BCD;
  - (c) include a description of the measures to be implemented for:
    - i. managing exploration activities;
    - ii. managing construction and operation of minor surface infrastructure and associated access tracks;
    - iii. consulting with and if necessary compensating affected landowners;
    - iv. assessing noise, air quality, traffic, biodiversity, heritage, public safety and other impacts;
    - v. beneficial re-use or flaring of drained hydrocarbon gases, wherever practicable;
    - vi. avoiding significant impacts and minimisation of impacts generally;
    - vii. avoiding or minimising impacts on threatened species, populations or their habitats and EECs;
    - viii. minimising clearance and disturbance of native vegetation (including seagrasses);
    - ix. minimising and managing erosion and sedimentation; and
    - x. rehabilitating disturbed areas.

The Applicant must implement the Exploration Activities and Minor Surface Infrastructure Management Plan as approved by the Planning Secretary.

40. In the notes to Table 7 of condition 4 of Schedule 4, delete the words “*Mine Subsidence Compensation Act 1961*” and replace with “*Coal Mine Subsidence Compensation Act 2017*”.
41. In condition 6 of Schedule 4, delete the words “Miniwalls 41 to 45 in Chain Valley Bay” and replace with “related to the Chain Valley Bay mining area as shown in Appendix 3”.
42. In condition 7(g) of Schedule 4, delete the words “other public infrastructure and”.
43. In condition 7(m) of Schedule 4, delete the words “condition 28” and replace with “condition 27”.
44. Delete the last sentence of condition 7 of Schedule 4 and replace with:

The Applicant must implement the Extraction Plan as approved by the Planning Secretary.
45. Delete the Note to condition 7 of Schedule 4.
46. Delete condition 9 of Schedule 4, and replace with:
  9. The Applicant may carry out first workings within Subsidence Zones A and B as shown in Appendix 3, other than in accordance with an approved Extraction Plan, provided that the first workings are designed to remain stable and non-subsiding in the long-term and do not generate more than 20 mm of vertical subsidence at the surface, except insofar as they may be impacted by approved second workings.

**Note:** *The intent of this condition is to ensure that first workings are built to geotechnical and engineering standards sufficient to ensure long term stability, with negligible direct subsidence impacts.*
47. In condition 1(b) of Schedule 5, insert “(NSW Health, 2017)” following “Mine Dust and You”.
48. Delete all text from SCHEDULE 6, except for its title and replace with:

## **ENVIRONMENTAL MANAGEMENT**

### **Environmental Management Strategy**

1. The Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Planning Secretary. This strategy must:
  - (a) provide the strategic framework for environmental management of the development;
  - (b) identify the statutory approvals that apply to the development;
  - (c) set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (d) set out the procedures to be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive record, handle and respond to complaints;
    - resolve any disputes that may arise during the course of the development;
    - respond to any non-compliance and any incident;
    - respond to emergencies; and
  - (e) include:
    - references to any strategies, plans and programs approved under the conditions of this consent; and
    - a clear plan depicting all the monitoring to be carried out under the conditions of this consent.

The Applicant must implement the Environmental Management Strategy as approved by the Planning Secretary.

### **Adaptive Management**

2. 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. Any exceedance of these criteria or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.



Where any exceedance of these criteria or performance measures has occurred, the 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.

### Management Plan Requirements

3. 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;
  - (b) details of:
    - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - any relevant limits or performance measures and criteria; and
    - 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;
  - (c) any relevant commitments or recommendations identified in the document/s listed in condition 2(e) of Schedule 2;
  - (d) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
  - (e) a program to monitor and report on the:
    - impacts and environmental performance of the development; and
    - effectiveness of the management measures set out pursuant to condition 2(e) of Schedule 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;
  - (g) a program to investigate and implement ways to improve the environmental performance of the development over time;
  - (h) a protocol for managing and reporting any:
    - incident, non-compliance or exceedance of any impact assessment criterion or performance criterion;
    - complaint; or
    - failure to comply with other statutory requirements;
  - (i) public sources of information and data to assist stakeholders in understanding environmental impacts of the development; and
  - (j) a protocol for periodic review of the plan.

**Note:** *The Planning Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*

4. The Applicant must ensure that management plans prepared for the development are consistent with the conditions of this consent and any EPL issued for the site.

### REVISION OF STRATEGIES, PLANS AND PROGRAMS

5. Within three months of:
  - (a) the submission of an incident report under condition 6;
  - (b) the submission of an Annual Review under condition 8;
  - (c) the submission of an Independent Environmental Audit under condition 9; or
  - (d) 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.

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.*

### REPORTING AND AUDITING

#### Incident Notification

6. 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 to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and identify the development (including the development application number and name) and set out the location and nature of the incident.

## Non-Compliance Notification

7. 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 to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) 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.*

## Annual Review

8. By the end of March in each year after the commencement of the development, or other timeframe agreed by the Planning Secretary, a report must be submitted to the Department reviewing the environmental performance of the development, to the satisfaction of the Planning Secretary. This review must:
- describe the development (including any rehabilitation) that was carried out in the previous calendar year, and the development that is proposed to be carried out over the current calendar year;
  - include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, including a comparison of these results against the:
    - relevant statutory requirements, limits or performance measures/criteria;
    - requirements of any plan or program required under this consent;
    - monitoring results of previous years; and
    - relevant predictions in the document/s listed in condition 2(e) of Schedule 2;
  - identify any non-compliance or incident which occurred in the previous calendar year, and describe what actions were (or are being) taken to rectify the non-compliance and avoid reoccurrence;
  - evaluate and report on:
    - the effectiveness of the noise and air quality management systems; and
    - compliance with the performance measures, criteria and operating conditions of this consent;
  - identify any trends in the monitoring data over the life of the development;
  - identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
  - describe what measures will be implemented over the next calendar year to improve the environmental performance of the development.

Copies of the Annual Review must be submitted to the Affected Councils and made available to the CCC and any interested person upon request.

## Independent Environmental Audit

9. By the end of February 2022, 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:
- led by a suitably qualified, experienced and independent auditor whose appointment has been endorsed by the Planning Secretary;
  - be conducted by a suitably qualified, experienced and independent team of experts (including any be expert in field/s specified by the Planning Secretary) whose appointment has been endorsed by the Planning Secretary;
  - be carried out in consultation with the relevant agencies and the CCC;
  - 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);
  - review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent;
  - 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.

10. Within three months of commencing an Independent Environmental Audit, or other timeframe agreed by the Planning Secretary, 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.

## Monitoring and Environmental Audits

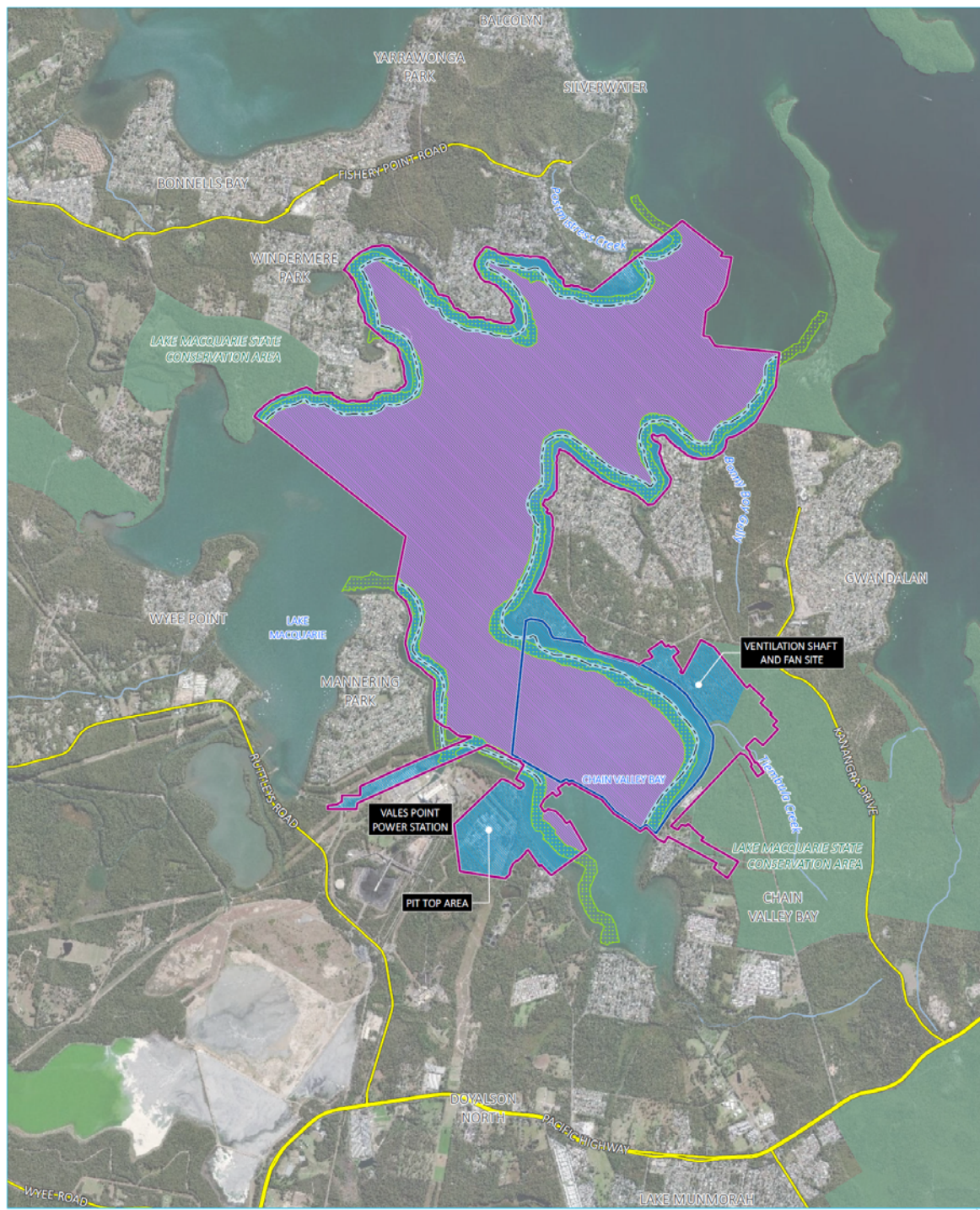
11. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.

For the purposes of the condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

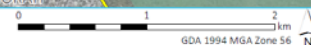
12. Noise and/or air quality monitoring under this consent may be undertaken at suitable representative monitoring locations instead of at privately-owned residences or other locations listed in Schedule 3, providing that these representative monitoring locations are set out in the respective management plan/s.

#### **ACCESS TO INFORMATION**

13. 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:
- the documents referred to in condition 2(e) of Schedule 2 of this consent;
  - all current statutory approvals for the development;
  - all approved strategies, plans and programs required under the conditions of this consent;
  - 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 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;
  - 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; and
  - any other matter required by the Planning Secretary; and
- (b) keep such information up to date, to the satisfaction of the Planning Secretary.
49. Delete Figure 1 in Appendix 3 and its label, and replace with:



Source: EMM (2019); CVC (2019); DFSI (2017); GA (2011)



**KEY**

- Chain Valley Colliery development consent boundary
- Chain Valley Bay mining area
- High water mark subsidence barrier
- Main road
- Watercourse/drainage line
- NPWS reserve
- Seagrass protection barrier

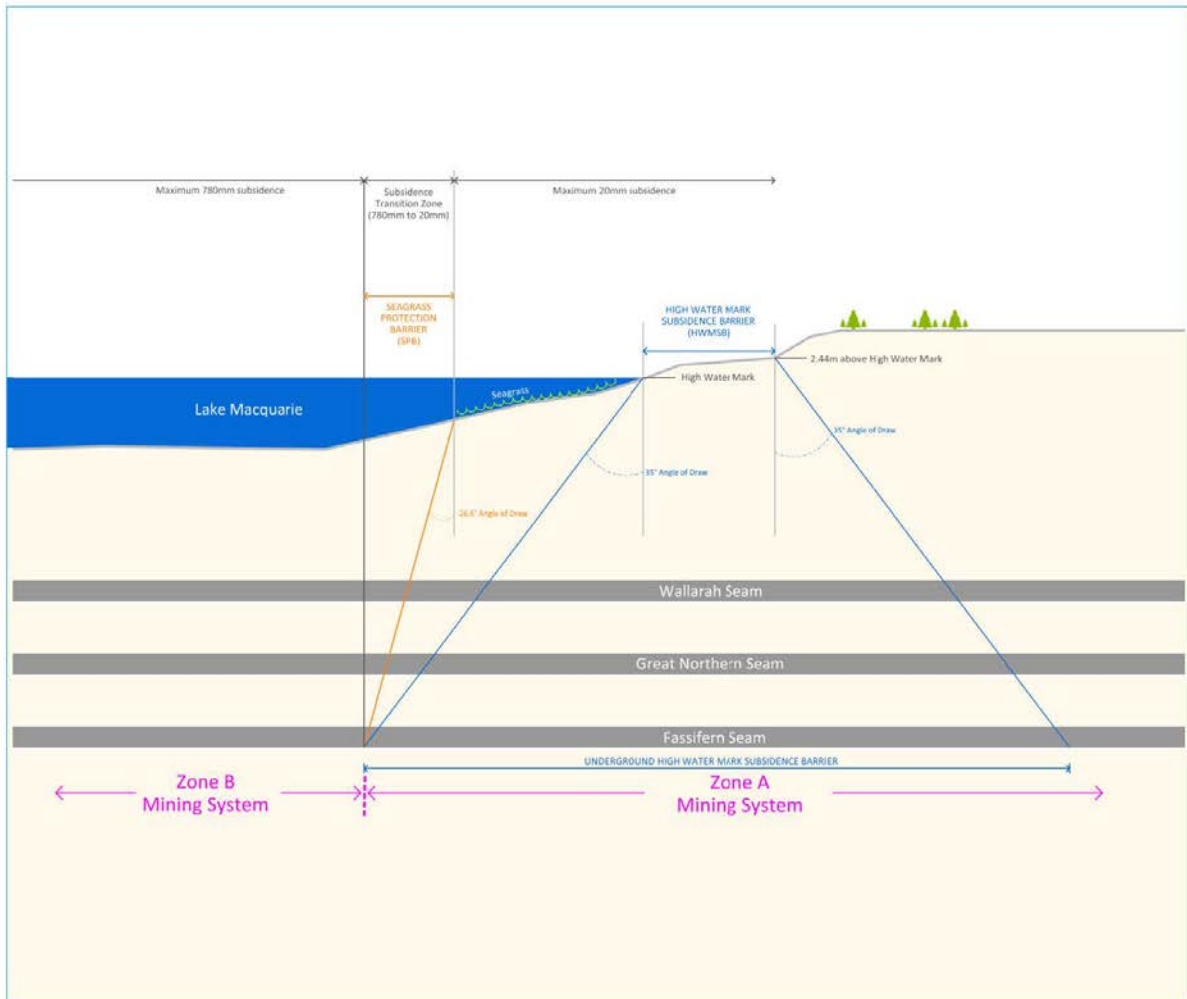
- Zone A - Long-term stable mining systems generating up to 20 mm surface subsidence
- Zone B - Mining systems generating up to a maximum of 780 mm vertical subsidence

Proposed subsidence zones

Chain Valley Colliery  
Modification 3

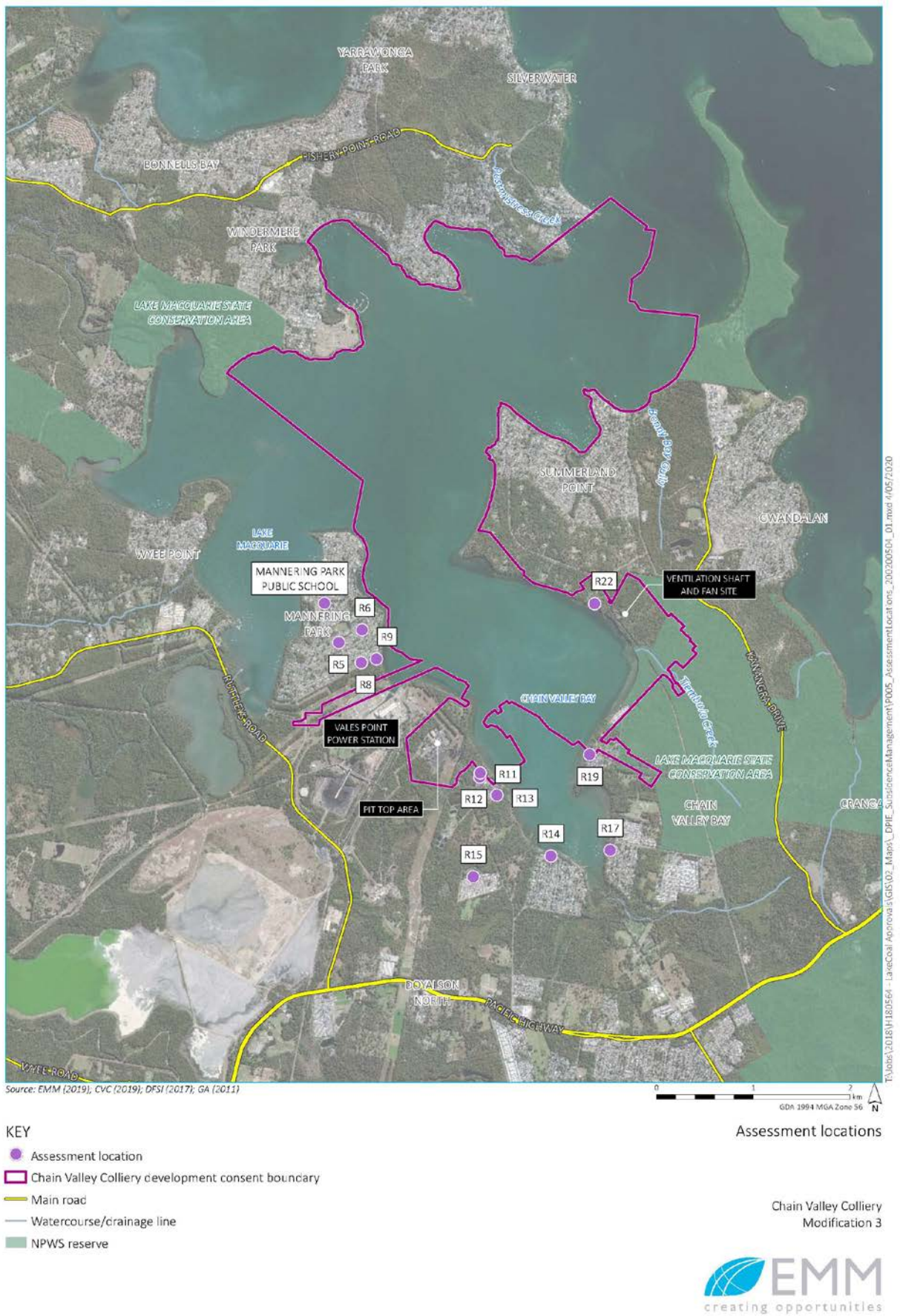


**Figure 1: Mining Areas Subsidence Management Zones**



**Figure 1A: High Water Mark Subsidence Barrier and Seagrass Protection Barrier**

50. Delete Figure 1 in Appendix 6 and its label, and replace with:



**Figure 1: Noise Receiver Locations**

51. In condition 2 of Appendix 8 delete the works “condition 15” and replace with “condition 14”.

52. In the Statement of Commitments at Appendix 9:

- (a) Delete all references to "LakeCoal" and replace with "Delta Coal";
- (b) Delete the reference to "the Mine Subsidence Board" and replace with "SANSW";
- (c) In the row entitled "Surface Water", delete:
  - i. the words "the proposed modification" and replace with "all modifications";
  - ii. references to "parametres" and replace with "parameters"; and
  - iii. the words "Wyong and Lake Macquarie Councils" and replace with "CC Council and LMCC";
- (d) Delete the reference to "AQCHCMP" and replace with "AQGHGMP";
- (e) Delete the reference to "PWCS" and replace with "Port of Newcastle";
- (f) In the row entitled "Traffic and transport" delete the following:
  - "will:
    - provide a detailed feasibility report of rail transport options to DP&I as part of the next coal transport options report to be submitted, by 31 December 2014. Should the report identify that coal transport via rail is feasible, and subject to obtaining necessary agreements, LakeCoal will prepare and lodge an application to modify the relevant approval so as to permit the installation and operation of facilities necessary to undertaken rail transport of coal to PWCS;
    - discuss the potential to utilise proposed rail loading facilities associated with the Wallarah 2 Coal Project, following this project receiving approval; and
    - investigate"
  - and replace with "will investigate";
- (g) In the row entitled "Subsidence":
  - i. add the words "or Extraction Plans" after the word SMP"
  - ii. delete the word "annual" in the second dotpoint and replace with "six-monthly" and
  - iii. delete the word "panel" in the second dotpoint and replace with "secondary extraction"
- (h) In the row entitled "Marine ecology":
  - i. delete the word "annual" in the second last dotpoint and replace with "six-monthly"; and
  - ii. delete the second dotpoint and replace with the following:
    - undertake annual benthic surveys for the Site, or as required under the BCMP;
- (i) add the following row:

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**Modification 3  
Commitments**

Delta Coal will undertake environmental management incorporating the requirements of any modification and in accordance with the existing environmental management processes of the various approvals, licences and management plans that apply to the development.

Delta Coal will apply to the EPA to vary EPL 1770 to reflect the corresponding development consent tonnage limits within EPL 1770's Mining for Coal and Coal Works activities tonnage ranges.

Delta Coal will commission and undertake detailed geotechnical assessments by a suitably qualified geotechnical engineer as part of the company's detailed mine plan design process.

53. Update the Table of Contents to reflect the changes made above.