

COBAR SHIRE COUNCIL

Wonawinta Silver Project

Development Application Assessment Report and Recommendation

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Note

All NSW Government Departments have been referenced using the agency name at the time the application was made.

1. Details of the Application

- **JRPP reference Number** 2011WES001
- **Cobar Shire Council Reference Number** 2010/LD-00074
- **Applicant** Ian Lawrence, Managing Director
Cobar Consolidated Resources Limited
- **Land** Project Site

Lot 3632 DP766014; WLL 6238, “Manuka”

McKinnon’s Water Pipeline Route

Lot 863 DP761939; WLL 2810, “The Bluff”
Lot 864 DP 761940; WLL 2811, “Buckambool”
Lot 5074 DP 45018; WLL 12903, “Belford”
Lot 4225 DP766852; WLL 9260, “Lachlan Downs”
Part of Bedooba Road (SR13B) – Road Reserve
Part of Lerida Road (SR 13A) – Road Reserve
Lot 3632 DP766014; WLL 6238, “Manuka”

Mirrabooka Water Pipeline Route

Lot 1351 DP766090; WLL 6235, “Mirrabooka Station”
Lot 3636 DP 766018; Bedooba State Conservation Area
Lot 3632 DP766014; WLL 6238, “Manuka”
Lot 3633 DP766015; WLL 6239, “Wirlong”

Notes

- i. *The application was made without the consent of the owners of the land on the basis of clauses 12 and 14 in Division 2 of Part 2 of Schedule 1 of the Mining Act 1992.*
- ii. *Cobar Shire Council has granted consent to Development Application 2010/LD-00071 to subdivide Lot 3632 in DP766014 into two allotments. The project site is located on the proposed Lot 1 in the plan of subdivision.*

▪ *Proposed Development*

The proposal involves:

- Extraction of silver/lead ore and waste rock from four open cut pits.
- Construction and operation of a Processing Plant and Infrastructure Area.
- Construction and use of a Tailings Storage Facility.
- Construction and use of various haul roads linking the pits, waste rock emplacements and processing plant.
- Construction of an access road between the Processing Plant and Infrastructure Area and SR13B.
- The establishment of a water supply pipeline from the McKinnon's Mine Borefield to the project site.
- An application for approval of a second water supply pipeline route from the project site to a possible future borefield – "Mirrabooka".
- The operation of three transport routes from the project site:
 - i. Project site – Cobar via SR13B, SR14 and MR410. This route is predominantly for transport of silver bullion, project workforce, delivery of diesel fuel, various reagents, consumables and other supplies etc
 - ii. Project site – Hermidale via SR13B, SR14, MR410, MR461, MR228 and SH8. This route used solely for the transport of lead concentrate to the rail siding at Hermidale.
 - iii. Project site – Bulla Park Gas Pumping Station, Moomba-Sydney Natural Gas Pipeline via SR13B, SR14, MR410, SH8 and SR8. This route used solely for the transport of compressed natural gas to the project site.
- A minor commitment (in the application documents) to upgrading the existing road network to service the project.
- An estimated project life (mining, decommissioning and rehabilitation) of between 7 and 12 years.
- Employment projections and proposed hours of operation as follows:
 - i. 120 full-time equivalent positions during construction phase
 - ii. 65 full-time equivalent positions during operational phase
 - 38 full-time CCR employees
 - 27 full-time contractor employees
 - iii. Bus to transport project workforce to and from Cobar twice each day
 - iv. Mining works staff to work a 5 day on, 2 day off, drive-in drive-out Cobar.
 - v. Shift roster for contract personnel to be negotiated with contractor.
 - vi. Continuous roster, 24 hours per day, 7 days per week.

SR 13B – Bedooba Road

SR 14 – Manuka Road

MR 410 – Kidman Way

MR 461 – Priory Tank Road

MR 228 – Whitbarrow Way

SH 8 – Barrier Highway

SR 8 - Coomeratta Road

▪ ***Integrated Development***

- Mining lease under the *Mining Act 1992*.
- Grant of Aboriginal Heritage Impact Permit under the *National Parks and Wildlife Act 1974*.
- Environment Protection Licence under the *Protection of the Environment Operations Act 1997*.
- Consent for works under the *Roads Act 1993*.
- Controlled activity approval under the *Water Management Act 2000*.

▪ ***Designated Development***

The Project is designated development.

▪ ***Other Approvals Under S78A***

Nil

Report by: Director of Planning & Environmental Services

Checked by: General Manager

2. Executive Summary and Recommendation

▪ *Proposed Development*

To develop and operate an open cut silver and lead mine on the “Manuka” property, approximately 80km south of Cobar within the Cobar Shire local government area.

▪ *Permissibility*

The proposal is permissible with consent under the *Cobar Local Environmental Plan 2001*. Further, the proposal is regional development under Part 3 of SEPP (Major Development) 2005 with Cobar Shire Council’s consent function to be exercised by the Western Region Joint Planning Panel.

▪ *Consultation and Referrals*

The application was placed on public exhibition and copy of submissions received are provided in Appendix 8. The following matters are highlighted for specific attention.

1. Advice of a native title claim being made over the subject land.
2. Comments provided by the Lands and Property Management Authority as the land owner, including detail about the procedural and consent requirements for obtaining an easement or licence for proposed pipeline routes.
3. A late submission from Bogan Shire Council “*that Council make a condition on the DA that the company constructs and seals the remaining unsealed section of the Hermidale Nymagee Road*”

These matters are discussed in further detail elsewhere in the report.

The proposal is integrated development and the application was referred to all relevant integrated approval bodies. The responses provided by the approval bodies have been followed in this assessment and incorporated into the recommendation. A copy of the final responses from each of the integrated approval bodies are provided in Appendix 4.

▪ *Key Issues*

Native Title

The issue of native title was raised during the submission period. The submissions were referred to the Department of Environment, Climate Change and Water and their conditions have been incorporated into the recommendations. This report has been prepared on the basis of the *Environmental Planning and Assessment Act 1979* being capable of operating concurrently with the *Native Title Act 1993* (Commonwealth). Further, native title considerations will be dealt with post consent as detailed in the document “Administration of Mining Legislation in NSW in Light of the Commonwealth’s Native Title Act 1993” by

NSW Industry and Investment on receipt of any future mining title applications under the *Mining Act 1992*.

The matters relating to native title within the submissions should not prevent or delay the determination of the subject application.

Licensed Water Supply

The application documents acknowledge that the only water supply currently available to service the proposed mine and processing plant is the McKinnon's Mine Borefield. The NSW Office of Water in Appendix 4 has highlighted the possibility that the licences for the borefield may be at risk of being cancelled. Further, the applicant has not obtained necessary tenure over the proposed McKinnon's Water Supply Pipeline. These matters raise concern over the existence of a secure water source for the project. Therefore, it is recommended that this matter be addressed by way of a deferred commencement condition. The advice provided by the Land and Property Management Authority in Appendix 8 is considered to be sufficient to demonstrate that the granting of a licence or easement is possible in terms of granting deferred commencement consent. Similarly, there are no identified reasons to prevent Cobar Shire Council from granting a road occupancy licence over the affected parts of the Bedooba (SR13B) and Lerida (SR 13 A) Roads.

Mirrabooka Water Supply Pipeline

The application also seeks approval for a second water supply pipeline route from the project site to a possible future borefield – "Mirrabooka". The original Environmental Impact Statement was amended to acknowledge that insufficient test work and assessment of the possible future Mirrabooka borefield has been completed to date. Further, the final response provided by the Department of Environment, Climate Change and Water advised that concurrence for the proposed route for the pipeline through the Bedooba State Conservation Area will not be given at this time. The applicant has not detailed an alternative route clear of the conservation area and therefore this matter has been addressed in the recommendation using s 80(4) of the *Environmental Planning and Assessment Act 1979* by excluding the proposed Mirrabooka Water Pipeline Route from the recommended development consent.

Biodiversity Impacts

This assessment report raises no objection to implementing a proposed method of assessing and offsetting the impacts of the proposal on biodiversity based on discussions between the applicant and the Department of Environment, Climate Change and Water. This position is supported because of the Department's belief that sufficient area should be available on "Manuka" to ensure biodiversity impacts are adequately offset. Further, that the required offset will be assessed and quantified in accordance with the principles for the use of biodiversity offsets in NSW as recommended by the Department. The proposal to use a Property Vegetation Plan under the *Native Vegetation Act* has been discussed with staff at the Department and the Western Catchment Management Authority. The use of a Property Vegetation Plan is to merely secure (not assess or quantify) the offset in perpetuity and register on title. This approach is not regarded as being inconsistent with the *Native Vegetation Act 2003* because the proposed Property Vegetation Plan is not the mechanism to be used to assess and quantify the required offset. Land clearing which is subject of

development consent as designated development is not covered by the *Native Vegetation Act 2003* under s25.

For the reasons listed below it is considered appropriate that the offsetting of biodiversity impacts be subject to a deferred commencement condition as detailed in the recommendation.

- The Department of Environment, Climate Change and Water prefers that the full impacts of a development be considered upfront prior to the issue of a consent.
- The agreement by the Department of Environment, Climate Change and Water to delay assessing the impact of the proposal on biodiversity is based on an assumption that sufficient area should be available on “Manuka” to ensure that biodiversity impacts are adequately offset.
- The recommendation provided by the Department of Environment, Climate Change and Water provides that the proposed Property Vegetation Plan must be registered on the land title prior to the commencement of works on site.
- It is considered prudent that the actual assessed offset is known and accepted as being appropriate by all interested parties prior to the consent operating.

Traffic and Transport

The following matters are highlighted for specific attention based on the comments received from the relevant road authorities.

NSW Roads and Traffic Authority have recommended conditions in terms of:

- required intersection treatment works at the Kidman Way (MR410) and Manuka Road (SR14) to be completed prior to any other works being undertaken at the mine site,
- bus services are to be provided for the transport of all staff (employees and contractors) to the mine site from Cobar,
- preparing a Code of Conduct for all drivers of heavy vehicles (including contractors) transporting plant, product or other goods or materials to or from the mine site.

The Director of Engineering Services, Cobar Shire Council has reviewed the application documents and advised that:

- the Environmental Impact Statement overstates the condition of Manuka (SR14) and Bedooba (SR13) Roads. Overall the roads are very lightly formed and are suitable for very low traffic volumes,
- upgrading works and ongoing maintenance to Manuka and Bedooba Roads are required. The extent of work is detailed in the recommended conditions of approval in Appendix 6,
- potential “short cut” roads not included in the three proposed transport routes from the site should be listed and their use by project related traffic prohibited by a condition of consent,
- a road occupancy licence is required for the McKinnon’s Water Pipeline Route over the relevant parts of Lerida (SR13A) and Bedooba (SR13B) Roads.

- the section of the Project Site to Hermidale Route compromising Priory Tank Road (MR461) and Whitbarrow Way (MR228) in the Cobar Shire is sealed and suitable to service the anticipated additional traffic movements without requiring a specific maintenance contribution.

A copy of the engineering assessment comments is provided in Appendix 4.

Bogan Shire Council have requested that a development consent condition be imposed requiring the construction and sealing of the remaining unsealed section of the Hermidale-Nymagee Road. The submission does not include detailed information to justify the request and it is recommended that the applicant be required to consult with Bogan Shire Council as a condition of consent with a view to negotiating an agreement regarding a maintenance and improvement contribution in respect of the unsealed section of MR 461 within the Bogan Shire Council local government area.

Community Enhancement Program

The Environmental Impact Statement proposes that the mine workforce will be based in Cobar and commute to the project site on a daily basis. The projected workforce during the construction phase is 120 full time equivalent positions and 65 full-time equivalent positions during the operational phase. The development proposal will create an increased demand on community infrastructure.

Cobar Shire Council has developed and adopted a Community Enhancement Program based on community consultation undertaken in the preparation of the Cobar Shire Council Social Plan 2011-2016 and the Cobar Crime Prevention Plan 2011-2016.

A copy of the Community Enhancement Program is provided as Appendix 7.

It is recommended that the applicant be required to consult with Cobar Shire Council as a condition of consent for the purpose of negotiating the funding of a project and/or projects identified in the Community Enhancement Program to a minimum value of \$50,000 in the first year of the mine operation.

Recommendation

1. That pursuant to s80(4) of the *Environmental Planning and Assessment Act 1979* the proposed development consent as detailed in item 2 for the Wonawinta Silver Project be granted for the development as generally described in Development Application 2010/LD-00074 except for the proposed Mirrabooka Water Pipeline Route.
2. That Development Application 2010/LD-00074 for the Wonawinta Silver Project (Mirrabooka Water Pipeline Route excepted) be determined by the granting of a deferred commencement consent under s80(3) of the *Environmental Planning and Assessment Act 1979* as detailed below.

Date of Determination: _____

Date from which consent operates: Deferred Commencement

Date Consent Lapses: This development consent is subject to a deferred commencement condition under section 80(3) of the Environmental Planning and Assessment Act 1979 and will lapse if the applicant fails to satisfy the consent authority as to the matters specified in the condition within 5 years from the grant of the consent. If the applicant satisfies the consent authority as to the matters specified in the deferred commencement condition within 5 years from the grant of the development consent the development consent lapses 5 years after the date from which it operates.

Deferred Commencement

This is a “Deferred Commencement” consent that is granted subject to a condition under section 80(3) of the Environmental Planning and Assessment Act 1979 that the consent is not to operate until the applicant satisfies the consent authority as to the matters set out in **Schedule A** below.

If the applicant produces evidence to the consent authority sufficient to enable the consent authority to be satisfied as to the matters set out in schedule A below and the consent authority notifies the applicant in writing that it is satisfied as to the relevant matters, the development consent shall become operative from the date specified in the notice subject to compliance with the conditions set out in **Schedule B** below.

Schedule A

1. The applicant must submit documentary evidence to the consent authority which confirms that the Wonawinta Silver Project has the benefit of water licences in respect of the McKinnon’s Mine Borefield on Lot 863 in DP761939.

REASON: *To ensure that a water source is available to service the project.*

2. The applicant must submit documentary evidence to the consent authority which confirms that easements or licences have been granted over all land to be occupied by the proposed McKinnon’s Water Pipeline Route.

REASON: *To ensure that a water source is available to service the project.*

3. The applicant must submit documentary evidence to the consent authority which confirms that a Property Vegetation Plan for the land has been developed in consultation with the Department of Environment, Climate Change and Water and in accordance with the requirements outlined below and has been registered by the Registrar-General on the title to the land.

The following information must be considered in development of a Property Vegetation Plan to ensure impacts of the project on biodiversity are adequately assessed and adequately offset and to ensure the development does not have a significant affect on threatened species or their habitat.

- Biodiversity offsets must be managed primarily for biodiversity conservation. To maximise the biodiversity values of the offset the covenant must include the management actions outlined in Appendix 3.
- DECCW encourages inclusion of management practices for conservation of Aboriginal cultural heritage values. Consultation should occur on the

appropriate management of any matters of cultural significance of those Aboriginal people with a cultural association with the land.

- The offset must be secured in perpetuity and registered on title, via a covenant (such as a property vegetation plan covenant as recommended by the consultant).
- The offset must be sufficient in size to offset the loss and be consistent with the principles for the use of biodiversity offsets in NSW. See link below:
<http://www.environment.nsw.gov.au/biocertification/offsets.htm>
- It is recommended that the minimum area of the offset be determined in consultation with DECCW. DECCW notes that no metric such as Biobanking has been used to determine an appropriate offset size. It is the expert opinion of DECCW that based on experience to date, the offset proposal as offered is less than would be required by such a metric.
- Adequate funding to manage the offset must be provided.
- DECCW does not consider it appropriate to create additional clearing to establish the offset's goat proof fence. It is strongly recommended that the offset boundary should be established along existing fence lines, tracks, or roads or along clearings proposed as part of this development. It is likely that in doing this an adequate sized offset may also be achieved.

The required Property Vegetation Plan must be registered on the land title in order to satisfy this deferred commencement condition.

REASON: To ensure that the biodiversity impacts of the development are adequately offset.

Schedule B – The conditions of the development consent that will apply from the date that the development consent operates are set out as follows:

(Refer to Appendix 6 – Schedule B Conditions and General Terms of Approval.)

3. The Proposal and its History

The Director-General's requirements for the preparation of an Environmental Impact Statement for the development of the Wonawinta Silver Project were issued by the Department of Planning on 15 February 2010. A copy of these requirements is provided in Appendix 1.

Development Application 2010/LD-00074 was lodged with Cobar Shire Council on 22 December 2010. The application was accompanied by an Environmental Impact Statement prepared by R W Corkery & Co Pty Ltd.

During the assessment period, the original Environmental Impact Statement has been amended by the following supplementary documents:

- Response to DECCW Initiated Stop the Clock
- Additional information supplied in Response to DECCW Initiated Stop the Clock (15 February 2011)
- Response to I&I Request for Additional Information
- Additional information supplied in Response to DECCW Initiated Stop the Clock (1 March 2011)
- Response to Council Request for Additional Information
- Response to NOW Request for Additional Information
- Response to RTA Request for Additional Information
- Revised Appendices C, D, & E to the Ecological Assessment prepared by Oz Ark Environmental and Heritage Management Pty Ltd received 15 April 2011.
- Revised Appendices B, C, D, E, F, & G to the Ecological Assessment prepared by Oz Ark Environmental and Heritage Management Pty Ltd received 28 April 2011.

A copy of these supplementary documents are provided in Appendix 2

The proposal subject to this report is based on the original Environmental Impact Statement and the supplementary documents listed above.

4. The Site of the Development

The site of the proposed mining operation (project site) is an area of approximately 1,180 ha located on the property known as “Manuka” that has a total area of 9,914ha. The property is located 80kms south of Cobar via the Lerida and Bedooba Roads. The nominated access route to the project site from Cobar is via the Kidman Way, Manuka Road and then the Bedooba Road.

“Manuka” property is divided by two catchment areas, with about two thirds of the property located within the Western Catchment management area and the balance within the Lachlan Catchment management area.

The significant proportion (approximately 90%) of the project site is located within the Lachlan Catchment management area. The dominant drainage feature of the project site is the north-south drainage line referenced in the Environmental Impact Statement as the “central drainage line” which bisects the project site. This drainage feature flows south towards Lachlan River.

The dominant vegetation type at the project site is Poplar Box, Gum-barked Coolibah, and White Cypress Pine Shrubby Woodland. The site has historically been used for grazing of sheep and goats. The higher area on the eastern side of the project site is vegetated with Mallee, Smooth-barked Coolibah Woodland.

The McKinnon’s Water Pipeline Route starts approximately 59km to the north of “Manuka” at the McKinnon’s Mine Borefield found on the “Bluff” property. The pipeline route then proceeds through another three properties “Buckambool”, “Belford”, Lachlan Downs” before reaching “Manuka”. Part of the pipeline route will also traverse the road corridor along parts of the Lerida and Bedooba Roads and within the road corridor crosses Sandy Creek. The McKinnon’s Water Pipeline Route traverses a wide variety of vegetation types including modified pasture, grasslands, shrubland, woodland and open forest.

The Mirrabooka Water Pipeline Route starts approximately 12km southeast of “Manuka” at the proposed borefield on the “Mirrabooka” property. The pipeline route, proceeds through the Bedooba State Conservation Area and “Wirlong” property before entering “Manuka”. The Mirrabooka Water Pipeline Route traverses a wide variety of vegetation types including modified pasture, grasslands and woodland.

5. Public Consultation

The development application was placed on public exhibition in accordance with relevant legislation for designated development.

Advertisements were placed in the following papers:

- The Cobar Weekly 22 December 2010
- Condobolin Argus 22 December 2010
- Daily Liberal 24 December 2010
- Daily Liberal 7 January 2011

Notice of the proposed development together with a copy of the Environmental Impact Statement was publicly exhibited at:

- Cobar Shire Council Chambers, 36 Linsley Street, Cobar
- Cobar Library, 39 Marshall Street, Cobar
- Nymagee Community Hall (Branch Library), Graham Street, Nymagee
- NSW Department of Planning (Western Region Office), 188 Macquarie Street, Dubbo
- NSW Department of Planning (Head Office), Information Centre, Bridge Street, Sydney
- Cobar Shire Council website, www.cobar.nsw.gov.au

The notice for the development application was exhibited on the land in accordance with clause 79 of *Environment Planning and Assessment Regulation 2000*

Written notice of the application was given to such persons that appear to Cobar Shire Council as owning or occupying the land adjoining the land to which the development application relates being:

- i. Project site
- ii. McKinnon's Water Pipeline Route
- iii. Mirrabooka Water Pipeline Route

Notice of the application was also provided to the following community organisations and members:

- Cobar Local Aboriginal Land Council
- Condobolin Local Aboriginal Land Council
- Mount Grenfell Historic Site Board of Management
- Murrin Bridge Local Aboriginal Land Council
- Nyngan Local Aboriginal Land Council
- Elaine Ohlsen
- Bill Lord

Copies of the submissions received following the public exhibition period are included in Appendix 8.

6. Agency Referrals

The Head Office and Western Region Office of the NSW Department of Planning were notified of the development application on 23 December 2010.

The development application was referred to the following integrated approval bodies on 4 January 2011:

- NSW Department of Environment, Climate Change and Water
- NSW Department of Industry and Investment
- NSW Office of Water
- NSW Roads and Traffic Authority

***Note:** The RTA is also a concurrence authority under SEPP (Mining, Petroleum Production and Extractive Industries) 2007.*

On 5 January 2011 the following agencies were notified as potential interested parties to the development application:

- Bogan Shire Council - a concurrence authority under SEPP (Mining, Petroleum Production and Extractive Industries) 2007.
- NSW Forests.
- Lachlan Catchment Management Authority.
- Land and Property Management Authority.
- Western Catchment Management Authority.

During the assessment period all of the integrated approval bodies requested additional information.

All final responses from the NSW Government integrated approval bodies were received by Cobar Shire Council on or by 8 April 2011. Copies of final responses are provided in Appendix 4.

Submissions received from other interested agencies are included in Appendix 8 with the public submissions.

The application was reported to the Ordinary Meeting of Cobar Shire Council held on 28 April 2011. The report included a copy of a draft assessment report for each of the Councillors and sought comments for inclusion or attachment to the final report.

Council resolved as follows:

“That the draft assessment report in respect of the Wonawinta Silver Project be noted and comments from Councillors for inclusion in or attachment to the final report be provided to staff by close of business on 2 May 2011”

7. Legislative Considerations

The application has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*. The following matters are considered to be of relevance to the development application.

▪ *Threatened Species – s5A*

The proposed development has been considered in terms of s5A and in particular whether the development will have significant impacts on threatened species or their habitats. This consideration has been based generally on the Revised Appendices B, C, D, E, F & G to the Ecological Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd received by Cobar Shire Council on 28 April 2011.

The final list of threatened species, population, ecological communities and habitats considered in the Ecological Assessment is accepted as being relevant to the subject development site. It is considered reasonable to decide that the proposed development will not have a significant impact on threatened species or their habitats as relevant to s5A based on the conclusions contained within the Ecological Assessment.

▪ *Evaluation of Proposal – s79c*

Planning Controls

▪ Cobar Local Environmental Plan 2001

The development is consistent with the definition of a mine in clause 5. The land is in Zone 1(a) – General Rural (with the exception of the Bedooba State Conservation Area which is Zone 1(d) – Forests) and the development is permissible with consent. The objectives of Zone 1(a) include:

“To permit the development of mines, extractive, offensive and hazardous industries, but only in an environmentally and sustainable manner”.

The proposed development is considered to be consistent with this zone objective.

Consideration has been given to the other zone objectives relative to the conservation of productive agriculture land, the prevention of development of inappropriate non-agricultural land uses and permitting some non-agricultural which do not adversely effect agricultural productivity.

The proposed development does not conflict unreasonably with these zone objectives.

Clause 11 states that consent must not be granted to development within Zone 1(a) unless the consent authority has taken into consideration, if relevant, the effect of carrying out of that development on:

- (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of any of the land that is prime crop and pasture land for sustained agricultural production, and
- (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage), and
- (c) the future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials, and
- (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places, and
- (e) the cost of providing, extending and maintaining public amenities and services to the development, and
- (f) future expansion of settlements in the locality.

As well as the above matters the consent authority must take into consideration the relationship of the development to development on adjoining land and on other land in the locality.

For the purpose of considering clause 11, subclauses (a) to (e) are of particular relevance.

The effect of the proposed development has been considered relative to the matters listed in sub-clauses a) to e). The existing use of the land is for extensive grazing activities which is consistent with the dominant land use throughout the extended locality. The effect of the development of the subject mining project will not unreasonably:

- impact on sustained agricultural production,
- impact on vegetation, timber production, land capability and water courses. The proposed development incorporates relevant environmental controls to mitigate expected impacts,
- impact on the future recovery minerals and the like in the locality,
- impact on areas of environmental significance. The Environmental Impact Statement and the assessment have considered the merit of the development relative to potential effects on areas of environmental significance,
- impact on the cost of public amenities and services. The cost of extended or improved services will be met by the developer.

The matters requiring consideration under clause 23 in respect of places of Aboriginal heritage significance and the like have been addressed in the Cultural Heritage Assessment provided in the Environmental Impact Statement. The proposal was referred to the Department of Environment Climate Change and Water as integrated development under the *National Parks and Wildlife Act 1974*. The assessment of the proposal has considered the matters required by clause 23. The assessment document in the Environmental Impact Statement is considered to meet the definition of heritage impact statement in the *Cobar Local Environmental Plan 2001*.

The land is not subject to clause 27 and clause 28 in terms of Environmentally Sensitive Land and Flood Prone Land respectively.

Clause 29 provides that consent must not be granted to development within Zone 1(a) on land which is subject to bush fire hazards by reason of the vegetation on the land unless, in the opinion of the consent authority adequate:

- a) provision is made for access for fire fighting vehicles and;
- b) safeguards are adopted in the form of fire breaks, and;
- c) water supplies are available for fire fighting purposes.

The Environmental Impact Statement has addressed bushfire management issues as required by the Director – General’s Requirements. The land is not identified as bush fire prone land under s146 of the *Environmental Protection and Assessment Act 1979*. The bush fire management measures proposed for the site have been considered and a relevant condition included in the recommendation.

The proposal has been assessed as satisfying all relevant planning controls and objectives of the Cobar Local Environmental Plan 2001.

▪ State Environmental Planning Policies

A list of SEPP’s that apply to the land is provided in Appendix 5.

The following policies have been identified as being relevant to the development application.

- *SEPP (Major Development) 2005*

The proposal is regional development under Part 3 of this Policy and Cobar Shire Council’s consent function is to be exercised by the Western Region Joint Planning Panel.

- *SEPP (Mining, Petroleum and Extractive Industries) 2007*

The proposed has been considered relevant to this Policy and the conclusions contained the Environmental Impact Statement are supported by the assessment.

The following clauses of the Policy are identified for specific comment:

Clause 7 – Proposal is permissible with consent.

This assessment has considered and concurs with the comments in the Environmental Impact Statement relative to clauses 12,13,14,15,16 & 17.

The relevant road authorities were consulted in accordance with clause 16 requirements.

A condition has been included in the recommendation to communicate the requirements of clause 18 regarding the use of the land for the receipt or disposal of waste brought on to the development site from other land.

- *SEPP (Rural Lands) 2008*

The proposal has been considered relative to the Policy. No conflict or inconsistencies have been identified between the development proposal and this Policy. The assessment has no concerns with the conclusions in the Environmental Impact Statement in respect of this Policy.

- *SEPP 33 – Hazardous and Offensive Development*

The Environmental Impact Statement as amended has detailed the risk screening and preliminary hazard analysis undertaken in respect of the project under this Policy. This assessment accepts that the requirements of the Policy have been adequately addressed and the proposed management and risk treatment measures are considered to be satisfactory.

- *SEPP 55 – Remediation of Land*

The assessment agrees with the Environmental Impact Statement in relation to the conclusion that no contaminated land occurs on the development site based on previous land uses.

- *SEPP 64 - Advertising & Signage*

This policy will have relevance to any future proposals in respect of advertising and signage requiring consent. The current proposal does not propose any specific advertising and/or signage.

- Proposed Instruments

The assessment has not identified any proposed instrument that is or have been the subject of public consultation under the *Environmental Planning and Assessment Act 1979* as applying to this development application.

- Development Control Plans

No development control plans have been identified as applying to this development application.

- Planning Agreements

No planning agreements under s93F are relevant to this development application.

- Prescribed Matters – *Environmental Planning and Assessment Regulation 2000*

The assessment has identified clauses 92, 93, 94 and 94A as prescribed matters for the purpose of s79C of EP&A Act. These prescribed matters do not apply to this development application.

Note: Conditions prescribed by clauses 98(BCA compliance) and 98A (Erection of signs) will apply at construction stage.

- Likely Impacts of the Development

The likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality have been considered. In particular, the likely impacts of the development in terms of the following matters has either been addressed elsewhere in this assessment report or is considered to be acceptable having regard to the particular circumstances of this development and the conditions that are recommended to be imposed if the development is approved.

- | | |
|---------------------------------|---------------------------------|
| • Access, Transport and Traffic | • Noise and Vibration |
| • Utilities | • Flora, Fauna and Biodiversity |
| • Cultural Heritage | • Social Impact |
| • Water and Soil Management | • Economic Impact |

- Suitability of the Site for the Development

The subject land is considered suitable for the proposed mining of a known mineral resource on the land and this position may in part be supported by the following comments:

- The impacts of the proposal on biodiversity may be offset and such action is a requirement of the recommended consent.
- Potential environmental impacts associated with the site have been identified. Adequate control measures are possible and required as part of the proposed consent.
- The road network servicing the proposal may be upgraded by the developer to an acceptable service level as recommended in the proposed approval conditions.
- The absence of utility services at the mine project site have been addressed by the addition of offsite inputs. For example water pipeline and transportation of compressed natural gas for on site electricity generation.

- Submissions

A list of public submissions received in respect of this application is provided in Appendix 8.

The matters raised in respect of native title and cultural heritage have been addressed in the assessment. The proposal has been considered by the Department of Environment, Climate Change and Water in respect of aboriginal cultural heritage and their recommendations are reflected in the development consent proposed by the report. The matter of native title has been considered in the executive summary of the report.

The late submission from Bogan Shire Council has been specifically considered elsewhere in the report.

Other submissions received either raised no matters for consideration or have been subsequently resolved and require no specific comment.

- Public Interest

The proposed development is considered to be in the public interest. The proposed land has a mineral resource which may be mined without unreasonable environmental impacts through the implementation of relevant control measures and offsets as detailed in the assessment. The economic benefits of the project as described in the Environmental Impact Statement benefits the public interest.

8. Conclusion

The proposed development has been assessed as satisfying relevant planning controls that apply to the land and has received conditional support from referral agencies. The comments and recommendations of all integrated approval bodies have been considered and where relevant incorporated into the proposed development consent as recommended in the report.