

COBAR SHIRE COUNCIL
ASSESSMENT REPORT TO WESTERN REGION
JOINT REGIONAL PLANNING PANEL

**Wonawinta Silver Project – Application to Modify Development
Consent 2010/LD-00074**

1. DETAILS OF THE APPLICATION

Application Number: JRPP Reference Number: 2011 WES 013
Cobar Shire Council Reference Number: 2010/LD-00074 REV01

Applicant: Cobar Consolidated Resources Limited

Land: Lot 1 DP1164142; WLL 6238, “Manuka”
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”
Lot 3633 DP766015; WLL 6239, “Wirlong”
Part of Bedooba Road (SR13B) – Road Reserve
Part of Lerida Road (SR 13A) – Road Reserve

Proposed Development:

The modification being sought is described below.

To obtain approval for:

1. the sourcing of water for the mine project from a ground water source on the “Wirlong” property,
2. a water pipeline between the mine site and the “Wirlong” property,
3. the realignment of the Mine Access Road,
4. a variation to condition 27 to change the completion date for upgrading works to the Bedooba (SR 13B) and Manuka (SR 14) Roads.
5. The winning of gravel from the identified mining area for road construction.

Integrated Development:

The proposed development and operation of the open cut silver and lead mine is integrated development.

- Mining Lease under the *Mining Act 1992*.
- Grant of Aboriginal Heritage Impact Permit.
- 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.

2. EXECUTIVE SUMMARY AND RECOMMENDATION

Description of the Development:

The original development was described in the assessment report prepared for the Western Joint Regional Planning Panel as follows:

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 SR 13B, SR 14 and MR 410. 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 SR 13B, SR 14, MR 410, MR 461, MR 228 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 SR 13B, SR 14, MR 410, SH 8 and SR 8. 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

A copy of the Development Consent Notice 2010/LD-00074 is provided in Appendix 1.

Permissibility:

Under s96(2) of the *Environmental Planning and Assessment Act 1979* a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the *Environmental Planning and Assessment Regulation 2000*, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

The proposed modification satisfies the above requirements for the reasons set out below:

It is considered reasonable to accept that the development to which the modification application relates is substantially the same development.

The realignment of the mine access road is contained wholly within the “Manuka” property and provides a link from the mine site to the Bedooba Road (SR 13B). The realignment is not substantially different to the original proposal.

The initial Environmental Impact Statement (EIS) for the project at p2-14 and in the applicant’s response to the New South Wales Office of Water request for additional information at p163 in the original assessment report both flagged ongoing hydrogeological investigations to secure an alternative borefield closer to the mine site to replace the McKinnon’s Mine borefield.

The requested variation to condition 27 of the Consent does not substantially change the proposed development.

The proposal to win gravel from the identified mining areas contained in the original EIS does not alter or expand the extent of ground disturbance already approved by the Consent, and the quantity of material (if suitable) to be moved off site is not considered significant relative to the overall volume of mine overburden material associated with this project.

The integrated approval bodies and concurrence authority involved in the original development application have been consulted and their final comments on the modification application have been considered and included in this report.

The application to modify Development Consent 2010/LD-00074 has been notified in accordance with the *Environmental Planning and Assessment Regulation 2000*. There is no development control plan that applies to the modification proposal which requires the application to be notified.

Submissions were received from the Department of Primary Industries in respect of the modification application. The submissions have been considered and relevant comments included elsewhere in this report.

In preparing this assessment report consideration was given to the matters referred to in s79C(1) of the *Environmental Planning and Assessment Act 1979* as are of relevance to the development the subject of the modification application.

The consent authority is obliged to take into account the relevant matters under s79C(1). In this regard further comments are provided in the report under the heading of Legislative Considerations.

Consultation and Referrals:

The modification application was placed on public exhibition and notice given to each person who made a submission in relation to the original development application pursuant to clause 118 of the *Environmental Planning and Assessment Regulation 2000*.

Notice was given to each approval body and concurrence authority involved with the original application pursuant to s96(2) of the *Environmental Planning and Assessment Act 1979* and clause 120 of the *Environmental Planning and Assessment Regulation 2000*. This included the Director of Engineering Services at Cobar Shire Council representing the local road authority for the purpose of the *Roads Act 1993*.

A copy of the Public Notice published in the Cobar Age and Cobar Weekly is provided in Appendix 2.

A list of persons who made a submission regarding the original application and given notice of the modification application is provided in Appendix 3.

The application was also made available on the Cobar Shire Council website.

www.cobar.nsw.gov.au

There are no unresolved public submissions.

All recommendations provided by the approval bodies have been followed and their comments included elsewhere in this report.

Recommendation:

That the application to modify Development Consent 2010/LD-00074 pursuant to s92(2) of the *Environmental Planning and Assessment Act 1979* be approved subject to the Notice of Determination dated 1 June 2011 being modified in the manner as specified below:

1. Alter the land to be developed to read:

Lot 1 DP1164142; WLL 6238, “Manuka”
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”
Lot 3633 DP766015; WLL 6239, “Wirlong”
Part of Bedooba Road (SR13B) – Road Reserve
Part of Lerida Road (SR 13A) – Road Reserve

2. Alter condition 1 to also reference to the following supplementary documents.

- Statement prepared by Cobar Consolidated Resources Limited being an application for modification of development consent under s96(2) of the *Environmental Planning and Assessment Act 1979* including Appendices A to F.
- Cobar Consolidated Resources Limited letter dated 1 December 2011 in response to additional information request letter dated 28 November 2011.

(Note: Copies of these supplementary documents are provided in Appendix 4.)

3. Alter condition 13 to correct a misdescription in road naming from MR461 to MR228.

4. Alter condition 27 by deleting the following sentence from the condition.

The required upgrading works must be completed prior to the commencing of mining operations.

5. Include the following additional conditions in the Notice of Determination.

Additional Conditions

37. Upgrading works on the Shire Roads to be commenced within 1 month of mining commencing and to be completed within 7 months of mining commencing.
38. Prior to mining commencing, Council to be provided with a copy of the binding contract with authorised contractor for the road works.
39. Prior to upgrading work on road being commenced, maintenance grading to be undertaken on the road monthly by a Council authorised contractor during the construction stage of the mine.
40. Prior to mining commencing, Council to be provided with a copy of the binding contract with the authorised contractor for the maintenance works.

41. A Bank Guarantee with no lapsing date in favour of Cobar Shire Council, subject to CPI indexing 6 monthly, to cover value of upgrading contract to be provided to Council prior to mining commencing.
42. That Cobar Consolidated Resources Limited (CCR) provide Council with appropriate test results for material to be used ex-site for road construction work to determine its suitability prior to mining commencing. Should the material not be suitable, CCR to advise Council where appropriate material will be sourced prior to mining commencing.
43. The applicant must apply for and obtain a Licence from the NSW Department of Primary Industries Crown Lands Division in respect of the borefield on the “Wirlong” property and the water pipeline between the mine site and the “Wirlong” property.
44. Road construction material sourced externally from the identified mining area must be from a quarry that has a current Crown Lands Licence for “Extractive Industries”.
45. The existing vehicle access driveway to the “Manuka” property from the Bedooba Road (SR 13 B) must be upgraded to achieve a suitable standard to service the proposed development. As a minimum the design of the upgraded driveway must address the following and be subject to any relevant approval under the *Roads Act 1993*.
 - a) Design to generally conform to the standard rural property access treatment as described in Austroads Guide to Road Design;
 - b) The access is not to interfere with longitudinal drainage adjacent to the Bedooba Road. If required a suitably sized reinforced concrete culvert is to be installed under the access.
 - c) Any gate, grid or similar structure constructed on the access must be positioned to provide suitable storage capacity for the largest class of vehicle requiring access to the property off the carriageway of the Bedooba Road.

The required upgrading works must be financed by the developer at no cost to Cobar Shire Council.

 - d) The design is to consider the need for servicing mail delivery vehicles.
46. The mine access road must be provided with engineered road-side drainage designed and constructed to comply with the requirements of *Managing Urban Stormwater - Soils and Construction – Volume 2C Unsealed Roads* published by the Department of Environment and Climate Change in 2008 (DECC, 2008a) as specified in the statement lodged with the modification application.
47. The modified mine access road and water pipeline must be included in the Water Management Plan required by condition 15 of this consent.
48. Works to comply with condition 46 of this Consent must be completed prior to mining operations commencing.

6. Include the following items of advice in the Notice of Determination:

Advice to Applicant

- a) The GTAs provided by the NSW Office of Water and attached to this Consent Notice do not represent the Controlled Activity Approval or the licences for Groundwater Bores. The applicant must apply (to NSW Office of Water) after consent has been issued by Council and before the commencement of any 'works' on waterfront land or relating to monitoring bore construction.
 - b) Conditions 15 and 16 of Development Consent 2010/LD-00074 as recommended by the NSW Office of Water remains applicable to the development proposal and must be satisfied.
 - c) Condition 5 of Development Consent 2010/LD-00074 regarding the need for approval under s138 of the *Roads Act 1993* remains applicable and must be satisfied. In this regard an application lodged with Council for approval for work on Shire Roads 13B and 14 must be accompanied by appropriate engineering details and plans including:
 - i. Project Management Plan
 - ii. Quality Management Plan
 - iii. Safety Management Plan
 - d) Compliance with condition 12 of Development Consent 2010/LD-00074 will be applied as a pre-condition to Council providing concurrence to the Pre-Mining Operations Compliance report required by conditions 31 of the same consent.
- 7. Alter the Notice of General Terms of Approvals to also reference letter dated 21 November 2011 from the NSW Office of Water including Attachments 1, 2 and 4.**
- 8. Alter the Notice of General Terms of Approvals to also reference letter dated 23 December 2011 from NSW Government Environment, Climate Change and Water including Attachments A and B.**

3. PUBLIC CONSULTATION

The modification application was placed on public exhibition and notice given to each person who made a submission in relation to the original development application pursuant to clause 118 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Public Notice published in the Cobar Age and the Cobar Weekly on 2 November 2011 is provided in Appendix 2.

A list of persons who made a submission regarding the original application and given notice of the modification application is provided in Appendix 3.

The application was also made available to the public on the Cobar Shire Council website.

Submissions were received from the Department of Primary Industries in response to the above public consultation. A copy of the submission letters from the Department are provided in Appendix 5.

Relevant comments provided by the Department have been addressed by the inclusion of additional condition 43 and 44 in the recommendation.

There are no unresolved matters from the public consultation process to be considered in the determination of the subject application.

4. AGENCY REFERRALS

Notice was given to each approval body and concurrence authority involved with the original application pursuant to s96(2) of the *Environmental Planning and Assessment Act 1979* and clause 120 of the *Environmental Planning and Assessment Regulation 2000*. Such notice included the Director of Engineering Services at Cobar Shire Council representing the local road authority for the purpose of the *Roads Act 1993*.

A copy of final comments from each of the referral agencies are provided in Appendix 6.

During the consultation period requests for additional information were received from:

- NSW Department of Trade and Investment
- NSW Environment, Climate Change and Water
- Cobar Shire Council Engineering Department.

All final responses were received from the referral agencies by 3 January 2012.

This report has followed the comments provided by each of the agencies and relevant conditions included in the recommendation.

5. 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 this modification application.

Evaluation of the Proposal – S79C(1)

Planning Controls

- Cobar Local Environmental Plan 2001

The modification is consistent with the definition of a mine in clause 5. The land is in Zone 1(a) – General Rural 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 modification 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 modification 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 modification has been considered relative to the matters listed in subclauses a) to e). The existing authorised use of the land the subject of the modification is for extensive grazing activities which is consistent with the dominant land use throughout the extended locality. The effect of the proposed modification to the approved 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 with modification application. The proposal was referred to NSW Environment Climate Change and Water as integrated development requiring the granting of an Aboriginal Heritage Impact Permit. The assessment of the proposal has considered the matters required by clause 23. The Cultural Heritage Assessment provided 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 original Environmental Impact Statement and supplementary documents 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 were considered and a relevant condition included in the recommendation. The proposed modification does not change the original determination in terms of clause 29.

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

- State Environmental Planning Policies

The following policies have been identified as warranting comment in respect of this modification application.

SEPP (State and Regional Development) 2011

This policy applies to this modification and pursuant to clause 21(1) (a) & (b) the Cobar Shire Council’s consent function is to be exercised by the Western Region Joint Planning Panel.

The policy commenced on 1 October 2011 and the modification application was lodged on 1 November 2011.

SEPP (Mining, Petroleum and Extractive Industries) 2007

The proposed modification has been considered relevant to this Policy. The conclusions contained in the original EIS are not materially affected by the modification and this assessment has not identified any inconsistencies with this Policy.

The relevant road authorities were consulted as part of the current assessment as required by clause 16 of the Policy.

SEPP (Rural Lands) 2008

The proposed modification does not materially affect the original assessment of the mine project relative to this Policy.

The modification has not been identified as being inconsistent with this Policy.

SEPP 33 – Hazardous and Offensive Development

The proposed modification does not materially affect the original assessment of the mine project relative to this Policy.

The modification has not triggered any additional matters to be considered under this Policy.

SEPP 55 – Remediation of Land

The assessment has not identified any contamination concerns with the land subject to the modified works based on previous land uses.

SEPP 64 – Advertising & Signage

The modification does not propose any advertising and/or signage.

- Proposed Instruments

The assessment has been considered relative to the draft *Cobar Local Environmental Plan 2011*.

No inconsistencies with this draft plan have been identified.

- Development Control Plans

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

- Planning Agreements

No planning agreements under s93 F are relevant to this modification application.

- Prescribed Matters – *Environment Planning and Assessment Regulations 2000*

The assessment has identified clauses 92, 93, 94 & 94A as prescribed matters for the purpose of s79C(1). These prescribed matters do not apply to this modification application.

- Likely Impacts of the Development

The likely impacts of the proposed modification, 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 modification and the conditions that are recommended to be imposed if the modification is approved.

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

The proposal has been considered in terms of s5A of the *Environmental Planning and Assessment Act 1979* and in particular whether the development will have significant impacts on threatened species or their habitats. This consideration has been based generally on the Terrestrial Ecology Assessment lodged with the modification application. Further, it must be noted ground disturbing work associated with the modification on Manuka proceeded prior to the application being made and such disturbance is considered to be irreversible.

The proposed pipeline and borefield on the “Wirlong” property has been assessed as being satisfactory based on the documents lodged with application, referral outcomes and an inspection of the site.

The need for environmental control measures to stabilise and manage the disturbed areas of the site is considered to be essential. Conditions have been included in the recommendation specific to the mine access road subject of the modification.

The proposed variation to condition 27 has been assessed as being acceptable strictly on the basis of compliance with the recommended conditions by the Director of Engineering Services. The present condition of the Bedooba and Manuka Roads are considered to be unsuitable to service the mine project and as a minimum for an initial period must be subject to a maintenance program to ensure the road is maintained in a safe and trafficable condition. This assessment considers that maintenance is only a short term interim measure until required upgrading works to SR 13B and SR 14 is completed.

The modification application has not provided any evidence to support the suitability of material available from the identified mining areas for road construction. The proposed additional condition 42 included in the recommendation is considered necessary to ensure that any material to be used on the public roads is suitable, particularly for the purpose of achieving a safe and serviceable road surface.

The proposed additional condition 45 in the recommendation is included to provide design guidance for applicant in terms of preparing a required application under the *Roads Act 1993* and to ensure that likely traffic impacts at the interface between the mine site and the public domain is properly managed.

The environmental land tenure and licensing impacts associated with the “Wirlong” borefield and pipeline have been considered in the assessment. The recommended alterations to the consent determination has incorporated relevant requirements of the NSW Office of Water and the Department of Primary Industries.

The likely impacts of the proposed modification has been assessed as being reasonable subject to the additional conditions and General Terms of Approval as proposed in the recommendation.

- Suitability of the Site for Development

The land which is subject to the modification application is considered to be suitable for the proposed development modification. The site of the proposed mine access road has been irreversibly disturbed prior to the applications being made, hydrogeological investigation support for the approved mine project, the environmental impacts of the pipeline from the mine site to the borefield are considered reasonable and the winning of any gravel (if suitable) from the mine site is limited to land already approved for mining.

- Submissions

The submissions received from the Department of Primary Industries have been considered elsewhere in this report.

There are no unresolved submissions for consideration.

- Public Interest

The proposed modification is considered to be in the public interest. The areas within “Manuka” subject to the modification have already been disturbed and such action is not

reversible. Original consent conditions and relevant additional conditions in the recommendation require the implementation of environmental controls and management. The economic benefits of the project to the public as initially assessed is not substantially changed by the modification.

6. CONCLUSION

The proposed modification has been assessed as satisfying relevant planning controls that apply to the land and the application has received conditional support from referral agencies. The comments and recommendations of the referral agencies have been considered and where relevant have been included as conditions in the recommendation.

Report by: Garry Ryman
DIRECTOR OF PLANNING & ENVIRONMENTAL SERVICES

Dated: 16 January 2012