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*Associated firm

27 February 2012

The Panel Secretary
Joint Regional Planning Panels: Western Region
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Angela Kenna

Dear Western Region Panel Secretary,

Wonawinta Silver Project (the Project): Application to Modify Development Consent 2010/LD-00074

We refer to our recent correspondence.

It appears to our client that of the three matters the subject of its current modification application (water source, access road alignment and Shire road upgrading) only the issue of Shire road upgrading remains substantially in dispute.

In reference to the Cobar Shire Council Assessment Report to the Planning Panel dated 16 January 2012 (and adopting the numbering used there), we are instructed as follows:

1. CCR and CSC agree about recommendations 1,2,3,6,7 and 8.
2. CCR does not agree with recommendation 4 and instead presses its own condition 27 as follows:

27. The Bedooba (SR13B) and Manuka (SR14) Roads which form the route from the project site to the Kidman Way (MR410) must be upgraded to achieve a suitable standard to service the proposed development. As a minimum the required upgrading must include:

- a) a 'traffic surface' of 6.0m and 1.0m wide shoulder each side;
- b) a 150mm compacted thickness of 'site-won' sandstone or similar for the full 6.0m width of the 'traffic surface' in areas of moderate distress (approximately 5km);
- c) grading works of the existing pavement material in the areas showing minor signs of rutting or surface defects;
- d) maintenance works and additional signage of existing cattle grid crossings;

- e) *construction of crushed rock/spall 'ford' at each floodway and Sandy Creek crossing; and*
- f) *improved signage.*

The applicant shall upon request and for information purposes only, provide Council with the results of testing of the material to be used ex-site for road construction work.

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

Road Occupancy Licences as relevant must be obtained in respect of the required upgrading works. The applicant must complete items (b)-(f) of the abovementioned upgrade work within 7 months of the commencement of mining operations. The remainder of the upgrading works must be completed within 24 months of the commencement of mining operations. Specifications for the work must meet the minimum requirements of AUS-SPEC. The roads must be maintained in a safe and trafficable condition for the duration of the upgrading works project.

In an effort to seek to resolve the apparent impasse with Council, CCR rang the General Manager Cobar Shire Council on 22 February and despite that approach being rebuffed, followed up with a letter on 23 February 2012 in the terms **attached**.

If the Panel is not prepared to accede to CCR's proposal (based on the engineer's report provided to the Panel) CCR alternatively agrees to consult in good faith with Cobar Shire Council in the presence of an independent 3rd party, with a view to agreeing a compromise proposal.

In that case, CCR proposes the following condition be inserted in lieu of its proposed Condition 27:

The applicant, Cobar Shire Council and a mutually acceptable and independent 3rd party expert (whose costs shall be met by the applicant), shall meet by no later than 6 April 2012 with a view to agreeing the scope and timing of the upgrade to shire roads SR13B (Bedooba) and SR14 (Manuka) which form the route from the project site to MR410 (Kidman Way).

If no agreement is reached between the parties by 27 April 2012, the expert will send his or her report on the appropriate level of upgrading to the Panel by 4 May 2012 for its consideration and, if thought fit, approval. Upon that approval, the upgrading works so stipulated shall form a further, modified condition to the existing planning consent.

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

Road Occupancy Licences as relevant must be obtained in respect of the agreed upgrading works. Specifications for the work must meet the minimum requirements of AUS-SPEC having regard to predicted traffic movements.


The applicant must at its own cost maintain the roads in a safe and trafficable condition for the duration of the agreed upgrading works project.

3. CCR does not agree with some of the conditions suggested in recommendation 5 as described below:
 - (a) Additional conditions 37,38,40,41 are unacceptable to CCR and relate to the impasse the parties now find themselves in as to the Shire road upgrade: these can be discussed as part of the expert determination process.
 - (b) Additional conditions 39,43,47 are acceptable to both parties.
 - (c) Additional conditions 42 and 44 are acceptable to CCR if amended to read as follow:

“42. The applicant shall upon request and for information purposes only, provide Council with the results of testing of the material to be used ex-site for road construction work.”

“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” or from a quarry operated by Cobar Shire Council. Should a quarry operated by Cobar Shire Council have insufficient material available to meet CCR’s needs in the timeframe agreed for the road upgrade to be completed, then the timeframe shall be extended for such amount of time as is necessary to enable sufficient material to be extracted.”
 - (d) Additional condition 45 is unacceptable to CCR in its current form. However CCR is willing to rectify any concerns Council Engineers have regarding the entranceway by either gravel sheeting the road in the vicinity of the entranceway or by lowering the entranceway

Yours faithfully,
Baker & McKenzie

A handwritten signature in black ink, appearing to read 'Andrew Beatty', with a long horizontal flourish extending to the right.

Andrew Beatty
Partner
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23 February 2012

Mr Gary Woodman
General Manager
Cobar Shire Council
P.O. Box 223
Cobar NSW 2835

Dear Gary,

Re: Wonawinta Development Consent Modification Application

Thank you for returning my phone calls late yesterday afternoon.

We are disappointed that you are not interested in reaching some sort of compromise position regarding our impasse re the shire road upgrade.

Should you reflect further upon this matter I wish to confirm that we remain open to having a more developed discussion regarding the possibility of the shire accepting TGM's recommendation re the standard required for the shire road to be "fit for purpose" and for Cobar Shire Council to be CCR's preferred contractor for all upgrade and maintenance works.

Yours sincerely,



Stephanie Reeves

Legal Counsel

Cobar Consolidated Resources Limited

Cc Cobar Shire Councillors