

All communications to be addressed  
to the General Manager  
PO Box 223  
Cobar NSW 2835

Telephone: (02) 6836 5888  
Facsimile: (02) 6836 5889  
Email: mail@cobar.nsw.gov.au  
Website: www.cobar.nsw.gov.au  
In your reply please quote:

Ref: 2010/LD-00074 REV01  
GJR:KAB



*"Regional Centre in Western NSW"*

Cobar Shire Council Offices:  
36 Linsley Street  
Cobar NSW 2835  
ABN 71 579 717 155

28 February 2012

Angela Kenna  
Project Officer  
Panel Secretariat  
GPO Box 39  
SYDNEY NSW 2001

Dear Ms Kenna

**RE: WONAWINTA SILVER PROJECT**

I acknowledge receipt of your email yesterday attaching a copy of a letter from Baker and McKenzie on behalf of Cobar Consolidated Resources Limited dated 27 February 2012.

The following comments are provided in response to each of the items in the letter.

**1. Agreed Recommendations 1, 2, 3, 6, 7 and 8.**

No comment required.

**2. Recommendation 4.**

The recommendation in the supplementary report dated 15 February 2012 should stand.

The amended condition 27 as proposed by the applicant has again been considered by the Director of Engineering Services. The standard of upgrading works offered by the applicant is considered to be inadequate to service the mine development. Any lessening of the standard of upgrading works required by condition 27 in Development Consent 2010/LD-00074 will have an adverse impact on all road users and create a potential financial liability to the wider community.

The standard of upgrading works required by condition 27 has the support of Cobar Shire Council as confirmed in a Councillor and senior staff workshop held on 23 February 2011. The standard of work required by condition 27 is not considered to be unreasonable or onerous.

A further and most important point regarding the applicant's proposed amended condition 27 is for the Panel to determine whether the change sought by the amendments sought in the applicant's letters dated 31 January 2012 and 27 February 2012 to the modification application would result in the amended modification being substantially different to the original modification application. To assist the Panel in this regard a copy of a letter prepared by the Marsdens Law Group is attached.

As previously stated in the supplementary report the amendments proposed by the applicant have not been subject to public notification and in my view constitute a substantial change to the application which was lodged with Council on 1 November 2011.

The supplementary report dated 15 February 2012 provided a copy of a public submission received on 10 February 2012 as an attachment for the information of Panel Members. A further public submission was received on 23 February 2012 which in part relates to the modification application. A copy of this submission is provided as an attachment for the information of Panel Members.

The importance of due process being followed is highlighted as a consideration being relevant to s123 of the *Environmental Planning and Assessment Act 1979*.

The proposed alternative to the proposed condition 27 detailed in this item of the letter is not supported on similar grounds to above. The standard of upgrading work required by condition 27 of Development Consent 2010/LD-00074 is not considered to be onerous or unreasonable and the alternative condition in my view also constitutes a substantial change to the application which was lodged with Council on 1 November 2011.

### **3. Recommendation 5.**

- a) Refer to previous comments in supplementary report dated 15 February 2012 and relevant attachments.
- b) No comment required.
- c) and d) Refer to previous comments in supplementary report dated 15 February 2012 and relevant attachments.

**Note:** The letter dated 27 February 2012 is silent in respect of additional conditions 46 and 48. The inclusion of condition 46 and 48 in the supplementary report recommendations should stand.

Please do not hesitate to contact me should you require further information in this matter at Council Chambers on 02 6836 5888.

Yours faithfully



Garry Ryman

**DIRECTOR OF PLANNING AND ENVIRONMENTAL SERVICES**