

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

**Wonawinta Silver Project – Application to Modify Development
Consent 2010/LD-00074 REV01.**

1. DETAILS OF THE APPLICATION

<u>Application Number:</u>	JRPP Reference Number: 2012 WES 010 Cobar Shire Council Reference Number: 2010/LD-00074 REV02
<u>Applicant:</u>	Cobar Consolidated Resources Limited
<u>Land:</u>	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 to allow blasting at the Wonawinta Mine Site.

Relevant application documents as provided by the applicant are included in Appendix 1 (Page 10)

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 application is seeking approval to modify the existing consent to allow the use of blasting at the Wonawinta Mine Site. The application states that blasting was not envisaged to be necessary when the original application was prepared and submitted for approval. However, since that time some small pockets of hard limestone have been encountered in the pit necessitating the need for blasting.

The application documents were prepared in response to pre-lodgement advice obtained from the Environment Protection Authority.

Copies of the Consent Notices 2010/LD-00074 and 2010/LD-00074 REV01 are provided in Appendix 2 (Page 75)

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 application is seeking approval for the use of blasting at the Wonawinta Mine Site. The need for blasting was not envisaged in the original application.

The approved mining project is otherwise unchanged and the proposed modification is substantially the same development.

The integrated approval bodies and concurrence authority involved in the original development application have been consulted, and their comments considered in the assessment.

The application to modify Development Consent 2010/LD-00074 REV01 has been notified in accordance with the *Environmental Planning and Assessment Regulation 2000*. There are no notification requirements under a Development Control Plan applying to the land.

No public submissions have been received.

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 proposed has been assessed as satisfying relevant planning controls and is worthy of support.

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 3 (Page 143).

A list of persons who made a submission regarding the original application and given notice of the modification application is provided in Appendix 4 (Page 144).

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

www.cobar.nsw.gov.au

No public submissions have been received following the public exhibition and notification of the application.

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

Recommendation:

That the application to modify Development Consent 2010/LD-00074 REV01 pursuant to s96(2) of the *Environmental Planning and Assessment Act 1979* be approved subject to the Notice of Determination dated 6 March 2012 being modified in the manner as specified below:

1. Alter condition 1 to also reference 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, B and C. The statement is held on Council's Development Application File and marked as 2010/LD-00074 REV02.
- Cobar Consolidated Resources Limited letter dated 6 August 2012 responding to a request for additional information from the NSW Environment Protection Authority.
- Cobar Consolidated Resources Limited letter date 25 September 2012 responding to a further request for additional information from the NSW Environment Protection Authority.

2. Include the following additional items of advice in the Notice of Determination.

- e) The proponent is to obtain a Road Occupancy Licence from NSW Roads and Maritime Services if the Kidman Way (MR410) would be closed during blasting.
- f) The proponent is to modify its Mining Operations Plan (NSW Trade and Investment – Resources and Energy) to incorporate modifications approved by application 2010/LD-00074 REV02.

3. Alter the Notice of General Terms of Approval to also reference letter dated 31 August 2012 from the NSW Environment Protection Authority being Notice Number 1508584 pages 1 to 11 (including amendments to conditions L7.5 and L7.7 in letter dated 12 October 2012).

4. Alter the Notice of General Terms of Approval to also reference letter dated 12 October 2012 from the NSW Environment Protection Authority.

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 11 July 2012 is provided in Appendix 3 (Page 143).

A list of persons who made a submission regarding the original application and given notice of the modification application is provided in Appendix 4 (Page 144).

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

No public submissions have been received in respect of the 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 all comments received from the referral agencies are provided in Appendix 5 (Page 145).

The Environment Protection Authority issued General Terms of Approval in respect of the blasting proposed on 31 August 2012.

On 11 September 2012 the applicant wrote to the Environment Protection Authority requesting some changes to these General Terms of Approval.

The Environment Protection Authority provided Council with a copy of their letter dated 12 October 2012 confirming specific amendments to the General Terms of Approval issued on 31 August 2012.

In a letter dated 15 October 2012 the applicant confirmed their acceptance of the amended General Terms of Approval issued by the Environment Protection Authority.

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.

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 mining and is unchanged by this application. 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 previous applications. This modification application does not change the mining footprint or areas of disturbance, it merely introduces an additional method of mining, which may be employed in the operation of the mine.

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 being relevant to this development project.

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 4 July 2012.

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 application.

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.

This draft instrument has been approved since the subject application was lodged, as *Cobar Local Environmental Plan 2012* having been published on the NSW Legislation website on 3 August 2012.

- 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. The blasting activities will not change the mining

footprint or increase areas of the site already approved for disturbance. The proposed modification will not cause any significant threats as relevant to s5A.

The expected impacts from the proposed modification regarding noise and vibration have been assessed by the Environment Protection Authority.

The recommendations of the Environment Protection Authority are supported and included in the recommendation of the assessment report.

The comments provided by the NSW Roads and Maritime Services and Resources and Energy are included as advice to the applicant in the recommendation.

The likely impacts of the proposed modification have been assessed as being reasonable and the assessment supports conditional approval.

- 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 mine is sufficiently remote from unrelated residences to manage the impact of potential off site impacts.

- Submissions

No public submissions have been received.

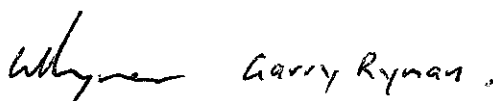
- Public Interest

The proposed modification is considered to be in the public interest. The potential impact of noise and vibration may be managed as recommended by the Environment Protection Authority. The economic benefits of the project to the public as initially assessed is not 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:



DIRECTOR OF PLANNING & ENVIRONMENTAL SERVICES

Dated: 1 November 2012