

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

Manuka Mine (Previously known as Wonawinta Silver Mine) –
Application to Modify Development Consent 2010/LD-00074
REV02.

1. DETAILS OF THE APPLICATION

<u>Application Number:</u>	JRPP Reference Number: 2015 WES 005 Cobar Shire Council Reference Number: 2010/LD-00074 REV03
<u>Applicant:</u>	Troy Lowien- General Manager- Black Oak Minerals Limited
<u>Land:</u>	Manuka Mine (Previously known as Wonawinta Silver Mine) 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.

- Amend the layout of the mine site
- To accept transported Mt Boppy Mine Ore at Manuka Mine
- To process Mt Boppy Ore at Manuka Mine
- To revise the Biodiversity Offset Strategy

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:

- **Amend the layout of the mine site**

The applicant seeks to change the location, size, shape and alignment of certain aspects of the existing mine site slightly from what was presented in the Environmental Impact Statement (EIS) that accompanied the original Development Application.

Specifically, the principal differences between the approved EIS layout and the to-be-modified layout are:

- (i) The shapes of the Manuka and Boundary pits are to reflect the current, as constructed shapes; and*
- (ii) To change the proximity of the ROM Pad, processing plant and office area to the TSF to reflect the as constructed proximities; and*
- (iii) To change the dimensions of the ROM Pad, processing plant and office area to reflect the as constructed dimensions; and*
- (iv) To change the shape of the TSF to reflect the as constructed shape; and*
- (v) To identify the presence of existing temporary stockpile areas of hard rock, low grade ore and clay; and*
- (vi) Modified ancillary infrastructure, including the site access road, internal haul roads and surface water management structures*

Essentially, the layout modifications relate to works already undertaken that are currently inconsistent with the design identified in the original EIS, which is identified in condition 1 of the Development Consent.

- **To accept transported ore from Mount Boppy Mine and to back load returning trucks from Manuka Mine with waste rock and other material for road maintenance and rehabilitation operations at Mount Boppy Mine.**

The applicant is seeking to transport ore from the Mount Boppy Mine located in Canbelego to the Manuka Mine for processing.

The ore is to be loaded at Mount Boppy and transported via Gilgunnia-Canbelego Road, Barrier Highway (SH 8), Kidman Way (MR 410), Manuka Road (SR14), Bedooba Road (SR 13B) and unload at Manuka Mine.

Occasionally, trucks returning to the Mount Boppy Mine would be back loaded with waste rock and other material for use in road maintenance and rehabilitation operations.

Haulage would cease during wet conditions.

- **Processing of Mount Boppy ore at Manuka Mine**

The gold bearing Mount Boppy Mine ore is to be processed in the same processing circuit used for the silver bearing ore from the Manuka Mine. Some minor modifications are needed to the Manuka Mine processing plant to process the Mount Boppy Mine ore.

The tailings material generated by the processing operations would be discharged to the existing TSF, which has sufficient capacity to accept the approximately 1 000 000 tonnes of tailings. The TSF would not need to be modified to accept the tailings generated from the processing of the Mount Boppy Mine ore, other than an additional lift.

- **Revision of the Biodiversity Offset Strategy**

Due to a reduced disturbed footprint of the Manuka Mine, the applicant has sought to revise the Biodiversity Offset Strategy (BOS).

The revised BOS would include an area of the same vegetation to be disturbed, on the “Manuka” property to the northeast of the mine site. The applicant proposes to secure, conserve and maintain this area, and a separate area containing Aboriginal Site #34-1-10008, through a variation to the Property Vegetation Plan (PVP) held over the “Manuka” property.

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 changes to the layout which occurred primarily by the previous operators of the mine, to accept and process ore from Mt Boppy Mine and to revise the Biodiversity Offset Strategy due to the reduced disturbed footprint of the mine site.

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 REV02 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 Section 79C(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 Section 79C (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*.

A copy of the Public Notice published in the *Cobar Weekly* on the 27th of May and the 3rd of June 2015.

A list of persons who made a submission regarding the original application and given notice of the modification application is provided in Appendix 1.

The application was also made available on Cobar Shire Councils website.

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 REV02 pursuant to Section 96(2) of the Environmental *Planning and Assessment Act 1979* be approved subject to being modified in the manner as specified below:

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

- Statement of Environmental Effects prepared by R.W Corkery and Co. Pty Limited dated May 2015 and referenced as 802/27 for a proposed modification of development consent 2010/LD 047 Rev 02 pursuant to s96 (2) of the *Environment Planning and Assessment Act 1979*. The Statement of Environmental Effects is held on Council's Development Application File and marked as 2010/LD-00074 REV03.
- Report by R.W Corkery and Co Pty Limited dated July 2015 responding to each of the submissions received by Council from the concurrence and approval authorities.

2. Alter condition 32 to read as following:

The person(s) having benefit of the development consent shall prepare a suitable Biodiversity Offset Strategy (in the form of a Property Vegetation Plan or equivalent arrangement) to compensate for the impacts of the project. This Biodiversity Offset Strategy must:

- a) Be prepared in consultation with the regulatory authority responsible for administering the offset as secured;
- b) Quantify and categorise the biodiversity values of both the impacted site and proposed offset area(s);
- c) Provide for an offset to disturbance ratio of at least 2:1;
- d) Provide for vegetation of the same Biometric Vegetation Type, or Biometric Vegetation Type of equivalent conservation value;
- e) Provide for the protection of significant Aboriginal site 34-1-0008; and
- f) Be updated and submitted to Council for approval prior to commencement of disturbance of the Belah or Bimble Pits (or associated disturbance).

Disturbance associated with the development of the Belah or Bimble Pits may not proceed until an updated Biodiversity Offset Strategy, which complies with a) to d), is approved by Council.

3. Alter condition 33 to read as following:

Within 6 months of the approval of the Biodiversity Offset Strategy (referred to in Condition 32 above), the person(s) having benefit of the modified development consent shall provide appropriate long-term security for the area included in the strategy to the satisfaction of Council and the regulatory authority responsible for administering the implementation of the Biodiversity Offset Strategy.

4. Alter condition 27 to read as following:

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:

- Upgrade formation drainage where required.
- Re-profile the road formation where required.

- Crush, load and haul the required volume of limestone to place on the areas of Manuka Rd susceptible to water penetration during rain events.
- Lift and re-profile low lying areas so water sheds and drains. (in lieu of concrete culverts)
- Upgrade the Manuka-Bedooba Rd intersection. Installation of a culvert if required.
- Dust suppression on the portion of Manuka Rd outside of Lot 5074, DP 45018 “Belford”
- Reinstate fences up to the existing grids.

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.

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.

These works correlate to the expected ore hauling timeframe of 13 months. Should this situation change or where mining activities intensify on Manuka Mine, the person(s) having benefit of this modified consent shall re-negotiate with Council on a revised upgrading program.

5. Add the following conditions to the Modified Development Consent

Roads and Maritime Services Conditions

- A) Within three (3) months of haulage operations commencing, the intersection of Gilgunnia-Canbelego Road and the Barrier Highway is to be upgraded in accordance with Austroads Guide to Road Design Part 4A (2010) Figures 7.5 and 8.2 ‘Type BAR (Basic Right Turn) and ‘Type BAL’ (Basic Left Turn) and any relevant Roads and Maritime Supplements. Both BAR and BAL treatments are to be sealed, match existing road levels and not interfere with existing road drainage. The intersection is to be designed to accommodate the simultaneous passing of the largest right and left turning haulage vehicles (nominated as AB Triple Road Trains) whilst still allowing east bound traffic on the Barrier Highway sufficient room to pass a right turning haulage vehicle on the left hand side.
- B) In the event of haulage operations occurring prior to the intersection upgrade, prior to such commencement, the applicant is to submit to Roads and Maritime a ‘Portable VMS Messaging and Location Request’ form and position variable message board signs on the eastern and western approaches to the intersection of Gilgunnia-Canbelego Road and the Barrier Highway in accordance with the approved Request form. The VMS are to alternate the display of the words “Trucks Turning Ahead” and “250 meters” and be operated until works commence at the intersection.
- C) Gateway size C advance truck warning (W5-22) and distance plate (W8-5) signage is to be provided adjacent to the Barrier Highway, 300 metres either side of the Gilgunnia-Canbelego Road/Barrier Highway intersection.
- D) Manuka-Yarranvale Road is to be sealed for a minimum of forty (40) metres from edge of northbound travel land of the Kidman Way. The levels of the Manuka-Yarranvale Road are to match the levels of the Kidman Way. The timeframes to complete these works shall be agreed upon following discussions with Black Oak Minerals Limited, Cobar Shire Council and the Roads and Maritime Services.

- E) Safe Intersection Sight Distance (SISD) requirements outlined in Austroads Guide to Road Design 4A and relevant Roads and Maritime Supplements is to be provided and maintained in each direction at the intersection of Manuka-Yarranvale Road and Kidman Way. For a 100km/h speed zone the minimum SISD is 300 metres.
- F) A formal agreement in the form of a Works Authorisation is required between the developer and Roads and Maritime Services for the developer to undertake “private financing and construction” of any work on Kidman Way. This agreement is necessary for works in which Roads and Maritime Services has a statutory interest. The Works Authorisation Deed is to be executed prior to the commencement of road work.
- G) Prior to the commencement of construction work, the person(s) having benefit of the development consent is to contact Roads and Maritime Services’ Traffic Operations Coordinator to determine if a Road Occupancy License is required. In the event that a ROL is required, the proponent will obtain the ROL prior to work commencing within three (3) metres of the travel lanes in Kidman Way.
- H) The person(s) having benefit of the development consent is to consult with the National Heavy Vehicle Regulator to ensure that proposed haulage vehicles are legally able to travel on haulage routes.
- I) The person(s) having benefit of the development consent is to prepare and implement a code of conduct relating to transport of materials on public roads as part of the considerations under clause 16(1) of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.
1. Details of transportation hours pursuant to approval of the modification application
 2. Procedure for the transport of hazardous materials
 3. Details of the transportation routes to be followed for the delivery of product including alternative transportation routes following road closures due to wet weather
 4. Details of the local school bus route, operating hours and pick up and drop off points along transportation routes. Drivers are to be conscious of school buses and school children particularly during the operating hours of local school bus services.
 5. Requirement for drivers to operate vehicles in a safe, professional and courteous manner.
- The code of conduct is to be supplied to Roads and Maritime for concurrence and distributed to drivers prior to commencement of any transportation.

Division of Resources and Energy Conditions

- A) The person(s) having benefit of the development consent shall rehabilitate the site to the satisfaction of the Director, Environmental Sustainability in the Division of Resources and Energy.

Rehabilitation must be substantially consistent with the Rehabilitation Objectives described in the SOEE, and the following objectives in the following table:

Rehabilitation Objectives

Rehabilitation Feature	Objective
------------------------	-----------

Mine site (as a whole of the disturbed land and water)	Safe, stable and non-polluting, fit for the purpose of the intended post-mining land use(s)
Rehabilitation materials	Materials (including topsoils, substrates and seeds of the disturbed areas) are recovered, appropriately managed and used effectively as resources in the rehabilitation.
Landforms	Final landforms sustain the intended land use for the post-mining domain(s) Final landforms are consistent with and complement the topography of the surrounding region to minimise the visual prominence of the final landforms in the post mining landscape. Final landforms incorporate design relief patterns and principles for consistent with natural drainage.
Water Quality	Water retained on site is fit for the intended land use(s) for the post-mining domains(s). Water discharged from site is consistent with the baseline ecological, hydrological and geomorphic conditions of the creeks prior to mining disturbance. Water management is consistent with the regional catchment management strategy.
Native flora and fauna habitat and corridors	Size, locations and species of native tree lots and corridors are established to sustain biodiversity habitats. Species are selected that re-establishes and complements regional and local biodiversity.
Post-Mining agricultural pursuits	The land capability classification for the relevant nominated agricultural pursuit for each domain is established and self-sustaining within 5 years of land use establishment (first planting of vegetation)

- B) The person(s) having benefit of the development consent shall carry out all surface disturbing activities (e.g. pre-stripping in advance of mining operations) in a manner that, as far is reasonably practicable, minimises potential for dust emissions and shall carry out rehabilitation of disturbed areas progressively, as soon as reasonable practicable, to the satisfaction of the Director Sustainability in the Division of Energy and Resources.
- C) The person(s) having benefit of the development consent must prepare and implement a Mining Operations Plan in consultation with the Division of Energy and Resources and in accordance with the relevant guidelines.

NSW Office of Water Conditions

- A. Where a contractor, other than Cobar Shire Council, undertakes the upgrade of Sandy Creek causeway, a Controlled Activity Approval shall be obtained from the NSW Office of Water prior to commencement of any works associated with the upgrade of this causeway.

- B. A Stormwater Management Scheme has been prepared in support of this modification application. This information in addition to other relevant parts of the Statement of Environmental Effects shall be used to update the Water Management Plan.
- C. The person(s) having benefit of the development consent shall review the Water Management Plan in consultation with the NSW Office of Water.

Crown Lands and Western Local Land Services Conditions

- A. The Tailing Storage Facility shall be fenced within six months from the date of determination of this modification application to restrict access of terrestrial herbivores to the tailings and decant water.

NSW Office of Environment and Heritage Conditions

- A. The approved offset must be secured in perpetuity with an appropriate mechanism supported by Office of Environment and Heritage.
- B. In the event that key performance targets, referenced in Section 8.2 of the Biodiversity Offset Strategy, are not achieved, in particular the maintenance of groundcover, the frequency and duration of controlled grazing will be reviewed and potentially suspended.
- C. If surface disturbance works are proposed to occur outside the road related area, as part of the road upgrades, the person(s) having benefit of the development consent must inform Council to ascertain whether an assessment of flora, fauna and cultural heritage is warranted in accordance with the requirements of the NSW Office of Environment and Heritage.
- D. Where direct or indirect impact of Aboriginal Site #34-1-0008 is detected, proactive measures must be employed to preserve the site in addition to conducting a specialist archaeological investigation and provision of a report identifying the findings of this investigation to Cobar Shire Council and the NSW Office of Environment and Heritage.

NSW Environment Protection Authority Conditions

- A. The person(s) having benefit of the development consent shall vary Environment Protection License No. 20020.
- B. The person(s) having benefit of the development consent shall comply with the General Terms of Approval attached to NSW EPA's letter dated 21 July 2015, Notice No. 1531951, File No. EF14/30150 as attached to this modified consent.

6. 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 Weekly* on the 27th of May and the 3rd of June 2015 in accordance with Clause 118 of the Environmental Planning and Assessment Regulation 2000.

A list of persons who made a submission regarding the original application and given notice of the modification application is provided in Appendix 1.

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.

7. AGENCY REFERRALS

Notice was given to each approval body and concurrence authority involved with the original application pursuant to Section 96 (2) of the *Environmental Planning and Assessment Act 1979* and Clause 120 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of all final comments received from the referral agencies are provided in Appendix 2.

The following table summarises the final comments received by Council from the approval/concurrence authorities.

Approval/Concurrence Authority	Final Comments	Applicants Response
Roads and Maritime Services (RMS)	<p><i>Roads and Maritime Services raised no objections to the proposal, however provided some recommendations for Council to consider which were:</i></p> <ol style="list-style-type: none"> 1. The intersection of Manuka/Yarranvale Road and Kidamn Way is to be upgraded 2. Manuka-Yaranvale Road is to be sealed for a minimum of forty metres from the edge of the Northbound land of Kidman Way 3. Gateway size c advance truck warning and distance plate signage is to be provided adjacent to Kidman Way 300 metres either side of Manuka Yarranvale Road/Kidman Way intersection. 4. Safe Intersection Sight Distance requirements outlined in Austroads Guide to Road Design Part 4A and relevant Roads and 	<p><i>Black Oak Minerals Limited (BOML) provided the following responses to the numbered recommendations from RMS:</i></p> <ol style="list-style-type: none"> 1. BOML is committed to the requested upgrade however seeks no timeframe to be listed in the consent. A timeframe is to be negotiated between BOML and the road authorities. 2. BOML accepts this recommendation however seeks to negotiate timing of these works. 3. BOML accepts this recommendation. 4. BOML accepts this

	<p>Maritime Supplements is to be provided and maintained in each direction at the intersection of Manuka Yarranvale Road and Kidman Way.</p> <ol style="list-style-type: none"> 5. A formal agreement in the form of a Works Authorisation is required between the developer and Roads and Maritime Services for the developer to undertake “private financing and construction” of any work on Kidman Way. The Works Authorisation Deed is to be executed prior to the commencement of road work. 6. Prior to the commencement of construction work, the proponent is to contact Roads and Maritime Services’ Traffic Operations Coordinator to determine if a Road Occupancy License is required. 7. The proponent is to consult with the National Heavy Vehicle Regulator to ensure that proposed haulage vehicles are legally able to travel on haulage routes. 8. A traffic management plan is to be developed in consultation with Cobar Shire Council and Roads and Maritime Services. The traffic management plan is to provide initiatives to reduce traffic commuting to the mine by encouraging and facilitating car-pooling and shuttle bus programs. 9. The proponent is to prepare and implement a code of conduct relating to transport of materials on public roads as part of the considerations under clause 16(1) 	<p>recommendation.</p> <ol style="list-style-type: none"> 5. BOML accepts this recommendation 6. BOML accepts this recommendation 7. BOML accepts this recommendation. 8. BOML suggests that due to the small workforce, isolated location and lightly trafficked roads, there is little need for a Traffic Management Plan. 9. BOML accepts this recommendation.
--	---	--

	of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007. The code of conduct is to be supplied to Roads and Maritime for concurrence and distributed to drivers prior to commencement of any transportation.	
Division of Resources and Energy (DRE)	<p>DRE in their last submission to Council provided comments in relation to Tailings Management, Despatch of Materials from Manuka Mine to Mt Boppy Mine, Mine life and final landform, which are all matters to be addressed as part of the Mine Operation Plan, issued by DRE. Recommended conditions of consent were provided by DRE, which included:</p> <ol style="list-style-type: none"> 1. Insertion of rehabilitation objectives into the development consent (<i>Details of this condition are provided in the recommendation section of this JRPP report</i>) 2. The proponent shall carry out all surface disturbing activities (eg pre-stripping in advance of mining operations) in a manner that, as far as practicable, minimises potential for dust emissions and shall carry out rehabilitation of disturbed areas progressively, as soon as reasonably practicable, to the satisfaction of the Director of Environmental Sustainability in DRE. 3. The proponent must prepare and implement a rehabilitation plan. (A note is provided at the end of this recommended condition that a Mining Operation Plan will satisfy this condition). 	<p><i>Black Oak Minerals Limited (BOML) provided the following responses to the numbered conditions from DRE:</i></p> <ol style="list-style-type: none"> 1. BOML does not object to this condition. 2. BOML does not object to this condition. 3. BOML did not object to this condition, however have noted that a rehabilitation plan is generally associated with State Significant Development, which this mine project is not defined as. BOML have sought a condition requiring the preparation of a Mine Operations Plan in consultation with DRE and in accordance with relevant guidelines.
NSW Office of Water	NSW Office of Water (NOW) provided	<i>Black Oak Minerals Limited</i>

	<p>comments and recommendations in their final response to Council and included:</p> <ol style="list-style-type: none"> 1. It is recognised that the proposed causeway upgrade of Sandy Creek is to occur within a road reserve managed by Cobar Shire Council and the works are likely to be completed by Council. If an alternate contractor is to be engaged by the proponent, a Controlled Activity Approval may be required and consultation with NSW Office of Water and Council would be necessary prior to construction to confirm any approval requirements. 2. A Stormwater Management Scheme has been prepared in support of this modification application. It is recommended this information in addition to other relevant parts of the Statement of Environmental Effects be used to update the Water Management Plan. 3. The proponent shall review the Water Management Plan in consultation with the NSW Office of Water 	<p><i>(BOML) provided the following responses to the numbered comments/recommendations from NOW:</i></p> <ol style="list-style-type: none"> 1. BOML acknowledges this advice 2. BOML accepts this recommendation. 3. BOML accepts this recommendation.
Local Land Services- Western	<p>Local Land Services- Western (LLS) provided the following comments to Council in their submission:</p> <ol style="list-style-type: none"> 1. The intent to develop a Conservation Property Vegetation Plan as the management instrument for the Biodiversity Offset Area is noted and supported. A Conservation PVP can be configured to provide an appropriate management prescription for the revised offset area. 2. Currently biodiversity offset management appears to be defined by the Invasive Native Species Property Vegetation Plan for Manuka. The 	<p><i>Black Oak Minerals Limited (BOML) provided the following responses to the numbered comments from LLS:</i></p> <ol style="list-style-type: none"> 1. BOML notes LLS' support provided to the proposed mechanism for securing the Biodiversity Offset Strategy. 2. The management measures to be applied on Manuka are contained within the biodiversity offset strategy provided to

	<p>document does not define best management practice as might be applied on any area of Manuka for either pastoral or biodiversity management. It merely defines permissible clearing...gaining control of grazing pressure through the implementation of this type of fencing is best management practice in the region.</p> <p>3. LLS note that there are no details in relation to fencing to prevent feral goats from entering parts of the Mine site.</p>	<p>LLS for review and comment earlier this year.</p> <p>3. BOML commit to fence the Tailings Storage Facility (TSF) within six months of approval of the modification application.</p>
Crown Lands	<p>Crown Lands provided the following comments to Council in their submission:</p> <p>1. It is suggested that the mine be fenced to prevent goats accessing tailings water.</p>	<p><i>Black Oak Minerals Limited (BOML) provided the following responses to the numbered comments from Crown Lands:</i></p> <p>1. BOML commit to fence the TSF within six months of approval of the modification application.</p>
NSW Office of Environment and Heritage	<p>NSW Office of Environment and Heritage (OEH) provided the following comments/recommended conditions to Council in their submission:</p> <p>1. The proposed offset of 330ha only offsets the areas within the project site that are currently disturbed, and does not take into account the currently approved Belah and Bimble pits and associated waste dumps. OEH does not support the proposed changes to condition 32 (c) if the currently approved Belah and Bimble pits and associated waste dumps are to remain as part of the approval...OEH recommends that condition 32 (c) require an adequate offset for the entire approved areas of impact including Belah and Bimble Pits and waste dumps.</p> <p>2. OEH recommends that a timeframe for</p>	<p><i>Black Oak Minerals Limited (BOML) provided the following responses to the numbered comments from OEH:</i></p> <p>1. BOML believes it is reasonable to retain the option to develop Belah and Bimble Pits if they become economically viable. BOML agrees offsetting is required for any additional impacts should they be needed and approved, however suggest Council consider approving the BOS with a clause stating “if additional impact i.e Belah and Bimble Pits are required</p>

	<p>securing the approved offset be included in the consent conditions.</p> <p>3. OEH recommends that the consent conditions require that the offset must be secured in perpetuity with and appropriate mechanism supported by OEH.</p> <p>4. OEH recommend that the proponent provides justification to show that domestic stock grazing will have an improved biodiversity outcome or Update the offset management actions to full exclusion of domestic stock.</p> <p>5. OEH recommend that the proponent conducts flora, fauna and cultural heritage assessments for all road upgrades and maintenance.</p> <p>6. OEH recommend that any removal of native vegetation related to these activities be quantified using an appropriate methodology such as the Biobanking Assessment Methodology, and appropriate offset provided.</p> <p>7. OEH recommend that the proponent provides details of the proposed measures to allow for the protection of Aboriginal Site #34-1-0008.</p>	<p>then the proponent will need to compensate the impact to native vegetation at 2:1 ratio”.</p> <p>2. BOML accepts this recommended condition.</p> <p>3. BOML accepts this recommended condition.</p> <p>4. The targets to achieve an improved biodiversity outcome are detailed in Section 8.2 of the Biodiversity Offset Strategy. In the event any of these targets are not achieved, in particular the maintenance of groundcover, the frequency and duration of controlled grazing will reviewed and potentially suspended.</p> <p>5 & 6 No disturbance of beyond the maintained road pavement and shoulders is required and therefore no additional assessment of ecology of cultural heritage is required. Furthermore, it is also noted that routine maintenance within road corridors does not require the completion of ecological or heritage assessments. The nature of the proposed road works and maintenance is considered ‘routine maintenance’.</p> <p>7. Section 7.4.1 of the Biodiversity Offset Strategy describes the</p>
--	---	---

		proposed measures for the protection of this site. If impact may occur to this site then further proactive measures may need to be employed to conserve the site. This would require a specialist archaeological investigation to develop a conservation plan.
NSW Environment Protection Authority	EPA have issued General Terms of Approval (GTA) to Council to be referenced within the modified consent.	BOML raised no comment following submission of the GTA's.

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

8. 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

Section 96 (3) requires that the assessment of any modification application to take into consideration the matters detailed in Section 79C (1) of the Environmental Planning and Assessment Act 1979.

- Cobar Local Environmental Plan 2012 (LEP)

The modification is consistent with the definition of a 'mine' contained within the dictionary found in the LEP. The land is in Zone RU1 – Primary Production, which permits open cut mining with prior development consent.

The previous two modification applications were assessed against the provisions detailed in Councils previous LEP (Cobar LEP 2001), which also permitted open cut mining with prior consent.

Irrespective of the mine sites compliance with Councils previous LEP, the Environmental Planning and Assessment Act 1979 requires Council to take into consideration the requirements of the current Local Environmental Plan whilst assessing this current modification application.

The objectives of the RU1 Primary Production zone are as following:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

It is considered that the development, including the proposed modifications, is consistent with the zone objectives.

With respect to relevant matters for consideration in the LEP, the following table was developed demonstrating the developments level of compliance:

LEP Clause	Compliance
Clause 1.2- Aims of Plan	Complies
Clause 1.6- Consent authority	For the purposes of this application the consent authority will be JRPP despite the provisions of this clause
RU1 Primary Production zoning permissibility	Complies- Permissible with consent
Clause 5.9- Preservation of trees and vegetation	Complies
Clause 5.10- Heritage Conservation	Complies
Clause 6.1- Earthworks	Complies
Clause 6.3- Stormwater	Complies
Clause 6.4- Terrestrial Biodiversity	Complies
Clause 6.6- Riparian Land and Watercourses	Complies

Following an assessment of the proposal against the provisions detailed in the Cobar LEP 2012, it is considered that the proposal is permissible and compliant with this Environmental Planning Instrument.

- 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 Joint Regional Planning Panel.

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.

NSW Roads and Maritime Services 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

No draft instruments relate to this specific modification application.

- 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 proposed modification will not cause any significant threats as relevant to s5A.

The expected environmental impacts have been assessed by Council as well as the relevant State approval and concurrence authorities. Following this rigorous assessment, it is considered that the proposal will impose minimal but acceptable impacts on the environment.

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 impacts of the proposed modifications may be managed by existing and proposed conditions of the modified development consent. The economic benefits of the project to the public as initially assessed are not changed by the modification.

9. 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:

Stephen Poulter
Acting Director of Planning and Environmental Services

Dated: 6 August 2015