

Mr Stephen Barry  
 Planning Director - Independent Planning Commission  
 Via email: [REDACTED]

29 March 2023

**Bowdens Silver Project (SSD 5765)  
 Response to Request for Comment - Recommended Conditions of Consent**

Dear Mr Barry

I refer to your letter dated 27 March 2023, seeking the Department’s advice on the proposed conditions of consent for the Bowdens Silver Project (project) for consideration of the NSW Independent Planning Commission (Commission), should it approve the project.

As requested by the Commission, the Department has considered workability, enforceability and any potential unintended consequences of the proposed conditions, and provides the following advice:

| Proposed condition | Summary of the Commission’s comment  | Department’s response  |
|--------------------|--|--|
| <b>B10</b>         | <u>Question to the Department:</u><br>Can the Department confirm that this should be blank?                                      | Confirmed. There are no overpressure limits for infrastructure.  |
| <b>B22(e)(ii)</b>  | Inclusion of Applicant’s commitments in the Noise and Blast Management Plan  | The Applicant would be required to operate the project generally in accordance with the EIS, which includes these commitments.<br><br>While the Department does not typically include specific mitigation measures if they have been included in the EIS documentation, the inclusion of these measures would not be problematic.  |
| <b>B22(e)(vi)</b>  | Inclusion of the words “and reporting” in the protocol for identifying noise or blast exceedances, incidents or non-compliances. | Not required. The condition already requires the Applicant to describe how stakeholders would be notified, while condition B22(g) requires a program to evaluate and report on compliance and conditions D7-D9 outline further notification and reporting requirements   |
| <b>B28</b>         | <u>Question to the Department:</u><br>Is there a reason Table 6 was not included?  | No. The reference to Table 6 should be included in this condition.   |
| <b>B30(e)(iii)</b> | Inclusion of requirement for real-time monitoring of lead particles in dust at nominated locations.                              | The Department’s assessment noted that Prof Taylor recommended lead levels in dust be below 90 µg/m <sup>2</sup> /day to maintain blood lead levels below 5 µg/dL in children – the National Health and Medical Research Council’s recommended trigger to warrant further investigation.<br><br>The health risk assessment considered a level of 2.1 µg/m <sup>2</sup> /day based on predicted lead concentrations in dust emissions from the project. |

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|                    |   | <p>The Department's recommended conditions include the requirement to monitor metal concentrations and to develop a Trigger-Action-Response-Protocol (TARP) with contingency measures for elevated metal concentrations in the Air Quality Management Plan.</p> <p>The Department considers that real-time monitoring of lead levels in dust would not necessarily provide any measurable benefit compared with laboratory analysis of samples collected in deposited dust monitors or high-volume air samplers would occur under the recommended conditions. This is because real time monitoring is most effective to address potential acute exposure to lead in dust. However, this is not the primary health risk, rather it is the long-term cumulative exposure which is of most importance.</p> <p>Nevertheless, real-time monitoring of lead levels in dust may be required as a contingency measure in the event that laboratory samples indicate significantly higher levels than predicted, particularly in the unlikely event that levels reach the recommended trigger level of 90 µg/m<sup>2</sup>/day.</p> <p>The Department considers the existing recommended conditions would be adequate to require this.</p> <p>To make it explicit that the focus should be on lead, the Commission could consider including amending condition B30(e)(ii) to: <i>"monitors particulates, deposited dust and metal concentrations including lead at locations representative of the nearest and/or most affected residences;"</i></p> <p>If the Commission does choose to include the proposed condition B30(e)(iii), the Department recommends that it be edited as follows:</p> <p style="text-align: center;"><i>... <b>includes</b> real-time monitoring of lead particles in dust at <del>nominated</del> <b>representative</b> locations, to the satisfaction of the Planning Secretary</i></p> <p>The Applicant would indicate the representative monitoring location/s in the draft Air Quality management Plan which is to be reviewed by the Planning Secretary and the EPA. The use of nominated in this condition may be construed as the Department's conditions nominating the monitoring locations.</p> <p>The current recommended conditions include the requirement for the Planning Secretary to approve the management plan, so there is no need to include this in the sub condition.</p> |
| <b>B30(e)(v)</b>   | Inclusion of the local community in notification of exceedances, incidents or non-compliances | Not necessary. Condition C5 requires the Applicant to provide details of any exceedances to the owner of any affected residence within 7 days, and condition D14 requires the Applicant to make regular reporting of the environmental performance of the development and a summary of monitoring results available on its website.   |
| <b>B32</b>         | 3 Yearly update to Air Quality and Greenhouse Gas   | Reasonable  |

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|                    | Management Plan to consider greenhouse gas abatement options   |  |
| <b>B47</b>         | Inclusion of requirement to identify and mitigate as well as minimise risks to receiving environment and downstream water users in water performance measures  | The appropriate performance measure is to minimise the risks. The management plan requires the Applicant to identify risks and describe mitigation measures to achieve the performance measure.  |
| <b>B48</b>         | <p>Inclusions of words in conditions B48(e)(iii) and B48(e)(v):</p> <p><i>"detailed plans, design objectives and performance criteria for water management infrastructure, including: ...emplacement areas, including a monitoring and management protocol for characterisation and emplacement of PAF and NAF materials;"</i></p> | <p>Note the additional requirement in condition B48(e)(v) duplicates the amended requirement in B48(e)(iii) and appears to be unnecessary in both locations.</p> <p>The intent of condition B48(e)(iii) is to detail the design objectives and criteria for the water management structure, including the emplacement areas. While the characterisation of PAF/NAF is relevant for the handling and placement of the material in the emplacement, it is not applicable to the design objectives and performance criteria of the emplacement.</p> <p>PAF/NAF characterisation is already addressed in the Acid Mine Drainage Management Plan (condition B48(e)(v)):</p> <ul style="list-style-type: none"> <li>• <i>describes the acid mine drainage management system in detail, including:</i> <ul style="list-style-type: none"> <li>...</li> <li>– <i>the classification system and cutoff values for potentially acid forming and non-acid forming materials;</i></li> <li>– <i>the methods to be used to identify and separate potentially acid forming and non-acid forming materials after extraction and prior to emplacement</i></li> <li>– <i>emplacement areas, including a monitoring and management protocol for characterisation and emplacement of PAF and NAF materials.</i></li> </ul> </li> </ul> <p>Also note a typographic error has been identified in the following point in condition B48(e)(v):</p> <ul style="list-style-type: none"> <li>– <i>the method to be used to treated and/or manage potentially acid forming material;</i></li> </ul> |
| <b>B48 (vii)</b>   |  | Suggest also retaining "and" after last bullet point   |
| <b>B59</b>         | Including requirement for Secretary to approve Heritage Management Plan  | <p>The Department did not intend to approve the Heritage Management Plan as it was not identified as a significant issue in the assessment and consultation with Heritage NSW and RAPs would suffice. This is consistent with the Department's approach to reduce the number of management plans requiring the Planning Secretary's approval.</p> <p>The restriction to not start construction until the plan is provided to the Secretary is relevant.</p>  |

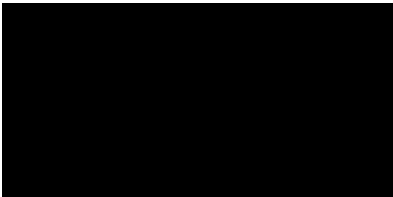
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| <b>B64</b>                | Inclusion of limits on heavy vehicles through Lue  | <p>Limiting the truck movements is reasonable. Recommend rewording to state that these limits apply to project-related heavy vehicles only.</p> <p>Alternative wording to consider is:</p> <p><i>B64. During construction of the relocated Maloneys Road, the development must not generate more than 32 heavy vehicle movements and 4 shuttle bus movements per day through Lue. Light vehicles and the occasional oversize or overmass vehicle are not restricted</i></p>  |
| <b>B78</b>                | Inclusion of requirement to undertake 3 yearly hazard audit.   | <p>Three yearly hazard audits are generally only required for the highest risk facilities such as bulk liquid fuel terminals or ammonium nitrate production facilities.</p> <p>The only two chemicals that trigger the need for a hazard and risk assessment are sodium cyanide and ammonium nitrate blasting agents. Blasting agents would not typically be stored on site, and the EIS identified mitigation and management measures for sodium cyanide to reduce any associated risks. The hazards and risk assessment concluded the risks from both would be small.</p> <p>The Department's hazards unit considers the existing recommended conditions would be adequate to manage both. See attachment A.</p> |
| <b>B84</b>                | include overview of anticipated rehabilitation risks and risk treatment controls and include progressive rehabilitation measures | These amendments are reasonable.   |
| <b>B87(e)</b>             | Workforce accommodation and Employment strategy to focus on Rylstone and Kandos  | These amendments are reasonable.   |
| <b>B87(g)</b>             | Inclusion of research program  | These amendments are reasonable.   |
| <b>B87(g)</b>             | <u>Question to the Department:</u><br>would it be more useful for this to assess and report on "heavy metal impacts"?            | <p>The existing recommended conditions already require monitoring of heavy metals in dust and water.</p> <p>Given the research program is intended to address the social impacts of the community's concerns, and the key concern is about lead impacts, the Department agrees the research program should focus on lead.</p>  |
| <b>C1, C2, C7, C8, C9</b> | Requirements to mitigate upon request, and conduct reviews at request of tenants as well as owners                               | <p>Suggest retaining the existing wording. These are standard conditions that have been through rigorous legal reviews.</p> <p>The mitigation upon request is only applied to properties that are predicted to be moderately impacted and have higher noise limits. The Applicant must comply with lower noise limits at other residences</p>  |

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|                    |   | The property owner should request the review and/or mitigation, not the tenant. The tenant would advise the property owner of their concerns, and the owner would make the request. |
| <b>Appendix 1</b>  | <u>Question to the Department:</u><br>Updates to the Schedule of Land | The Applicant provided an updated Schedule of Land as part of its conditions review. The Commission's updates are correct   |

The Department has no comment on the Commission's other proposed changes to the Department's recommended conditions of consent.

If you have any questions, please contact me on [REDACTED] or at [REDACTED].

Yours sincerely,



Rose-Anne Hawkeswood  
A/ Director Resource Assessments