

**DEED OF VARIATION
OF ORIGINAL
PLANNING AGREEMENT**

PARTIES

Cobar Shire Council
ABN 71 579 717 155

Hera Resources Pty Ltd
ABN 72 138 992 9992

BETWEEN: COBAR SHIRE COUNCIL
ABN 71 579 717 155
of 36 Linsley Street, Cobar NSW 2835.
("Council")

AND: HERA RESOURCES PTY LIMITED
ABN 72 138 992 9992
of 2 Corporation Place (PO Box 7058) Orange NSW 2800.
("Hera")

INTRODUCTION

- A. Council and Hera negotiated a Planning Agreement dated 15th and 18th March 2013 by Council and 10th April 2013 by Hera for the establishment and operation by Hera of an underground mine, processing plant and infrastructure to support the extraction and processing of up to 355,000 tonnes of gold, silver, lead and zinc ore. Called the Hera Gold Project it is located approximately 100 kms south east of Cobar and 4 kms south of the village of Nymagee.
- B. Project approval was granted by the NSW Government on 31 July 2012 to develop the Hera Gold Project. As part of the approval Hera was required to enter into a Planning Agreement with Council. That Planning Agreement is referenced in point A above.
- C. Hera agreed in the Planning Agreement to provide Development Contributions (shown in Schedule 1 of that Agreement) to Council during the construction and operational phases of the project totalling approximately seven years.
- D. Hera's most recent modification to this project is called Modification 3. As part of the latest modification both Parties have agreed to terms to amend the Planning Agreement referred to in Point A above.
- E. This Deed of Variation states the terms and conditions under which the original Planning Agreement has been amended. Henceforth the terms and conditions stated in Schedule A herein replace Schedule 1 in the original Planning Agreement. The balance of the original Planning Agreement remains unchanged.

IT IS AGREED

1. Definitions and Interpretation

1.1 Definitions

In this Deed:

- a) **"Deed"** means this Deed of Variation document.
- b) **"Effective Date"** means the date the last party signing signs this Deed.
- c) **"Decision to Commence"** means formal written advice from Hera Resources Pty Limited to Cobar Shire Council advising that the company has now taken action to commence the increased production rate specified in the

Modification 3.

1.2 Interpretation

The following rules apply unless the context requires otherwise:

- a) Where a defined term is used in the Deed, it has the same meaning as in the original Planning Agreement.
- b) No provision of this Deed will be construed adversely to a Party on the ground that such Party was responsible for the preparation of this Deed or that provision.

2. Deed of Variation Commitments

2.1 The Parties agree that the terms relating to the revised Development Contributions are set out in Schedule A herein.

2.2 The original Planning Agreement is varied with effect from the Effective Date.

2.3 Subject to the variations contained in this Deed, in all other respects the terms of the original Planning Agreement remain unaltered.

3. Accrued Rights

3.1 Nothing in this Deed affects any accrued rights or remedies of a Party under the original Planning Agreement.

4. Further Assurance

4.1 Each Party must promptly at its own cost do all things necessary or desirable to give full effect to this Deed.

5. Severability

5.1 If anything in this Deed is unenforceable, illegal or void then it is severed and the rest of this Deed remains in force.

6. Costs and Outlays

6.1 Each Party is responsible for its own costs in relation to this Deed.

7. Governing Law and Dispute Resolution

7.1 The law of the State of New South Wales governs this Deed.

7.2 If there is any dispute or difference arising between the Parties to this Deed, Clause 10 of the original Planning Agreement applies.

8. Notices

8.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Deed shall be made in accordance with Clause 12 in the original Planning Agreement.

9. SCHEDULE A

The Parties agree to amend the original Planning Agreement as follows:

- a) CPI adjustments will be made to the Development Contributions listed in Schedule 1 of the original Planning Agreement, for inclusion in the April 2016 payment and in all payments thereafter;
- b) The current Planning Agreement Development Contributions plus CPI will remain in place until 31 December 2016 unless subclause c) below is enacted beforehand;
- c) If Hera decides to commence the increased production rate (*Decision to Commence*) contemplated in Modification 3 before 1 January 2017 it will advise Council in a timely manner and the date for revised payments will be brought forward to an agreed date and the payment will be made within 30 days of the revised date and annually thereafter;
- d) The Modification 3 Community Fund Contribution of \$32K pa will be paid by Hera to Council on 1 January 2017, or before if Hera enacts subclause c) above;
- e) The Modification 3 Road Repair and Maintenance Contribution of \$60K pa will be paid by Hera to Council on 1 January 2017, or before if Hera enacts subclause c) above;
- f) The Modification 3 Development Contributions plus CPI will remain in force until such time as:
 - i. The Parties agree to modify them; or
 - ii. The project is the subject of further DA modifications at which time the Deed and Planning Agreement may be reviewed and amended; or
 - iii. the project is sold to another party at which time the Deed and Planning Agreement may be reviewed and amended; or
 - iv. The project reaches the end of its operational life and closes; or
 - v. The project is placed on care and maintenance
- g) Hera and Council will hold six monthly performance review meetings to discuss mine activities and Council related matters. Such meetings will be initiated by Council.

DATED:

EXECUTED AS A DEED BY BOTH PARTIES:

Executed by Cobar Shire Council. The Common Seal of Cobar Shire Council was affixed in the presence of:

L. O. Braddy
Mayor (signature)

[Signature]
General Manager (signature)

LILLIANE BRADY
Name (print)

PETER VLATKO
Name (print)



Executed by Hera Resources Pty Limited in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:

[Signature]
Director (signature)

[Signature]
~~Director~~/Company Secretary (signature)

JIM SIMPSON
Name (print)

RICHARD WILLSON
Name (print)