

Our Ref: 218322_LET_005A

6 November 2019

The General Manager
Cobar Shire Council
36 Linsley Street
COBAR NSW 2835

Attention: Garry Ryman

Dear Mr Ryman

**DEVELOPMENT APPLICATION 2019/LD-00023 - FOR EXPANSION OF EXISTING APPROVED MINING VILLAGE – LOT 991 IN DP1029946 BARRIER HIGHWAY, COBAR
REQUEST FOR ADDITIONAL INFORMATION**

We write further to Council's correspondence of 2, 17 and 18 September 2019 with respect to the above matter and our ongoing discussions with Council's planning staff.

We provide this additional information to clarify the content and terms of the lodged development application and to respond to the particular questions raised by Council.

Via this correspondence, we have responded to the matters raised in each of Council's correspondence, and adopted the same ordering for ease of reference:

Council Correspondence dated 2 September 2019

Traffic

The application proposes the expansion of the capacity of the accommodation at the village. The originally approved village (2012 DA) provided for change of use of the site from an approved abattoir to a mine workers village accommodating up to 119 residents. The 2012 DA assessed parking needs and traffic generation based on assumptions around the breakdown of site users, in terms of those expected to use light vehicles and those expected to rely on buses to be provided by the village and the associated mining companies. The 2012 DA compared the projected use levels to those that occurred in relation to the former abattoir use.

For the 2012 DA, it was estimated that trips per day would equate to 20 light vehicle movements, 16 bus movements and less than 1 heavy vehicle (delivery) movement per day (on the basis that deliveries occur one-two times per week).

Parking was provided on the basis of the one light vehicle space per accommodation unit (30), which ensured capacity for parking in the event patrons drove themselves to site, but then made use of the provided buses (ie, vehicles arrived at the start of the accommodation period and left at the end, with intervening trips by bus). Light vehicle spaces were also provided for staff (4) and visitors (7), with one of these spaces being disabled compliant space. In total, light vehicle parking was approved and provided for 41 vehicles. In addition, parking for four (4) buses was approved and provided. We note that the SEE in relation to the current application (2019 DA) incorrectly stated that the site currently provides 40 existing parking spaces; it is in fact 41 as per the original and approved SEE.

Since commencement of the operation of the site in 2012, the operators of the facility have noted that the majority of users of the facility do not drive light vehicles and instead predominantly arrive and depart by bus. As such, existing spaces on-site are underutilised. On this basis, no additional light vehicle spaces for site occupants are proposed. An additional two bus parking spaces are proposed by the current application to accommodate the additional patronage of the facility, as reflected on lodged **Drawing A03_D**.

A review of available traffic volume data for the Barrier Highway demonstrates that current information is limited. The most recent traffic counts were undertaken in 2008/2009. The location of the counter was 50 metres west of Hartman St, being approximately 1.4 km west of the subject site. From a review of data, the AM peak hour is between 9 am and 10 am (21.7 movements both directions) and the PM peak hour is between 3 pm and 4 pm (22.6 movements both directions). Notably, this counter is located within the urban area of Cobar and therefore captures both local and regional traffic; it is therefore not reflective of traffic volumes travelling along the Barrier Highway east of Cobar in proximity to the mine village and thereby provides a very conservative assessment. It is however useful to identify the peak hour periods.

It is accepted via traffic study methodology to assume a 2%/year growth factor for traffic volumes, to ensure a conservative assessment is provided. Applying a 2% growth factor to the peak hour numbers quoted above results in revised peak hour volumes of 26.5 (AM) and 27.5 (PM).

Shift times for workers staying at the village is 6 am to 6 pm. This is standard across the resource sector and there is no anticipated change that would impact on the movement of vehicles into and out of the site as discussed below.

Vehicles transporting workers to their work sites are therefore outgoing at 5:30 am and incoming at 6:30 pm. These movements are outside the above noted peak hour periods as reflected by the available traffic volume data.

For the purposes of this analysis, a vehicle trip (ie, a one way trip not including the return) is considered to represent 1 movement. A return journey therefore counts for two movements. This is consistent with the method outlined in the *RTA Guide to Traffic Generating Development 2002*.

Responding specifically to the questions raised by Council, we note the following:

- All residents of the site (excluded staff) are employed by local mining companies. At full capacity this currently equates to 119 people (noting that the site is not always at full capacity);

- From observations of the operator, average usage per day for residents travelling to work sites is 35% by light vehicle and the remainder (65%) via the provided buses. Thus, currently (on average) 42 people per day use light vehicles and 77 utilise the four provided buses. Typical observed car occupancy is 4 persons/vehicle.
- Based on the above, 11 light vehicles and four buses leave the site at 5:30 am. The four buses return at around 6:30 am. The four buses leave again at 5:30 pm and return at 6:30 pm. 11 light vehicles return at 6:30 pm.
- Vehicle movements associated with personal activities (ie, travelling to town) is observed to be approximately 10% of occupants (12 people). Typical car occupancy is 4 persons/vehicle, ie, three vehicles. These movements typically occur after shift is complete (between 7 pm and 9 pm), with return trips between 9 pm and 11 pm.
- As noted, the site currently employs four staff. Two of these live on site and two live in town. Staff shifts are 4 am - 9 am and 2 pm - 9 pm. Staff will typically car pool, but even assuming they don't, the maximum number of movements is 2 vehicles arriving to site between 3:30 am and 4:00 am, 2 vehicles leaving between 9 am and 9:30 am, 2 vehicles arriving between 1:30 pm and 2 pm and 2 vehicles leaving between 9 pm and 9:30 pm.
- The following service vehicles currently serve the site:
 - The major stock order arrives at 12 pm on a Tuesday via a heavy rigid vehicle;
 - Linen is delivered at 12 pm on a Thursday via a heavy rigid vehicle;
 - There is a garbage collection at 10 am on Monday, Wednesday and Friday by a standard garbage collection vehicle;
 - The kitchen grease trap is emptied four times year at 11 am (any day between Monday and Friday) utilising a heavy rigid vehicle;Deliveries are currently completed in a heavy rigid (8 - 12 m) vehicle and the garbage collection vehicle is a standard sized collection vehicle (8.8 m).
- Based on the above, daily and peak hour traffic are summarised in **Attachment 1 (Tables 1 and 3)**. By reference to the summarised figures in Attachment 1, there are only two light current vehicle movements within the AM and PM peak hours, being two staff light vehicles leaving the site and returning to town at the end of the morning shift. These two vehicles (maximum) turn left from the site. All other movements are outside of the peak hour periods.
- Current movements outside of the peak hour period are low and, at the busiest times, result in 15 movements out, travelling east from the site, at 5:30 am and 15 movements in at 6:30 pm, travelling from the east. 15 movements in one hour averages less than 1 movement every four minutes during this time.

The proposed arrangement represents an increase from 119 occupants of the village to 199. An additional two staff are anticipated to be required to manage the additional occupants.

Based on the additional occupants and staff, and utilising the same rationale as outlined above, figures for the proposed scenario are outlined in **Attachment 1 (Tables 2 and 4)**. By reference to the summarised numbers in **Table 2**, light vehicles into and out of the site are anticipated to increase from

the current level of 36 to 62. Only four of these movements are within a peak hour, being four movements in the AM peak hour, as the four staff leave the site after the morning shift.

- Total movements across an average day would increase from 54 to 88 (63% increase). This is broadly consistent with the increase in the capacity of the workers village from 119 to 199 (67%).
- As noted, with the exception of four outbound light movements during the AM peak hour, all other movements occur outside of peak hour periods.
- The following management measures currently in place to manage traffic generation would be continued in relation to the proposed development:
 - Staff travelling to and from town are/would be encouraged to car pool wherever possible;
 - Mine workers using light vehicles would be encouraged to car pool where possible;
 - Mine workers occupying the camp would be encouraged to utilise buses to travel to and from the site by preference to personal light vehicles;
- A driver code of conduct would be implemented and which would apply to all users of the facility – refer draft Code at **Attachment 2**;
- As noted in the SEE that accompanied the 2012 DA, the former use of the site as an abattoir would be have been expected to entail around 204 heavy vehicle movements into and out of the site. The site access treatment was designed and implemented to cater for this level of traffic in conjunction with the requirements of Cobar Shire Council and the (then) Roads and Traffic Authority. The current and proposed use of the facility results in significantly less movements into and out of the site per day, and a very different breakdown of vehicle types, with small buses and light vehicles being the predominant vehicle types. These have better accelerating and breaking capacity than heavy vehicles. The current access treatment has operated without issue since commencement of the use of the site as a mining village. The proposed increase in traffic is considered unlikely to affect the operation of the access treatment and further upgrades are not considered to be required.

BASIX

A BASIX certificate is currently being prepared and will be supplied under separate cover. In accordance with the alternative assessment methodology for large boarding houses outlined by the Department Planning, Industry and Environment, the thermal comfort aspect will be deferred to construction certificate stage.

Biodiversity

An amended Biodiversity Assessment Report addressing the comments of the Biodiversity Conservation Division is supplied as **Attachment 3**.

Council Correspondence dated 17 & 18 September 2019

Public Submissions

We have reviewed the large number of submissions received including the petitions. Without seeking to address each letter individually, we have provided the below tabular summary (**Table 1**) of specific matters raised across the submissions including a response to each matter.

Table 1 – Response to submissions

Summarised Issue	Response
<p>Perception that the village and its occupants do not integrate with or support the local community</p>	<p>Since initial development, the managers of the mining village have been strong supporters of local businesses. This is evidenced by the following:</p> <ul style="list-style-type: none"> • The camp supports the local bakery by purchasing all bread exclusively from it on a daily basis. • The camp supports the local dairy milk-run by having the milk delivered daily. • The camp procures all food essentials from PFD who happens to be the same company that supplies the local hospital, the local school, the local butcher, the bowling club, the empire hotel, and our company and who in turn supports the local IGA and local butcher • The camp use the local laundry service exclusively to pick up all the worker’s clothes and clean them. • The camp endeavours to support local businesses as much as possible and use local services at every opportunity such as Cobar express, Cobar Harvey Norman, IGA, Cobar laundry, Caltex and Shell petrol station, Murray Harland Electrical, Mann Refrigeration • The camp employs four staff, all of which are based in Cobar. Two of these live at the camp with two living in town. The expansion of the camp will require the employment of an additional two staff. • The camp operators are the current shorts sponsor of the Cobar Roosters and is looking to sponsor the local cricket team this summer. <p>In addition to the above, mine occupants visit the town regularly for shopping and to use local amenities.</p>

Village is not required; operators and mining companies should be buying or renting vacant houses in town, or building new ones	The application before Council seeks consent to expand the existing approved mine workers village. This, and no other matter, is what Council's assessment and determination must relate to. The relevance as to whether there are alternative means of achieving the overarching objective of the project is not a matter for consideration for Council in determining the DA.
Town services/facilities are not utilised by occupants of the village	Information provided by the applicant as outlined above confirms that the facility does utilise local services, and it is noted that a number of submissions have been received by Council to this effect.
Land use permissibility	This is addressed under the heading <i>Permissibility</i> below.
Development of the village impacts other accommodation providers in town who can no longer rely on mine workers	Precedent in the NSW Land and Environment Court has consistently found that competition between land uses is not a matter for consideration in a development application.
Negative impacts of Fly In/Fly out mining programs on local communities	This is a broader issue that affects people across rural Australia and cannot be addressed by this application. The application does not propose any mining activities nor the engagement of mine workers. As such Council's determination of this application, either positively or negatively, will not impact on this issue.
Criticism of the wastewater report and that the facility is not connected to the Council's reticulated system	The effluent management report supplied by the applicant demonstrates the development satisfies relevant standards for the disposal of waste. This is therefore an acceptable outcome. The applicant would be willing to investigate opportunities for re-use in the future.
Notes that the proposal entails a 250,000 kL water storage tank.	The proposed tank is 250,000 L (not kL as stated in the original SEE) and is for fire-fighting purposes. Once full it will require top up to address evaporation only but will not have an ongoing or significant impact on water usage. It is not for potable purposes.

We also note a number of submissions in support of the proposal including confirmation of the support of the village for local businesses, via Council's correspondence of 18 September 2019.

Permissibility

As outlined in the lodged statement of environmental effects (SEE) the current use of the land as a mining workers village represents a lawful use, on the basis that was approved via Cobar Shire Council DA 2012/LD-00029.

The use was lawfully commenced, as confirmed via issue of Cobar Shire Council construction certificate.

Condition 20 of consent 2012/LD-00029 states:

This consent for the miners camp accommodation units is limited to the extent that the accommodation con (sic) only be leased and/or occupied by a contractor, organisation or company for the purpose of providing workers accommodation for the mining industry as detailed in the documents accompanying the application.

The SEE accompanying 2012/LD-00029 stated at page 4:

*This application seeks development consent for the use of the site for accommodation for mine works (sic), **ancillary to mining**. The mining village will accommodate approximately 100 occupants, including associated infrastructure and permanent placement of accommodation units.*

The 2012 DA sought to make clear that the village was to provide accommodation for workers in the mining sector. There was no differentiation between the types of work being completed, nor any suggestion that, for example, only underground mine workers would be accommodated.

Mining is a broad industry and persons working in the mining sector may be working across a range of vocations; all of which support and enhance the mining industry. As such, in our view, the village is lawfully capable of accommodating workers linked to the mining sector.

Notwithstanding this, the village manager confirms that all occupants are now and are intended to be in relation to the current application, mine workers.

An existing use is defined by Section 4.65 of the *Environmental Planning and Assessment Act 1979* (EPA Act) as:

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) the use of a building, work or land:*
 - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Section 4.66 goes on to state:

- (1) Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) Nothing in subsection (1) authorises:*
 - (a) any alteration or extension to or rebuilding of a building or work, or*
 - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*

(d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or

(e) the continuance of the use therein mentioned where that use is abandoned.

(3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.

The subject site was granted approval by Cobar Shire Council as a mine workers camp on the 18 July 2012 via Council consent 2012/LD-00029. The use was lawfully commenced as evidenced by the issue of a construction certificate by Cobar Shire Council for works to the amenities building and installation of the accommodation buildings.

The use has not ceased operating for any extended period of time since first commencing and there has certainly been no abandonment of the use.

The use is a prohibited use via the LEP on the basis that a mine workers camp is not listed at Part 3 of the RU1 – Primary Production Land Use Table. Any uses not listed in Parts 2 or 3 are, by virtue of Part 4, prohibited.

Therefore, the current use of the site represents an existing use on the basis that the use as a mine workers village was approved and lawfully commenced, in relation to Cobar Shire Council DA 2012/LD-00029.

The expansion, enlargement or intensification of an existing use is permitted with the consent of the consent authority, subject to an appropriate impact assessment.

The information contained within the original statement of environmental effects and this supplementary information provide sufficient information to enable Council to fully consider the potential impacts associated with the proposed expansion of the mine workers camp.

Bushfire Assessment

A bushfire assessment is provided as **Attachment 4**.

Council Correspondence dated 18 September 2019

We note the two submissions received in the support of the DA.

Conclusion

We trust that the information contained within this letter is sufficient to assist Council with their determination and to allow this matter to be favourably resolved.

Please do not hesitate to contact David Walker if you require any further information in relation to the application.

Yours faithfully

Premise Australia Pty Ltd



DAVID WALKER
Senior Town Planner

No. of Attachments – 4:

1. Summarised traffic generation numbers
2. Draft driver code of conduct
3. AREA Biodiversity Assessment Report
4. Bushfire Assessment

Attachment 1: Daily and Peak Hour traffic movements

Table 2 – Vehicle trip summary – daily - current

Vehicle type	Incoming 3:30 AM (from west)	Outgoing 5:30 AM (to east)	Incoming 6:30 am (from east)	Outgoing 9 AM (to west)	Incoming 10 am - 1:30 pm (from west)	Outgoing 10 am – 1:30 pm (to west)	Incoming 3:30 pm (from west)	Outgoing 5:30 PM (to east)	Incoming 6:30 PM (from east)	Outgoing 7 pm – 9 pm (to west)	Incoming 9 pm – 11 pm (to west)	TOTAL
Light	2 (staff)	11 (workers)	0	2 (staff)	0	2	2 (staff)	0	11 (workers)	5 (2 x staff and 3 x workers)	3 (workers)	36
Heavy	0	0	0	0	<1 (deliveries in)	<1 (deliveries out)	0	0	0	0	0	2
Bus	0	4	4	0	0	0	0	4	4	0	0	16
TOTAL	2	15	4	2	1	3	2	4	15	3	3	54

Table 3 – Vehicle trip summary – daily - proposed

Vehicle type	Incoming 3:30 AM (from west)	Outgoing 5:30 AM (to east)	Incoming 6:30 am (from east)	Outgoing 9 AM (to west)	Incoming 10 am - 1:30 pm (from west)	Outgoing 10 am – 1:30 pm (to west)	Incoming 3:30 pm (from west)	Outgoing 5:30 PM (to east)	Incoming 6:30 PM (from east)	Outgoing 7 pm – 9 pm (to west)	Incoming 9 pm – 11 pm (to west)	TOTAL
Light	4 (staff)	18 (workers)	0	4 (staff)	0	0	4 (staff)	0	18 (workers)	9 (4 x staff and 5 x workers)	5 (workers)	62
Heavy	0	0	0	0	<1 (deliveries in)	<1 (deliveries out)	0	0	0	0	0	2
Bus	0	6	6	0	0	0	0	6	6	0	0	24
TOTAL	4	24	6	4	1	1	4	6	24	14	5	88

Table 4 – Vehicle trip summary – peak hour - current

Peak Hour	Light Vehicles	Heavy Vehicles	Buses	TOTAL
AM (9 am – 10 am)	2 (outgoing – to west)	0	0	2
PM (3 pm – 4 pm)	0	0	0	0
TOTAL	2	0	0	2

Table 5 – Vehicle trip summary – peak hour - proposed

Peak Hour	Light Vehicles	Heavy Vehicles	Buses	TOTAL
AM (9 am – 10 am)	4 (outgoing – to west)	0	0	4
PM (3 pm – 4 pm)	0	0	0	0
TOTAL	4	0	0	4

Driver's Code of Conduct

*Cobar Mine Workers Village
Barrier Highway, Cobar, NSW, 2835*

Purpose of the Code

This Driver's Code of Conduct has been implemented to ensure all employees and contractors are aware of, and adhere to the outlined safe driving practices to maximise safety on public roads and minimise the impact of trucks on other road users and the wider community.

General Requirements

Any person operating light or heavy vehicles (including buses) at the Cobar Mine Workers Village must adhere to the following general requirements:

- Have undertaken a Site Induction carried out by an approved Cobar Mine Workers Village staff member;
- Hold a valid driver's licence for the class of vehicle being operated;
- Operate the vehicle in accordance with the applicable fatigue requirements applying to that class of vehicle;
- Not operate the vehicle under the influence of any drugs or alcohol;
- Ensure the vehicle is appropriated registered and insured;
- Ensure the vehicle is mechanically sound and suitable for the relevant purpose;
- Operate the vehicle in a safe manner within and external to the Village site;
- Comply with directions provided by authorised Village personnel;
- Park in designated areas only;

Code of Conduct

The driver will:

- Comply with all public road rules and regulations, including posted speed limits;
- Comply with rules and regulations when operating on the Cobar Mine Workers Village site or other private property;
- Ensure vehicle is contained within the Cobar Mine Workers Village site prior to stopping;
- Not use horn unless considered appropriate to do so;
- For heavy vehicles (including buses) avoid undertaking movements during school student drop off and pick up times (between the hours of 8 – 9:30 am and 2:30 – 4 pm). However, if inadvertently

travelling through active school zones the driver will comply with the 40 km/hr School Zones, and maintain a safe distance from school buses whether moving or parked. If passing a parked school bus with its lights flashing, the driver shall decelerate to 40 km/hr whilst passing;

- If passing a law enforcement/emergency vehicle with its lights flashing, the driver shall decelerate to 40 km/hr whilst passing;
- Not litter;
- Operate their vehicle in a safe, professional and courteous manner;
- Act in a manner that reflects positively on themselves and the Cobar Mine Workers Village and their employer;
- Show respect to other road users;
- In the event of an accident, remain calm and ensure appropriate actions are taken to prevent injury to self and others;
- In the event of an environmental incident (spill), ensure appropriate actions are taken to contain the spill (if safe to do so) and prevent further incidents from occurring;

Disciplinary Action

If the driver fails to abide by the requirements of this Driver's Code of Conduct a review will be undertaken by the Village Manager and disciplinary action may be undertaken. Disciplinary action may take the form of a verbal or written warning or temporary or permanent exclusion from the site.

DECLARATION

I, the undersigned, hereby agree to abide by the Cobar Mine Workers Village Driver's Code of Conduct.

DRIVER

FULL NAME

ORGANISATION

SIGNATURE

DATE

COBAR MINE WORKERS VILLAGE REPRESENTATIVE

WITNESS

DATE