



Project Martha

Schedule One

Common conditions for Hauraki District Council
and Waikato Regional Council

SCHEDULE ONE
COMMON CONDITIONS BETWEEN THE HAURAKI DISTRICT COUNCIL AND
THE WAIKATO REGIONAL COUNCIL

ANNUAL WORK PROGRAMME

1. The consent holder shall within six months of the date of commencement of this consent, and on the anniversary of that date every year thereafter, or at any other date approved by the Council in writing, provide to the Hauraki District Council and the Waikato Regional Council (“the Councils”) an Annual Work Programme for the following year (for information purposes). The Annual Work Programme shall include:
 - a. Mining activities proposed for the following year;
 - b. A description of the proposed sequencing of works and the environmental procedures to be adopted during the works; and
 - c. The proposed progressive rehabilitation and revegetation of active areas of the mine site.

Advice Note:

The Annual Work Programme may be prepared in conjunction with the Annual Work Programme prepared in accordance with the consent requirements applying to other mines in the Waihi area.

COMPANY LIAISON OFFICER

2. At least 20 working days prior to the exercise of this consent, the consent holder shall appoint a person (the “Liaison Officer”) to liaise between the consent holder, the community and the Councils. The appointment of the Liaison Officer shall be subject to the approval of the Councils.

The Liaison Officer shall have sufficient delegated power to be able to deal immediately with complaints received and shall be required to investigate those complaints as soon as possible after receipt. The Liaison Officer shall be appointed for the duration of the mining activities associated with this consent.

The name of the Liaison Officer, together with their contact phone numbers and email address, shall be publicly notified on the consent holder’s website prior to the exercise of this consent and shall remain on the website for the duration of mining activities authorised by this consent.

COMPLAINTS PROCEDURE

3. The consent holder shall maintain and keep a complaints register for any complaints received from any member of the community. As a minimum, the register shall record, where this information is available, the following:
 - a. The date, time, and details of the incident that has resulted in a complaint;
 - b. The location of the complainant when the incident was detected;
 - c. The possible cause of the incident;
 - d. Any corrective action taken by the consent holder in response to the complaint, including timing of that corrective action; and

- e. Communication with the complainant in response to the complaint.
4. The complaints register shall be made available to the Councils on request or as otherwise specified in specific land use or resource consents for Project Martha.

RECOGNITION OF TANGATA WHENUA VALUES

Cultural Awareness Programme

- 4A. The consent holder shall ensure that a Cultural Awareness Programme is provided to all of the consent holder's staff and full-time contractors working at the Waihi operations as soon as practicable after commencement of this consent. The Cultural Awareness Programme shall be provided on a six-monthly basis thereafter for the duration of mining activities as part of this consent, so as to ensure that any new staff members or new full-time contractors that have commenced work for the consent holder in the previous six-month period receive the benefit of the Cultural Awareness Programme.
- 4B. The consent holder shall invite tangata whenua who have a particular interest in the Waihi area to prepare and deliver the Cultural Awareness Programme in conjunction with the consent holder. The consent holder shall be solely responsible for all reasonable costs associated with the preparation and delivery of the Cultural Awareness Programme. The consent holder shall keep a record of when the Cultural Awareness Programme has been delivered to its staff and full-time contractors, and which staff and full-time contractors have attended the Cultural Awareness Programme. This record shall be made available to the Councils at the same time as the report required by Condition 4D.

Cultural Balance Plan

- 4C. The consent holder shall, in consultation and collaboration with tangata whenua who have a particular interest in the Waihi area, engage an appropriately experienced consultant or group to prepare a Cultural Balance Plan specific to the consent holder's operation in Waihi.

The purpose of the Cultural Balance Plan is to achieve the restoration and / or enhancement of the mauri of Pukewa and the surrounding land forms, as well as focus on Tuna habitat and abundance in the Ohinemuri River Catchment. The Cultural Balance Plan will seek to achieve these objectives by providing a framework for a collaborative approach with the consent holder and tangata whenua on shared understandings, build and ensure effective collaborative relationships and build support for kaitiaki capacity.

The content of the Cultural Balance Plan shall be agreed between the consent holder and tangata whenua and will include but not be limited to:

- a. A statement of the issues in regard to which cultural balance needs to be restored;
- b. A description of the area to which the plan relates;
- c. Recommendations and solutions to enhance tuna habitat and abundance in the area;
- d. Consideration of options that may avoid the need for active water treatment of the pit lake;
- e. Recommendations to support kaitiaki capacity;

- f. Roles of other parties in achievement of the goals of the Cultural Balance Plan; and
- g. A programme for achievement of measures identified.

The Cultural Balance Plan shall be provided to the Councils within 12 months, or as otherwise agreed with the Councils, of the first exercise of this consent. In the event that tangata whenua with a particular interest in the Waihi area choose not to actively participate in the preparation of the Cultural Balance Plan, the consent holder and participating tangata whenua may continue to proceed with the preparation of the Plan so that it is able to be finalised and provided to the Councils by the date specified above.

- 4D. On each anniversary of the completion of the Cultural Balance Plan, the consent holder in consultation with the Iwi Advisory Group shall prepare and provide an annual report detailing the activities undertaken during the preceding year and progress made against the objectives and outcomes of the Plan. This report shall be provided to those tangata whenua with a particular interest in the Waihi area and shall also be provided to the Councils.

Iwi Advisory Group

- 4E. Upon the first exercise of this consent, and at six-monthly intervals thereafter, the consent holder shall invite representatives of those tangata whenua with a particular interest in the Waihi area and the Councils to attend a meeting. The costs associated with the venue for the meeting, and any associated catering costs, will be met by the consent holder. The purpose of the meeting is to provide a forum at which any of the attendees can raise any matters of concern to them, and the consent holder can update the attendees on its activities within the prior six months. In that regard, the consent holder shall present a summary of:
 - a. The mining activities undertaken;
 - b. Progress with the implementation of the Cultural Awareness Programme and the Cultural Balance Plan;
 - c. A summary of relevant environmental monitoring results; and
 - d. Progress on any matters raised at any preceding meeting that required follow up by the consent holder.

Annual Consultation Reports

- 4F. The consent holder shall forward to the Councils a report annually, covering the period to 1 June of each year, that details the discussions and outcomes of ongoing consultation with iwi that have an interest in the Waihi area in relation to the spiritual and cultural interests of the iwi. Each report shall be produced in conjunction with the iwi that have an interest in the Waihi area and forwarded to the Councils within three months of the end of the period to which the particular report relates.

ACCIDENTAL DISCOVERY PROTOCOL

- 4G. In the event that an unidentified archaeological site is located as part of the activities authorised by this consent, the following procedures will be undertaken by the consent holder:
- a. All work shall cease, and machinery shut down, within 20 m of the discovery;
 - b. The Site Manager shall notify the Heritage New Zealand Regional Archaeologist;
 - c. If the site is of Maori origin, the Site Manager shall also notify the appropriate tangata whenua groups of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken (as long as all statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 and the Protect Objects Act 1975 have been met);
 - d. If human remains (koiwi tangata) are discovered, the Site Manager shall also advise the New Zealand Police; and
 - e. Works affecting the discovery shall not recommence until Heritage New Zealand provides written approval or an archaeological authority has been obtained and this authorisation is provided to the Councils.

Advice Notes:

Condition 4G shall only apply to those areas not subject to an archaeological authority obtained under the Heritage New Zealand Pouhere Taonga Act 2014.

The Heritage New Zealand Pouhere Taonga Act 2014 provides for the recording, protection and preservation of archaeological sites where registered or not. As such, any land use activity likely to damage, modify or destroy any pre-1900 archaeological site (whether recorded or unrecorded) will require an archaeological authority from Heritage New Zealand for the work to lawfully proceed. This applies to all sites, regardless of whether a building or resource consents has been granted or not.

The site curtilages associated with the dwelling at 85 William Street have been identified as having potential for sub-surface archaeological remains. Earthworks associated with the Phase 4 Cutback will therefore require an archaeological authority, as will the destruction or modification of any 19th Century mine workings.

PEER REVIEW PANEL

5. The consent holder shall engage, at its cost, a Peer Review Panel (“the Panel”). The members of this Panel shall be fully independent of the planning, design and construction of the Martha Pit, Martha Underground Mine and all its associated facilities.
6. The primary function of the Panel is to ensure that the conditions relating to the design, construction and operation of the Martha Pit and Martha Underground Mine and rehabilitation associated with the key components of the Martha Pit (with particular focus on pit slope stability issues) are met, that the Martha Pit is stable and that such work is undertaken by appropriately qualified personnel in accordance with best practice.

7. The Panel shall comprise:
 - a. Technical specialist(s) who between them have demonstrated expertise in the following fields:
 - (i) Geotechnical engineering, with recognised experience in open pit construction and open pit and underground rock mechanics;
 - (ii) Hydrogeology, with recognised open pit mining experience; and
 - (iii) Rehabilitation and closure
 - b. An active observer from the Iwi Advisory Group that is required as part of Condition 4E.
8. The members of the Panel identified in Condition 7(a), and their defined field(s) of expertise, shall be approved by the Councils prior to appointment to the Panel.
9. Each member of the Panel identified in Condition 7(a) may act as peer reviewer only in their area of expertise, but the full Panel shall review all plans relating to the planning, design and construction of the Martha Pit and all its associated facilities.
10. The Panel may co-opt other specialist members to assist in any of its functions for specified periods subject to the approval of the Councils.
11. The consent holder shall provide the Panel with all records, plans, designs etc that the Panel requests, and shall afford the Panel full access to the site at all reasonable times.
12. The Panel, or individual members of the Panel, may be the same panel as that which undertakes peer review as required by any other authorisations at this site (including authorisations issued prior to the Act).
13. To carry out its primary function, each member of the Panel identified in Condition 7(a) shall report in writing to the relevant Council (or Councils) on all matters which are submitted to them for review within their area of expertise, other than draft proposals submitted to it by the consent holder and which are superseded, and at least at the following times:
 - a. Prior to the commencement of any mining activities authorised by this consent;
 - b. At all critical project stages;
 - c. On completion of mining;
 - d. On completion of lake filling;
 - e. On completion of closure;and at least on the following matters:
 - f. The Pit Slope Management Plan and any subsequent updates as are appropriate;
 - g. Progress against the Annual Work Programme;
 - h. Site development including hydrogeological issues and geotechnical issues;

- i. Performance against the requirements of the Pit Slope Management Plan;
- j. Pit slope stability monitoring;
- k. Status of underground mining (particularly upper level mining), backfilling of historic stope voids and interaction between underground workings and the open pit; and
- l. Rehabilitation and closure plans.

Advice Note:

As an active observer the Iwi Advisory Group representative shall be provided with all peer review reports, and should participate in site visits, participate in peer reviewer discussions and be an active participant in the peer review meeting to ensure that a cultural lens is able to be considered in the review process and that the recommendations contained within the Cultural Balance Plan are given appropriate consideration.

DEWATERING AND SETTLEMENT MONITORING PLAN

- 14 The objectives of the groundwater and settlement management system shall be to ensure that dewatering operations do not give rise to surface instability and differential settlement beyond that authorised by this consent.
- 15 Two months prior to dewatering below 700 m RL (mine datum), the consent holder shall prepare, and submit to the Councils for its certification, a Dewatering and Settlement Monitoring Plan. The purpose of the Dewatering and Settlement Monitoring Plan is to monitor and assess the effects of the activities on land settlement and the groundwater hydraulic regime, and also to detail the contingency measures that will be actioned should groundwater or surface settlement triggers be exceeded.
- 16 The Plan shall, as a minimum, provide an overall description of the groundwater and settlement monitoring system and the measures to be adopted, including contingency measures, to meet the objectives of the groundwater and settlement management system set out in Condition 14 of this schedule. The monitoring regime shall be designed to assess the effects of:
 - a. Dewatering on the regional groundwater system; and
 - b. Dewatering on settlement.
- 17 Monitoring locations are to provide appropriate resolution of mine inflows and pumping, groundwater levels (both for shallow and deep aquifers) and ground surface tilt relative to the scale of surface infrastructure, throughout the area within the maximum extent of the groundwater cone of depression and particularly in the areas above and adjacent to the mining activities provided for in this consent. Final details are to be agreed with the Councils, but are to include additional piezometers and extensometers located along the line of upper level workings in the Rex Orebody. The Dewatering and Settlement Monitoring Plan shall also provide groundwater and settlement trigger limits that will initiate the implementation of contingency mitigation and / or monitoring measures and shall detail any linkages with the operation of the Martha Pit and Martha Underground Mine.
- 18 The exercise of this consent shall be in accordance with the Dewatering and Settlement Monitoring Plan as certified by the Councils. The Dewatering and Settlement Monitoring Plan shall be reviewed and updated as necessary by the consent holder. Any updated Dewatering and Settlement

Monitoring Plan shall be promptly forwarded to the Councils for certification, and following this process, the updated plan shall be implemented in place of the previous version.

- 19 In the event that a tilt greater 1 in 1,000 occurs between any two network monitoring locations installed in accordance with the Dewatering and Settlement Monitoring Plan required pursuant to Condition 15 of this schedule, or there is a significant variance from the predicted settlement rates, the consent holder shall notify the Councils in writing within 20 working days of receiving the results of the monitoring. The consent holder shall then:
- a. Explain the cause of the non-conformance;
 - b. Propose appropriate settlement contingency measures to the Councils and the timing of implementation thereof by the consent holder;
 - c. Implement settlement contingency measures as appropriate within the agreed time limit; and
 - d. Advise the Councils on the steps the consent holder proposes to take in order to prevent any further occurrence of the situation.
- 20 The consent holder shall as a matter of urgency, advise the Councils of any significant anomalies identified by the regular reading of groundwater levels in the piezometer network. Such advice is to include an explanation of the anomalous results and actions proposed to address any issues identified. This report is to be provided to the Councils within 10 working days of the anomalous results being identified.

A “significant anomaly” is defined as a drop in groundwater level greater than the seasonal variation in piezometers within the alluvium and younger volcanic rocks and a drop of 15 m or more in the recordings from piezometers tapping the upper 50 m of Andesite over a one month period.

- 21 In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the Dewatering and Settlement Monitoring Plan, then the conditions of this consent shall prevail.

Advice Note:

The monitoring undertaken in terms of the Dewatering and Settlement Monitoring Plan may need to be continued for a period beyond the term of this consent depending on recharge of the groundwater following cessation of underground mining activities and filling of the Martha Pit.

DEWATERING AND SETTLEMENT MONITORING REPORT

- 22 The consent holder shall provide to the Councils (within one month of an agreed anniversary date) an annual Dewatering and Settlement Monitoring Report. The report shall, as a minimum, provide the following information:
- a. The volume of groundwater abstracted;
 - b. The data from monitoring undertaken during the previous year, including groundwater contour plans (derived from the data) in respect of the piezometer network;
 - c. An interpretation and analysis of the monitoring data, in particular any change in the groundwater profile over the previous year, predictions of the future impacts that may arise as a result of any trends that have been identified including review of the predicted post

closure effects based on actual monitoring data, and what contingency actions, if any, the consent holder proposes to take in response to those predictions, this analysis shall be undertaken by a party appropriately experienced and qualified to assess the information;

- d. Any contingency actions that may have been taken during the year; and
- e. Comment on compliance with Conditions 14 to 21 of this schedule including any reasons for non-compliance or difficulties in achieving conformance with the conditions of consent.
- f. The report shall be forwarded in a form acceptable to Councils.

REHABILITATION AND CLOSURE PLAN

- 23 The consent holder shall rehabilitate all areas that have been subject to mining activities as authorised as part of this consent.
- 24 The consent holder shall prepare a Rehabilitation and Closure Plan covering all areas that may be affected by the mining activities authorised as part of this consent. The plan shall be submitted to Councils for certification at least 30 working days prior to the commencement of mining activities authorised by this consent. If certification is not provided within 30 working days of Council's receipt of the Rehabilitation and Closure Plan mining activities authorised by this consent may commence.
- 25 The Rehabilitation and Closure Plan shall be in two parts:
 - a. Part A shall describe the programme of rehabilitation (including re-vegetation and backfilling) that is proposed for the site(s) for the following twelve months, should closure not be proposed during that period; and shall report on any such works undertaken during the previous year;
 - b. Part B shall:
 - i. Describe the proposed method of rehabilitation and closure should closure occur within the following 12 months;
 - ii. Include an assessment of any residual risk that the site(s) would pose to the environment and the neighbouring community should closure occur within the following 12 months; and
 - iii. Include a programme for monitoring of the sites(s) following closure, and list all maintenance works likely to be necessary at the closed site(s) for the foreseeable future.
- 26 In considering the Rehabilitation and Closure Plan, the Councils shall take into account:
 - a. The degree of compliance with the concepts described in the Annual Work Programme;
 - b. Their usefulness and practicability in terms of the Waihi community; and
 - c. On-going maintenance issues.

PUBLICLY AVAILABLE MANAGEMENT PLANS / MONITORING REPORTS

27. All management plans, monitoring reports and other compliance monitoring reporting required by this consent shall be available to the public by posting on the consent holder's website as follows:
- a. The plans and reports shall be posted only when certified by the Councils (where required by the conditions of this consent) or received by the Councils (e.g. monitoring reports); and
 - b. Only the current versions of the plans and reports are to be displayed on the consent holder's website.

Advice Note:

For clarification, the bond requirements set out in the conditions below are joint between the Hauraki District Council and the Waikato Regional Council.

The conditions relating to the bonds and trust form an integrated whole and are not severable.

REHABILITATION BOND

28. Prior to the exercise of this consent, the consent holder shall provide and maintain in favour of the Councils a rehabilitation bond to:
- (a) Secure compliance with all the conditions of this consent and to enable any adverse effects on the environment resulting from the consent holder's activities and not authorised by a resource consent to be avoided, remedied or mitigated;
 - (b) Secure the completion of rehabilitation and closure in accordance with the approved Rehabilitation and Closure Plan;
 - (c) Ensure the performance of any monitoring obligations of the consent holder under this consent;
 - (d) Enable the Councils to undertake monitoring and management of the site until completion of closure of the site; and
 - (e) Enable the Councils, in the event of the bond being called upon, to purchase Industrial and Special Risk Insurance in the sum of \$12 million (1998 dollars) and public liability insurance to the sum of \$5 million (1998 dollars).
29. The rehabilitation bond shall be in a form approved by the Councils and shall, subject to these conditions, be on the terms and conditions required by the Councils.
30. The rehabilitation bond shall provide that the consent holder remains liable under the Resource Management Act 1991 for any breach of the conditions of consent which occurs prior to the completion of closure.
31. Section 109(1) of the Act shall apply to the rehabilitation bond and the rehabilitation bond shall be registered under the Land Transfer Act 1952 by the consent holder at its expense against the certificates of title of the properties listed in Appendix 4 owned by the consent holder or its subsidiaries, and as identified as 'Post Closure Proposed Trust Land' on the plans in Appendix 4.

32. Unless the rehabilitation bond is a cash bond, the performance of all of the conditions of the bond shall be guaranteed by a guarantor acceptable to the Councils. The guarantor shall bind itself to pay for the carrying out and completion of any condition in the event of any default of the consent holder, or any occurrence of any adverse environmental effect requiring remedy.
33. The amount of the rehabilitation bond shall be fixed annually by the Councils who shall take into account any calculations and other matters submitted in the Rehabilitation and Closure Plan, or otherwise, by the consent holder which are relevant to the determination of the amount. The amount of the rehabilitation bond shall be advised in writing to the consent holder at least one month prior to the review date.
34. The amount of the rehabilitation bond to achieve the purposes set out in Condition 28 of this schedule above shall include:
 - a. The estimated costs (including any contingencies necessary) of rehabilitation and closure in accordance with the conditions of this consent, on completion of the mining operations proposed for the next year and described in the Rehabilitation and Closure Plan;
 - b. Any further sum which the Councils consider necessary to allow for remedying any adverse effect on the environment that may arise from the exercise of this consent;
 - c. The estimated costs of monitoring, in accordance with the monitoring conditions of this consent, until this consent expires; and
 - d. Any further sum which the Councils consider necessary for monitoring any adverse effect on the environment that may arise from the exercise of this consent including monitoring anything which is done to avoid, remedy, or mitigate an adverse effect.
35. Should the consent holder not agree with the amount of the rehabilitation bond fixed by the Councils then the matter shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1996. Arbitration shall be commenced by written notice by the consent holder to each of the Councils advising that the amount of the rehabilitation bond is disputed, such notice to be given by the consent holder within two weeks of receipt of notification of the amount of the rehabilitation bond. If the parties cannot agree upon an arbitrator within a week of receiving the notice from the consent holder, then an arbitrator shall be appointed by the President of the Institute of Professional Engineers of New Zealand. Such arbitrator shall give an award in writing within 30 days after his or her appointment, unless the consent holder and the Councils agree that time shall be extended. The parties shall bear their own costs in connection with the arbitration. In all other respects, the provisions of the Arbitration Act 1996 shall apply. Pending the outcome of that arbitration and subject to Condition 36 below, the existing bond shall continue in force. That sum shall be adjusted in accordance with the arbitration determination.
36. If, for any reason other than default of the Councils, the decision of the arbitrator is not made available by the 30th day referred to above, then the amount of the bond shall be the sum fixed by the Councils, until such time as the arbitrator does make his/her decision. At that stage the new amount shall apply. The consent holder shall not exercise this consent if the variation of the existing bond or new bond is not provided in accordance with this condition.
37. The rehabilitation bond may be varied, cancelled, or renewed at any time by agreement between the consent holder and the Councils provided that cancellation will not be agreed to unless a further or new rehabilitation bond acceptable to the Councils is available to replace immediately that which is to be cancelled (subject however to the condition below as to release of the

rehabilitation bond on the completion of closure of the site - as that phrase is elsewhere defined - to the Councils' satisfaction).

38. The Councils shall release the rehabilitation bond on the completion of closure of the site.

"Completion of closure of the site" means when the elements of the entire project have been demonstrated by the consent holder to the satisfaction of the Councils to have reached a stable, self-sustaining, rehabilitated state and any water discharging from the site, and any ground water under and around the site, will be of a quality such that it will not adversely affect aquatic life, or other users of the water resource as defined by the approved Rehabilitation and Closure Plan.

39. All costs relating to the rehabilitation bond shall be paid by the consent holder.
40. This consent shall not become operative unless and until the consent holder provides the rehabilitation bond to the Councils.

TRUST

41. The Trust established for the Martha Mine Extended Project shall also be responsible for the post closure Martha pit including the activities authorised under this consent. The Trust purposes and powers shall be:

- a. To take legal title after completion of the closure of the site to the land marked as 'Post Closure Proposed Trust Land' on the plans in Appendix 4 and the certificates of title listed in Appendix 4. The Trust shall have no power of sale of the land;
- b. To monitor and maintain these facilities in perpetuity and to be responsible for such monitoring and maintenance as to ensure that Storage 2 and Storage 1A and the park (and proposed pit lake if acceptable to LINZ) remain in a stable, self-sustaining, rehabilitated state;
 - a. To maintain and monitor the proposed pit lake (subject to agreement with LINZ);
 - b. To obtain any resource consents that may be required after completion of the closure of the site and the expiration or surrender of this consent;
 - c. Without limiting the above, to take out insurance cover against unexpected risks;
 - d. To reimburse the Councils for any costs incurred by them in monitoring or maintaining Storage 2 and Storage 1A, the park, and proposed pit lake; and
 - e. To invest any funds held to generate the necessary income to pay for the above purposes.

These purposes and powers shall be recorded in a Trust Deed approved by the Councils.

The Trust Deed shall provide:

- a. That the Councils shall have the power to appoint two trustees each to the Trust;
- b. For the appointment by the Councils, after consultation with Ngati Tamatera, of one additional trustee representing Ngati Tamatera; and

- c. For the appointment by Te Runanga a Iwi o Ngati Tamatera Incorporated of one advisory trustee representing Ngati Tamatera.
- 42. The consent holder shall be responsible for all costs associated with the establishment of the Trust. The solicitor appointed to act for the Trust shall be independent of the solicitors acting for the consent holder and shall be approved of by the Councils.
- 43. The consent holder shall execute an irrevocable deed of transfer in favour of the Trust of the land upon which Storage 2 and 1A are sited and shall provide the executed transfer together with the certificates of title (as soon as they are issued) to be held in escrow subject to Condition 46 by the solicitor acting for the Trust.
- 44. The consent holder shall execute an irrevocable deed of transfer in favour of the Trust of the land upon which the park at Junction Road is to be and shall provide the executed transfer together with the certificates of title (as soon as they are issued) to be held in escrow subject to Condition 46 by the solicitor acting for the Trust.
- 45. The consent holder shall execute an irrevocable deed of transfer in favour of the Trust of the land upon which the Water Treatment Plant is sited and shall provide the executed transfer together with the certificates of title (as soon as they are issued) to be held in escrow subject to Condition 46 of this schedule by the solicitor acting for the Trust.
- 46. The Trust Deed shall provide that upon the completion of closure of the site, the transfers of land will be completed by the trustees registering the transfers on the relevant certificates of title, and the trustees shall undertake their responsibilities with respect to the park, proposed pit lake and tailings storage facilities. The Water Treatment Plant shall be in good working condition at the time the transfer of it to the Trust is completed.

CAPITALISATION BOND

- 47. Prior to the exercise of this consent, the consent holder shall provide and maintain in favour of the Councils a capitalisation bond to secure the settlement on the Trust of the required capital sum to fund the Trust to carry out its obligations.
- 48. The capitalisation bond shall be in a form approved by the Councils and, subject to these conditions, shall be on the terms and conditions required by the Councils.
- 49. Unless the capitalisation bond is a cash bond, the performance of all of the conditions of the capitalisation bond shall be guaranteed by a guarantor acceptable to the Councils.
- 50. The amount of the capitalisation bond shall be fixed annually by the Councils and shall cover:
 - a. The estimated costs of dealing with any adverse effect on the environment which may become apparent after the surrender or expiry of this consent. This sum may include (without limitation) provision to deal with structural instability or failure, land and/or water contamination, and failure of rehabilitation. Such estimated costs shall include the costs of investigation, prevention, and remediation of any adverse effect;
 - b. The estimated costs of monitoring for and of any adverse effect and of measures taken to avoid, remedy, or mitigate any adverse effect;
 - c. Provision for contingencies;

- d. The estimated costs of long-term monitoring and maintenance of the area to be owned or managed by the Trust, following completion of closure of the site; and
- e. Provision for the reasonable remuneration of the trustees having regard to their duties and responsibilities as trustees

and be based on the residual risk assessment dated 20 July 1998 prepared by the consent holder and provided to the Councils. Such residual risk assessment shall be updated annually.

The amount of the reviewed bond shall be advised in writing to the consent holder at least one month prior to the annual review date.

The amount of the bond shall be reduced by the capital amounts settled on the Trust from time to time by the consent holder.

- 51. Should the consent holder not agree with the amount of the capitalisation bond fixed by the Councils then the matter shall be referred to arbitration in accordance with the procedures set out in Conditions 35 and 36 above. Subject to Condition 36, that sum shall be adjusted in accordance with the arbitration determination. The consent holder shall not exercise this consent if the variation of the existing capitalisation bond or new capitalisation bond is not provided in accordance with this condition.
- 52. The capitalisation bond may be varied, cancelled, or renewed at any time by agreement between the consent holder and the Councils.
- 53. The capitalisation bond shall expire upon the settlement on the Trust by the consent holder of the required capital sum.
- 54. All costs relating to the capitalisation bond shall be paid by the consent holder.
- 55. In addition to the insurance cover required for the Rehabilitation Bond in Condition 28 (e), the consent holder shall throughout the term of this consent be able to demonstrate to the satisfaction of the Councils that it holds sufficient funds, insurances or other financial instruments (“cover”) to enable any adverse effect on the environment resulting from the consent holder’s activities and not authorised by a resource consent to be promptly avoided, remedied or mitigated.

The consent holder shall provide evidence to the Council annually that sufficient cover is in place. This evidence shall be provided to Council at the same time as the Annual Work Programme is submitted as required by Condition 1 to Schedule One of this consent.

Should the consent holder and the Council not agree on the sufficiency of the level of cover, the matter shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1996. Arbitration shall be commenced by written notice by the Council advising that the amount of the cover is disputed, such notice to be given by the Council within two weeks of notification of the amount of the cover. If the parties cannot agree upon an arbitrator within a week of receiving the notice from the consent holder, then an arbitrator shall be appointed by the President of the Institute of Professional Engineers in New Zealand. Such arbitrator shall give an award in writing within 30 days after his or her appointment, unless the consent holder and the Council agree that time shall be extended. In all other respects, the provisions of the Arbitration Act 1996 shall apply. Pending the outcome of that arbitration, the existing cover shall continue in force. The sum of the cover shall be adjusted in accordance with the arbitration determination.

56. The conditions relating to the capitalisation bond and the Trust form an integrated whole and are not severable.