Before the Waikato Regional
and Hauraki District Councils

Under	the Resource Management Act 1991 (**RMA**)
In the matter of	An application for resource consents to extend the Waihi Gold Mine via underground and open pit mining methods known as Project Martha
By	**Oceana Gold (New Zealand) Limited**
	Applicant

Closing Submissions for Oceana Gold (New Zealand) Limited

20 November 2018

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Introduction

1 In my opening submissions I provided an overview of the legal context for your decision-making. I noted that there were no important differences between OGNZL and the two Councils in relation to this, and that remains the position. I therefore do not repeat that material.

2 In these closing submissions I address the matters I have noted as remaining in dispute between the Council advisors and OGNZL, and I respond to questions or matters that the Commissioners, and in some cases submitters, have raised in the course of the hearing.

3 At the outset I note that as the hearing has progressed there have been discussions held between the Council staff and OGNZL, and between the experts engaged to advise both the Councils and the applicant for the purposes of discussing technical issues and developing suggested conditions that are considered appropriate and workable, should you be minded to grant consent.

4 The conditions proffered by the HDC yesterday are agreed to by OGNZL with just one exception relating to a suggested review condition should an alternative aggregate transport route be used. I discuss this later in these closing submissions[1].

5 In relation to the suite of regional consents there is also a very high level of agreement between OGNZL and WRC. The only areas where there still appears to be any differences relate to the extent of groundwater monitoring, and the timing and frequency of reviews of pit lake quality and aquatic biology. OGNZL proposes wording which I submit addresses both these matters.

6 I turn now to discuss particular topics that have arisen in the course of the hearing where I consider some further comment is warranted.

Changing Existing Conditions

7 Yesterday the Commissioners had an exchange with Mr Burton around the concerns or reservations that have been expressed about the extent to which you should consider changes to the wording of conditions which would be common to other consents in addition to those for Project Martha.

8 In my submission you do have the power to set conditions on whatever terms you consider appropriate, but I also submit that in setting conditions you need to be

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[1] There is also shown a disagreement between OGNZL and HDC in relation to the accidental discovery condition. OGNZL is not concerned by this, and will accept the Council's version

mindful of how they will work when read alongside similar conditions with which OGNZL must comply under other consents (or as a performance standard on a permitted activity in the case of the ML conditions).

9 At the most fundamental level I submit you should not impose conditions which would require OGNZL to breach the requirements of another consent in order to comply with the requirements of the Project Martha consents. In my submission there are no matters before you that suggest that this is a realistic outcome. Similarly, it would make little sense to impose conditions that are more restrictive than the requirements that apply to permitted activities.

10 The conditions that were tabled by Mr Burton yesterday, and which are almost entirely agreed by OGNZL do contain numerous recommended changes from the existing conditions from which they are derived. Many of those changes are designed to improve the clarity and certainty of the condition, or to address matters that are particular to Project Martha. None of the proposed changes are at odds with other existing conditions.

11 Mr Turner has completed a further review of the consent conditions to address various minor matters that have been picked up either by the Commissioners or on OGNZL's final review of the conditions Mr Burton tabled. An updated set of consent conditions is attached as **Appendix A.** I do not intend to labour through these now as they are of a mechanical nature.

Ohinemuri River Water Take

12 I note that you will need to decide the activity status of the Ohinemuri River water take for the purpose of accelerating the filling of the pit lake once mining ends. OGNZL and the WRC say it is discretionary. Fish & Game says it may be non-complying[2]. This question essentially turns on whether the activity is 'water harvesting'. In my submission it is not, and you should prefer the evidence of John Kyle and Ms Roa on this aspect.

13 Regardless of activity status, I submit the fundamental issue for you to decide is where the most appropriate balance of effects lies. On one hand you have heard of the benefits of filling the lake as quickly as practicable in terms of amenity, water quality and pit wall stability. As things currently stand with the existing consent in place, the pit lake will take around 14 years to fill once dewatering ends and pumping from the river starts. With the proposed increase in take from the river

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[2] In presenting her evidence, Ms Sintenie stopped short of saying the take was non-complying. I suggest it is probably fairest to catergorise her position as questioning the activity status rather than stridently asserting it is non-complying

this can be reduced to around 9.5 years. I submit that this represents a clear benefit.

14 I note that it appears Ms Clarkin was of the view that filling the lake more slowly would be a benefit in terms of water quality, but this is not the view of the experts[3].

15 In the proffered consent conditions OGNZL has modified the trigger for exercising the take to address the prospect of the river being drawn below 850l/s (which represents 2*MALF at the point of take) so that it is now clear that the river cannot be reduced below that flow as a result of the exercise of the consent. This change has a very small impact on the volume of water available. As the Commissioners are aware, for a significant portion of the time (>30%) the river naturally drops below this flow anyway.

16 I also note that the 850l/s trigger value below which the take cannot be exercised applies downstream of the HDC 60l/s take. In other words HDC's upstream take will impact (to a small degree) on the times the OGNZL take can be exercised and the amount of water that can be taken. The 850l/s that must be flowing at the point of abstraction will be the flow after whatever HDC has taken out of the river further upstream. In relation to the HDC take I note that Fish & Game gave no explanation as to why that take, which can comprise 20% of the river flow at MALF and below, is acceptable in terms of its impact on fisheries and habitat availability, but OGNZL's take at 2*MALF isn't. It appears that their position between the two takes is simply inconsistent.

17 Both Fish & Game and Forest & Bird appear to think that the take is for 20% of the river above 2*MALF, and I wonder whether their assessment has been clouded because they have overlooked the maximum abstraction rate of 270l/s, and that the consent will authorise the taking of *the lesser of* 20% of the flow or 270l/s. As the hydrograph included in Sioban Hartwell's presentation shows (included here as **Appendix B** for ease of reference), for significant periods the operative limit is 270l/s, and this will comprise significantly less than 20% of the river flow.

18 There also appears to be some confusion in the suggested optimum flows in this reach of the river. The comment was made by Dr Daniel that the optimum flows at the point of abstraction would be higher than the flows suggested by Jowett at the upstream Golden Valley Road site[4]. That's not what Jowett suggests. At page 9 of his report[5] Jowett says in relation to the Golden Valley site and downstream (my emphasis): "The river was incised over the majority of the length surveyed with bed

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[3] See the evidence of Ian Jenkins in particular

[4] Referred to in error by Jowett as 'Golden Cross Valley Road'

[5] 'Flow requirements for fish habitat in the Ohinemuri River, Waihou River and selected tributaries' Jowett, NIWA, Waikato Regional Council Technical Report 2014/12 (report dated September 2008)

material ranging from silt and macrophytes to bedrock. Bank vegetation consisted of a wide variety of plants ranging from willows through gorse and blackberry to grasses. **This channel form was maintained for some distance downstream, at least as far as the Waihi township**." I submit the inference to be drawn from this statement must be that similar channel form means similar flow requirements for the species of interest. I therefore submit that it is entirely reasonable to proceed on the basis that the calculated optimum flows at the Golden Valley Road site will apply at and around the point of abstraction.

19 The proposed abstraction will not cause the flow below the point of take to drop below 850l/s (recognising that the river flow is naturally less than this for >30% of the time anyway). Dr Boothroyd[6] refers in his evidence to the flow requirements suggested by Jowett for this stretch of the river. The 850l/s trigger flow is more than 90% of optimum for both rainbow trout rearing and spawning. I submit this is an appropriate outcome in a degraded river with limited sports fishery values like the Ohinemuri. This flow is 200-250l/s more than the flow below which habitat declines sharply for trout[7].

20 Jowett's work is the best we have available as to the relationship between flows and habitat suitability for species of interest in this stretch of the river. I cannot reconcile what Dr Stirnemann, the Forest & Bird representative, had to say about the extent to which flow changes as a result of this take would cause habitat changes[8] with the tables in Jowett. I suggest that Dr Stirnemann may not be familiar with the Jowett report.

21 The comments of Fish & Game and Forest & Bird around the role and value of the extensive riparian planting that has been undertaken are confused and unhelpful.

22 Firstly, it is unclear whether the submitters fully appreciate the extensive nature of the planting. Attached as **Appendix C** is an internal mine document that discusses the "Bridge to Bridge" project. Included at the end of the document is a plan showing the areas planted. The length of the Ohinemuri River that has been planted is about 5km – curiously the same length that Dr Daniel plucked out of the air when asked how much planting would be needed to mitigate the effect of the proposed take. In addition there has been planting in some of the Ruahorehore Stream, together with two other smaller tributaries and adjacent wetland areas.

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[6] Ian Boothroyd EIC, Table 1, page 13

[7] Jowett's figures for this point of inflection in the flow suitability curves is 600l/s for spawning and 650l/s for rearing

[8] Dr Stimemann said at paragraph 6 of her evidence that 20% of water removal would result in more than 20% of habitat loss

23 This planting was not undertaken as mitigation for the effect of some other activity as the submitters have insinuated, and is not required by any resource consent condition. It was undertaken as a voluntary community initiative over about 10 years, funded by the mine. I am told the mine spent something like $2million on the planting. The planting was done because it was a good thing to do. It provides water quality, habitat and food for aquatic species. It doubtless provides some shading. It enhances the natural character of the area. Dr Boothroyd stated in his evidence that the planting 'contributes greatly to the ecological values of the Ohinemuri River'[9]. What seems to be entirely lost on the submitters is that these benefits are in place today. The planting was not done to gain 'credit' in a future process, but it should at least be realised that the Ohinemuri is in a better condition than it would be in if the planting had not been undertaken.

24 Secondly, Dr Daniel's reference to the role that riparian planting can play in shading/cooling adjacent water in the river presupposes that the proposed take will have a meaningful effect on the water temperature. In Dr Boothroyd's opinion this is unlikely with this take, and that opinion seems consistent with evidence Fish & Game has produced elsewhere[10].

25 If on the evidence you were to conclude that the increase in take was likely to result in a meaningful increase in water temperature or a meaningful decrease in suitable habitat for trout you do have the ability to impose a condition requiring the vegetation not be removed prior to or during the period over which the new consent is exercised. OGNZL would not oppose such a condition. OGNZL is not volunteering it though, because OGNZL considers there is no adverse effect that needs to be mitigated, and if there is, then the maintenance of the existing planting is much more than could reasonably be required. As it turns out OGNZL thinks the planting that has been done is an asset, providing ecological and natural character benefits, and representing a positive and tangible outcome achieved with community involvement. OGNZL has no intention to remove the vegetation.

26 In relation to the proffered condition requiring the take to be suspended when the temperature exceeds 25 degrees, while OGNZL agrees the condition is probably a bit pointless for the reasons discussed with Dr Phillips, OGNZL is concerned that the submitters who oppose the take may not share that view and would prefer to see the condition retained.

27 Finally on this point I note that Ms Sintenie suggested that in considering the effect of the proposed take you should compare that against a 'no take' environment. In

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[9] Ibid, paragraph 51

[10] At paragraph 128 of his EIC Dr Boothroyd refers to evidence given on behalf of Fish & Game by Dr John Hayes in connection with a proposed irrigation take from the Hakataramea River in Canterbury. Dr Hayes notes that 'water temperature is fairly insensitive to flow change'.

support of that suggestion she referred to the *Ngati Rangi Trust* v *Manawatu-Whanganui RC* case[11]. In my submission the factual situation in *Ngati Rangi* is not on all fours with the position here. In *Ngati Rangi* an application was being made to replace expiring consents for a small hydro scheme, and it was held that it was appropriate in that scenario to consider the effects of the exercise of replacement consents against the environment as it would exist if the scheme was not in place. In the present situation there is an existing consent to take water from the river to accelerate the filling of the lake. Under the status quo, that consent will be exercised once mining ends. The question before you is whether the proposed increase in the rate and amount of water taken gives rise to additional effects, and if so how those effects are to be managed.

Pit Lake

28 Forest & Bird are concerned that the pit lake will be used to breed koi carp. There is no intention to do this.

29 The Commissioners have requested some more detail on the type of lake outlet structure that could facilitate the upstream movement of elvers and the downstream movement of mature eels. **Appendix D** is an indicative drawing showing a typical structure that would provide for upstream and downstream movement. This drawing has been prepared by Sioban Hartwell and reviewed by Ian Boothroyd. Detailed design will be required prior to construction, but there is no reason why a suitable structure that achieves the intended purpose cannot be constructed at the lake outlet.

Air Discharges

30 Mr Lapwood, a submitter, clearly has an interest in, and professes some knowledge about, air discharges. He addressed a number of issues when presenting in support of his written submission. His comments fall into three categories. He talked about respirable particles, including respirable crystalline silica (**RCS**) in particular and their potential to adversely affect the health of workers and the general public. He also talked about the physics of air discharge dispersal by reference to plume dynamics and mixing with ambient air. He also talked about dealing with nuisance dust.

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[11] [2016] NZHC 2948. This case was an appeal from the decision of the Environment Court in *New Zealand Energy Ltd* v *Manawatu-Wanganui RC* [2016] NZEnvC 59

31 In response to the technical matters raised OGNZL has sought a response from its air quality expert Ms Harwood. Her letter responding to Mr Lapwood's points is attached as **Appendix E**.

32 In short there is nothing in the matters raised by Mr Lapwood that gives rise to new or different considerations than those that have already been addressed in the AEE and in the evidence before you.

33 It is worthwhile remembering that the air discharged from the underground mine in the form of a 'plume' is the ambient air from the underground workings, and is the air that the mine workers breathe. As Ms Harwood notes in her letter in Appendix D, air quality for worker safety is addressed through the Worksafe Exposure Standards and is regularly monitored to ensure it is safe. This includes particulate. As soon as the air is discharged from the mine it begins to rapidly mix with the ambient air, and the levels of particulate and other contaminants are further diluted.

34 As Ms Harwood explains, in the case of discharges from the mine, the physical nature of the discharge and the receiving air environment mean that the highest ground level concentrations (**GLCs**) of particulate (including RCS) are to be found close to the point of discharge. This is not an instance where the exit velocities are extremely high and/or via a very tall stack such that the highest GLCs are to be found in the far field. The measured levels of fine particles in the areas of highest GLC closest to the discharges from the mine are low.

35 In relation to management of nuisance dust from exposed surfaces raised by Mr Lapwood I note that:

(a) The Commissioners have received the full dust complaints register from the company for the last 10 years, and can see how complaints have been responded to, including the time to respond and the nature of that response. I submit that record shows that the mine has been responsive to complaints about dust.

(b) The compliance audit record presented in the WRC s42A Report shows a high level of compliance with the various regional consents for the mine, including the air discharge permit.

(c) Based on the recommendations of the WRC's expert Dr Caudwell a number of enhancements to the way dust nuisance is identified and managed are to be included in the Air Quality Management Plan. These are discussed in Bernie O'Leary, Prue Harwood and Kathy Mason's evidence and include windspeed monitoring triggers, continuous dust monitoring at two new sites and further emission testing during representative blast events. These additional measures will in my submission further support the existing

measures to manage dust, and together they represent a robust and effective management system in relation to this issue.

(d) Undertaking construction and pit earthworks in the area of the pit crest on the north wall does have the potential to give rise to nuisance dust effects and it is accepted these will need to be carefully managed in accordance with the Air Quality Management Plan. This will include proactive management as well as responding to any issues that arise.

Blasting and vibration

36 In my submission it is noteworthy that there are only a small number of submissions that raise issues relating to vibration. It is also noteworthy that you have been presented with a set of suggested conditions that are agreed by OGNZL and HDC. While the evidence of Dr McKenzie raised a number of issues, and it is clear that there are (and I suspect always will be) technical disagreements between the experts on matters of detail and interpretation, the important point is that there is before you a set of agreed conditions

37 The proposed conditions closely mirror those that were developed for and successfully applied to the Correnso, and more latterly the Slevin Underground Mines.

38 The particular matters I wish to comment on relate to the Pumphouse; the application of 5mm/s to commercial properties; the timeliness of vibration reporting; Gold FM's concerns; and dealing with complaints.

39 At the Pumphouse, the Commissioners have noted that Dr Heilig is predicting the maximum level of vibration from the preliminary modelling of Project Martha blast events to be about 9mm/s. The question was asked as to whether 9mm/s is therefore an appropriate level to set as a compliance limit at the Pumphouse. I submit it is not, and the HDC agrees. Blast vibration limits have been set at 5mm/s to protect residential amenity, and apply where people live. Nobody lives at the Pumphouse so it is not necessary to set a limit there that protects amenity. On the other hand, in order to protect the structural integrity of a building, including the Pumphouse, the most conservative limit that the experts can suggest would be 25mm/s – a degree of shaking that far exceeds anything the Pumphouse will experience.

40 OGNZL understands the iconic nature of the Pumphouse. To provide the Commissioners with additional assurance that it is not going to be exposed to any risk of structural damage as a result of Project Martha blast vibration an opinion has been obtained from Adam Thornton, the structural engineer responsible for the structural strengthening and previous relocation of the Pumphouse to its present location. Mr Thornton's advice is attached as **Appendix F**.

41 Notwithstanding that the structure will be exposed to no structural risk from Project Martha, OGNZL is happy to volunteer proposed condition 33(l) which requires a structural survey of the Pumphouse to be undertaken before blasting within 250m of the Pumphouse occurs, and then repeated every 5 years thereafter unless agreed with the HDC. In the event that there was any structural damage as a result of Project Martha blasting OGNZL would need to make good that damage.

42 As noted above, the 5mm/s surface vibration limit is designed to protect residential amenity. WCF has suggested that the same limit and associated AEP payments should be applied to commercial property. When pressed by the Commissioners, Mr Ranchhod on behalf of WCF indicated that the concern was driven from comments he had received from two hospitality businesses. In my submission applying the 5mm/s residential amenity limit and AEP to non-residential properties is not appropriate because those properties have a different, less sensitive use. In any event, non-residential properties benefit from their proximity to residential properties in the sense that the 5mm/s limit that applies at all residential properties effectively limits what a nearby commercial property can experience. Also, where residential activities are lawfully taking place above commercial properties (the District Plan provides for this as a permitted activity) those properties will have the benefit of the 5mm/s limit and AEP payment.

43 Mr Schmidt commented in his submission about the timeliness of public reporting of vibration magnitudes. Much can be said about Mr Schmidt's concerns and OGNZL's ability to respond to them in a way that meets with his approval. I confine my comments to noting that the relevant condition[12] requires that blast notifications be timely. While Mr Schmidt might wish that this means instantaneous, and while OGNZL works hard to achieve very rapid (within a minute or two) reporting of every blast, it needs to be understood that the communication systems between the various remote vibration monitors, and the servers and computers that process and report the information (some of which is physically located in Australia) is complex, and sometimes there are short delays of up to a few hours before reliable results can be broadcast. The prospect of such delays is precisely why the condition refers to *timely* and not *instantaneous* notification.

44 I note that OGNZL has considered whether there is a way of electrically linking the electronic firing of blasts with the blast monitoring and reporting systems. As the Commissioners will appreciate there are good safety reasons why the electronic blasting circuits are kept separate from any other electronic circuits, and while it might in theory be possible to devise a system that concurrently detonated the

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[12] Proposed condition 34(e)

charges and initiated the monitoring and reporting sequence, safe practice suggests this is unwise.

45 Finally on this point I am advised that the rapid reporting of vibration monitor results in connection with underground blast events is not undertaken anywhere else in the world to the best of OGNZL and its consultants' knowledge. There isn't a better way of doing this work. That said, OGNZL understands that some members of the community have a real interest in seeing blast monitor results just as soon as a blast happens. OGNZL will continue to look at its systems to try to reduce the small percentage of blasts that are subject to delayed reporting.

46 Several times during the course of the hearing the Commissioners have asked for information about the way OGNZL responds to complaints. In relation to vibration complaints I refer the Commissioners to proposed condition 45(g) which requires OGNZL to have a roving vibration monitor that can be deployed in response to complaints. This is the same condition as applies under the Correnso consent and I am instructed it works well for both residents and OGNZL, as well as for the Council. When a vibration-related complaint is received an offer is made to have a roving monitor installed by one of OGNZL's trained environmental team at an appropriate location on the resident's property. Relatively quickly and with little difficulty the monitor can provide vibration readings in histogram mode which allow OGNZL and the resident to see whether the levels of vibration are within the range expected. On most occasions this satisfies a resident that they are not being exposed to unreasonable vibration levels. If a resident remains concerned a more detailed technical exercise can be undertaken by converting the roving monitor to waveform mode. This is the mode in which the fixed location compliance monitors operate, and if the roving monitor is reporting in the same mode will enable the technicians to validate that the two monitors are picking up vibrations from the same blast events. Since Correnso has been operating there has been one property only where the actual vibration results have diverged from the predicted or modelled vibration levels in a statistically significant way.

47 The use of the roving monitor provides residents with an easy avenue to obtain confirmation of exactly what vibrations they are experiencing from blasting (and from other sources unrelated to mining as well). It provides protection for OGNZL by ensuring that actual data is gathered about vibrations experienced at individual properties – recognising that compliance monitors cannot be located everywhere. From the Council's perspective the roving monitor data is helpful in verifying compliance with consent requirements.

48 Ms Gentil, the co-owner of Gold FM, raised a concern about the potential for regenerated noise to adversely impact on Gold FM's recording and broadcasting activities. In support of her concern Ms Gentil referred to another blasting situation in which Dr Heilig has provided advice – the City Rail Link in Auckland. The two

situations are not directly comparable, and the concern with regenerated noise does not arise in the present context. A brief letter from Dr Heilig clarifying the position is attached as **Appendix G**.

49 Finally in relation to blasting and vibration, in the context of safety blasts there was some discussion yesterday about what the position would be in the event that there was some kind of safety issue arising whereby workers were trapped or in some kind of immediate danger. Would the restrictions on the vibrations allowable in association with safety blast events apply? First of all, I agree that the emergency provisions of the RMA do not address this scenario. Secondly, without any doubt the physical safety of people is the paramount consideration. This must dictate that if a situation were to arise where a choice had to be made between ensuring the safety of people or complying with a vibration limit designed to protect amenity, there is really no choice, and I do not imagine for a second that anybody would expect otherwise. Thirdly, blasting is an activity which requires meticulous planning in order to ensure it is undertaken safely and does not result in unintended effects – whether these are underground or on the surface. In the event that some kind of blasting programme was being considered as part of an underground rescue effort, the blasting would always be planned with the greatest care and with regard to its effects. As part of that planning OGNZL would of course expect to be engaged in consultation with the HDC.

50 In my submission it is neither necessary nor desirable to specify an exception to the normal vibration limits in the case of an unforeseen rescue type situation. Defining the type of situation when such an exception would apply may be challenging, and it is not the type of activity that OGNZL expects to undertake.

Geotechnical issues

51 In relation to geotechnical issues I note that there is agreement between the experts as to the appropriate conditions. Detailed discussions have taken place between the geotechnical experts and the advisors to both OGNZL and HDC to ensure that the proposed conditions are sufficiently certain such that the Commissioners can have confidence that geotechnical issues must be comprehensively and appropriately addressed, while at the same time providing for sufficient flexibility to ensure that OGNZL does not become bound into sub-optimal management of geotechnical issues, given the need to be able to respond to unique ground conditions as they are encountered.

52 As the Commissioners will have picked up, a key geotechnical issue is the way new and historical voids are managed and backfilled to enhance stability. In relation to this issue I note that there is a convergence of interests. Backfilling historical underground workings reduces the risk of surface effects. It also assists in the task of ensuring post-mining pit slopes are stable and safe.

53 Proposed Condition 71(d) refers to an attached Figure showing the Milking Cow Zone. The appropriate Figure has been prepared by Tim Sullivan and is attached as **Appendix H**.

Transport

54 OGNZL's position is that through its submission NZTA has been engaged in an exercise of over-reaching its role and responsibilities.

55 As I noted in opening, since the time of the Correnso consent it has been accepted that the Crean Rd/SH2/Baxter Road route gave rise to special safety considerations at the SH2 intersections, and it has always been accepted that if that route is used for hauling aggregate it will need to be brought up to a safe standard appropriate for the vehicles using it.

56 NZTA will very shortly upgrade those intersections to make them safer. Whether the upgrades will be sufficient for whatever vehicles will be used for the haulage of aggregate (assuming the CAF plant goes ahead) remains to be seen. If the CAF plant goes ahead, if the aggregate is brought in via that route, and if the NZTA upgrades are not sufficient, OGNZL accepts that it will need to undertake further upgrades to a standard that meets NZTA's reasonable requirements. That is effectively the status quo, and OGNZL has no issue with that.

57 OGNZL will not agree to any conditions that require it to undertake other road or intersection improvements in the event that the CAF plant goes ahead and an alternative source or sources of aggregate are used. In this scenario OGNZL would expect that the lawfulness of getting aggregate from another source to the mine would be addressed by the contractor/quarry engaged to supply it. That's what normally happens, and OGNZL does not understand why Project Martha should be any different.

58 Proposed condition 104 is the only land use condition where there is a substantive difference between the HDC and OGNZL as to what the condition should say. OGNZL is happy to inform the Council as to any alternative route being used for hauling aggregate together with the authorisations being relied upon for that purpose. That gives the Council the opportunity to satisfy itself that the quarry operator does not need a resource consent etc. OGNZL does not agree to a condition that allows the Council to initiate a review of the Project Martha consent to address perceived transportation issues arising from the use of another authorised route. Similarly, OGNZL doesn't agree with the proposed associated addition to review condition 123(d). As Mr de Haast noted in his comments yesterday, it would be expected that the aggregate supplier would need to ensure that they were able to lawfully supply aggregate to the mine. The Waitawheta Quarry provides a good example of this. HDC has included a condition on the resource consent for the activity requiring the payment of a contribution that can

be used to maintain or upgrade roads once the amount of material leaving the quarry passes a threshold. That is the responsibility of the quarry operator, not the quarry's customer. In Mr de Haast's words, "The principle is that haulage of aggregate on the general road network is considered to be an impact associated with the quarry from which the aggregate originates."[13]

Landscape and Urban Form

59 The Commissioners have asked for confirmation that Rhys Girvan has considered the proposed Cambridge and Bulltown Road realignment, including the suggested road width tapering and pedestrian crossing and refuge island, from a visual and urban form perspective. Mr Girvan's advice confirming that he has considered these matters and is happy with them is attached as **Appendix I**.

Cultural

60 In his supplementary statement of evidence Mr Watson discussed the various conditions that address issues of concern to Ngati Hako. These are the cultural awareness training programme, the cultural balance plan, the iwi advisory group, and the peer review panel.

61 Following Ngati Hako's presentation to the Commissioners last week OGNZL and Ngati Hako have been in discussion to explore the Commissioners' comments about the desirability of providing more detail in the proposed condition relating to the Cultural Balance Plan.

62 Attached as **Appendix J** is a revised cultural balance plan condition that provides further detail. This condition is agreed between Ngati Hako and OGNZL, and I would encourage the Commissioners to accept it as representing the best expression of what the plan will address that can be achieved at this time.

63 In relation to the 'active observer' role of the Iwi Liaison Group's appointee to the Peer Review Panel, I adopt the comments that were made to you about this by Mr Burton and Ms Roa. The role of the active observer is spelt out in the advice note, and in my submission is sufficiently clear.

Property programme

64 I adopt the submissions of Mr Green and the comments that were made to you by Mr Burton in relation to the various elements of the property programme.

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[13] Lukas de Haast, Synopsis of Technical Report (s42A) and Response to Evidence, 19 November 2018, paragraph 3.1.3.1

65 The conditions that are before you represent the extent of conditions that OGNZL is willing to offer on an *Augier* basis. This includes the AEP payment scheme and the property purchase programme. These aspects already exist as conditions in the Correnso consent and the evidence is that they work well.

66 The Streets Ahead programme is not advanced as part of Project Martha because it does not address any adverse effect from the Project.

67 In relation to the Top Up, this is proposed for Project Martha, including an extension to the properties in the MP4 area as per Kit Wilson's evidence. As has always been the case, the Top Up is not offered as a consent condition. By its nature it is more of a pure property matter rather than addressing the effects of an activity, and it lends itself well to the flexibility afforded by remaining outside the consent. This approach is supported by the Council and its advisors.

Bonds

68 Mr Schmidt submitted that arbitrary bond sums should be set in the consents in the sum of, I think, $100 and/or $150million.

69 The bond sums are not set arbitrarily. They are set by the Councils following a robust process that evaluates and costs the various pieces of work that would be required to comply with the consent requirements and safely rehabilitate the site in the event that for whatever reason OGNZL was unable to do so.

70 No changes to the current way that the bonds are calculated is proposed.

Stephen Christensen

Counsel for Oceana Gold (New Zealand) Limited

20 November 2018