BEFORE COMMISSIONERS APPOINTED BY WAIKATO REGIONAL AND HAURAKI DISTRICT COUNCILS

UNDER	the Resource Management Act 1991 (**RMA**)
AND	
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

SYNOPSIS OF TECHNICAL REPORT (s42A) AND RESPONSE TO EVIDENCE BY

WILLIAM DAVID BURTON
FOR THE HAURAKI DISTRICT COUNCIL

PLANNER
19 November 2018

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Introduction

1. My name is William David Burton. I hold the qualifications BA(Hons); Dip TP and have been a Member of the New Zealand Planning Institute since 1978. In 2013, I was awarded the Institute's Distinguished Service Award. I have worked as a planner in the public and private sectors and am currently Director of Dave Burton Planning Ltd which is a planning consultancy based at Matangi near Hamilton.

2. I have served as co ordinating planner for the Project Martha applications on behalf of Hauraki District Council (HDC). The applications concerned are a land use and a subdivision consent (separate applications). I am the author of the s42A report. I have also provided planning advice to HDC on a number of previous mining projects in the Waihi area including the Extended Marta Mineral Project (EMMA), Favona Underground Mine, Trio Underground Mine, Correnso Underground Mine, Slevin Underground Mine (SUPA), Martha Drill Drive Projects 1 and 2 (MDDP), Martha Exploration Project (MEP) as well as various changes to the original Mining Licence 32 2388 and the EMMA consent. I have also provided advice regarding the Southern Stability Cutback and the Eastern Layback both of which were projects located in the Martha Pit. This involvement has extended over a period of some 20 years.

3. I have spent the majority of my planning career working in the Waikato/Thames Valley areas firstly with the then Ministry of Works and Development and then with Worley Consultants (subsequently Meritec, Maunsell and now called Aecom). I established my own planning consultancy in September 2017. During my career, I have worked in a wide range of planning and resource management fields including plan preparation, strategic advice, consenting and statutory advice. I have wide experience in the mining/quarrying sector, in public infrastructure, marine and coastal development and energy development.

4. I have presented evidence at Resource Management hearings before Council, the (then) Planning Tribunal and the Environment Court.

5. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and have complied with that practice note in preparation of this evidence. I agree to comply with it in presenting evidence at this hearing. The evidence that I give is within my area of expertise, except where I have stated my reliance on other identified evidence. I have considered all material facts that are

known to me that might alter or detract from the opinions that I express in this evidence.

Scope of Evidence

6. In this evidence I highlight a number of key matters addressed in the s42A Report and comment on the conditions that are recommended should the Panel decide that consents can be granted to the land use and subdivision applications.

Reiteration of Recommendation

7. At section 15.0 of the s42A Report, I have concluded that, subject to such evidence and other input that is presented at the hearing the applications can be granted subject to the imposition of appropriate conditions. I reiterate this conclusion noting that a number of changes to the recommended conditions have been made in response to evidence and presentations at the hearing by the applicant and submitters.

Planning Policy

8. The s42A Report provides a review of the applications in terms of the relevant statutory documents with particular regard to the Hauraki District Plan. In his evidence Mr Kyle has concluded that the proposal is not contrary to the objectives and policies of the District Plan when they are viewed in the appropriate context. I agree with Mr Kyle's conclusions.

9. Mr Kyle notes that there is policy in the District Plan which seeks that the proposal not reduce the historic, cultural and spiritual value which Ngati Hako associate with Pukewa. In written questions, the Commissioners asked Mr Kyle about the application of the Policy concerned (Ch 6, 3 (a)(ii) given that Pukewa is extensively modified by mining activity.

10. In his reply Mr Kyle observes that this policy is a District wide provision and its application in the Martha Mineral Zone presents challenges given the Objective of the zone is ---" *provide for the utilisation of the mineral resource in a sustainable way*" (5.17.2 (1)).Various mining activities are provided for in the zone as permitted activities.

11. District Plans frequently include non- consistent objectives and policies. Mr Green has set out in his submissions some case law that assists in such circumstances. The

advice is that an holistic approach is to be adopted in interpreting the plan provisions in a particular situation. Mr Kyle also concluded that in a situation where conflicting objectives and policies are apparent, the broad judgement that is available under Part ll of the RMA can be of assistance. I agree with this position.

12. I also make the following additional observations:

    12.1 Objective 6.1.3 (3) is –*To recognise and protect sites of significance to Maori*. Policy 1 to that Objective is the *"identification and protection*" of such sites. I note that identification is to be undertaken in consultation and partnership with local iwi and a Schedule of such sites is included in the Plan with rules to manage the effects of activities on these sites. That is the approach that the District Plan provides. Pukewa is not included as a Scheduled significant site.

    12.2 The second Policy to Objective 6.1.3 (3) is -- T*o avoid a reduction of historical, cultural and spiritual values associated with sites of significance to Maori* (6.3(a)(ii)). Again, in my interpretation, the sites of significance referred to here should be those that are included in the Schedule. That is how the Plan works. Further, in the case of Pukewa there has been very extensive modification to the maunga by mining activities. Clearly a reduction of the cultural and spiritual values associated with Pukewa has already taken place. It could be said that the policy does not refer to any *further reduction* of values over and above what has already taken place. That seems to me to be semantic and of no assistance to the matter at hand. The broad and holistic approach to District Plan interpretation is the better approach in determining whether this particular policy can be held to be a reason for the application failing the gateway test of s104D.

13. I also note that Mr Kyle observes in his evidence that, in the circumstances, it would have been preferable to include particular policy direction in the Martha Mineral Zone on the management of the heritage and spiritual values of Pukewa.

14. While not disagreeing with this view, I observe that in the preparation of the current District Plan, the Council received no submissions from iwi regarding the Martha Mineral Zone.

Consenting of Mining Activities in Waihi

15. Waihi has a long history of mining with the historic Martha Underground Mine commencing in 1878. This mine closed in 1952. Modern mining started in Waihi in 1987 with the Martha Open Pit which was extended in 1999 with the consenting of the EMMA project. Subsequent to this there have been a number of layback projects in the pit together with several underground mine developments outside the pit. These projects use common infrastructure which, in the main, was consented as part of the original Mining Licence for the Martha Pit.

16. Project Martha covers areas that have been consented for some of these projects eg: the Martha Pit and processing /tailings disposal area. The MDDP 1 and 2 projects, part of the Favona consented area and Project Martha abut the Correnso and SUPA consented areas. I do not consider that there is any issue regarding the use of consented infrastructure by and to support Project Martha. However, as Project Martha involves works in the Martha Pit (Phase 4 Cutback) largely in locations in which mining operations and surface mining are already authorised, it is essential that any conditions applied to any land use consent granted for the Project Martha works are consistent with those that are currently included in the Hauraki District Plan Martha Mineral Zone (ex Mining Licence 32 2388) and the EMMA land use consent. Any inconsistency in conditions would make monitoring and enforcement of these overlapping provisions an impossible task.

Land Use and Subdivision Conditions

17. The s42A report includes a set of recommended conditions for both the land use and subdivision consents to assist the Panel should decisions to grant the consents be made. In this version, the subdivision conditions address all matters that are required for the implementation of the subdivision. The applicant's evidence includes a proposed set of conditions appended to Mr Turner's evidence. He has proposed that the subdivision conditions be "streamlined" by deleting those aspects which are also required to be provided in the land use consent conditions.

18. 19.While I understand that consent conditions should not be duplicative and I appreciate what Mr Turner was looking to achieve, the various activities authorised by the subdivision consent (if granted) do not require a land use consent (constructing the realigned roads, earthworks to build the subdivision, removal of the dwelling at 12 Cambridge Road to make way for the subdivision). This matter was addressed by

the HDC in response to questions by the Panel concerning the s42A report. As these aspects do not require land use consent, they cannot be managed by conditions forming part of the land use consent. Rather, they need to be included in the subdivision consent that is required to authorise them. Nevertheless, the construction related aspects should be consistent between the subdivision and land use conditions and the recommended consent conditions proposed by HDC reflect this.

19. It is anticipated that once the conditions of the subdivision consent have been met, (relatively early in the Project Martha programme) effect will have been given to that consent. The land use consent on the other hand, will continue and should not include subdivision related conditions which would have effectively become superfluous.

20. In my view, as far as possible, all matters pertaining to a consent should be included in the one consent document and this is a further reason that the subdivision conditions be comprehensive as is recommended.

21. During the course of the hearing, various iterations of the subdivision consent conditions have been produced by the applicant and the Council and, as an outcome of these considerations, the applicant and the Council are generally in agreement regarding the subdivision conditions. The only matter where there is still a difference of view relates to condition 33 (version 16/11) regarding the accidental discovery protocol. The Council does not feel that it should be put in the position of being required to enforce the requirements of condition 33 d. which precludes the moving of human remains until tangata whenua and Heritage New Zealand have responded. This would be a challenging matter to monitor and enforce. In my view the protocol is essentially a direction as to what happens in terms of the Heritage New Zealand Pouhere Taonga Act 2014 when an accidental discovery of archaeological material is made. The role of the District (and Region) here is to say what steps are to be followed but it is for Heritage New Zealand as the agency responsible to undertake any investigation, agree procedures and confirm when works may recommence on the site concerned. The Councils should be advised that the authority to recommence has been given (refer amendment to recommended condition 4G d of the land use and condition 33 d. of the subdivision consents) – that is the limit to the role of the Councils.

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Advice Notes

22. The recommended consent conditions included a number of "Advice Notes" which are not enforceable. In response to questions by the Commissioners regarding whether specified Advice Notes may be more appropriately included as consent conditions, the Council has reviewed all the Advice Notes and incorporated several into the conditions proper. I observe that most of the Advice notes reflect the overlapping nature of mining consents in Waihi and confirm that, for example, a management plan required for Project Martha may be prepared in conjunction with equivalent management plans applying to the consent holder's other mines in Waihi. These Advice Notes are not able to be enforced and identify options that the consent holder may follow – they do not direct. In this sense, they are different to consent conditions.

Management Plans

23. The recommended conditions include requirements that a number of management plans are produced to confirm the measures that are to be taken to achieve the outcomes specified in the conditions. Following receipt of a question from the Commissioners concerning the vires of the inclusion of Council officer "approvals" of management plans etc, Council staff have gone through the recommended conditions and substituted "certification" for "approval" for these management plans. Further, the recommended conditions included in the s42A Report contained inconsistent requirements as to when management plans etc are to be provided to the Council (for certification) and what happens if the certification is not forthcoming. To address this aspect, the currently recommended conditions generally require that management plans be provided to the Council at least 30 working days prior to the commencement of the consent and that if certification is not provided within that 30 working day period, the consent holder may proceed with the works concerned.

Schedule One Matters

Content of Schedule One

24 The applicant has proposed that a number of conditions that in previous mining land use consents have been in the main consent conditions, be included in a Schedule for Project Martha that would apply to both the land use consent and to the regional consents which are considered by Waikato Regional Council (WRC). These include conditions about:

Work Programme

Company liaison officer

Complaints procedures

Recognition of Tangata Whenua Values

Accidental Discovery Protocols

Peer Review Panel

Dewatering and Settlement Monitoring and Reporting

Rehabilitation and Closure

Bonding and the Martha Trust.

25. I support the adoption of the Schedule approach for those condition matters that are applicable to both the District land use consent and to the regional consents for Project Martha. Whilst these conditions are common to the District and regional consents, they are separately monitored and enforced by the respective Councils.

26. Below are comments on some specific conditions in Schedule One.

Recognition of Tangata Whenua Values

27. In general, I support the changes made by the applicant in relation to these conditions (4A-4F) with some changes for consistency and editorial reasons. I accept that it is reasonable that Te Kupenga O Ngati Hako proceed with the preparation of the required Cultural Balance Monitoring Plan should it become apparent that other tangata whenua with a particular interest in the Waihi area choose not to actively participate in this exercise.

28. I note that the applicant and Te Kupenga O Ngati Hako have agreed the conditions regarding tangata whenua values.

29. I agree that the matters to be addressed in the Cultural Balance Monitoring Plan are not well defined. Further the inclusion of the word “Monitoring” in the title seems inappropriate as, following the evidence of Ms Clarkin, it is apparent that restoration of the mauri of Pukewa is at the centre of the purpose of the Plan. The Plan is not a monitoring focussed document and process.

30. During the course of the hearing I have noted that Commissioners have expressed some interest in having a clearer understanding of the matters that would be included in the Cultural Balance Monitoring Plan. I agree this would be helpful but do not consider that any such description needs to be very specific or directive. As Ms Clarkin said in giving her evidence, we are dealing with ground breaking stuff here and it would accordingly be wrong to get too directive in determining what the Cultural Balance Plan would address.

31. I understand that the applicant and Te Kupenga O Ngati Hako have discussed some changes to the condition regarding the Cultural Balance Monitoring Plan and that these will be presented to the hearing in the applicant's closing submissions. The intent of the changes is understood to be to give a little more focus to the content of the Cultural Balance Monitoring Plan.

Peer Review Panel

32. The function of the Peer Review 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 are met (with particular focus on pit slope stability), that the pit is stable and that such work is carried out by appropriately qualified personnel and to best practice standards (paraphrased from condition 6 of Schedule One). The Peer Review Panel has been in place since the development of the Martha Pit commenced (condition of Mining Licence 32 2388).

33. The Peer Review Panel reviews reports, designs, plans etc and reports its findings not only to the consent holder but also to the Councils (District and Regional).

34. The applicant proposes that the iwi advisory group (refer condition 4D) appoint an "active observer" to the Panel. It is not particularly clear what the role and the mandate of the active observer would be. If the intent is that the Panel have access to and incorporate a Maori perspective into its work (the scope of which does not change), there may be value in the appointee being a specialist in Tikanga and Matauranga Maori (Maori protocols and knowledge that Maori have). Exactly how this will work needs time to determine a best fit – perhaps technical aspects of rock mechanics may offer limited opportunity for Tikanga and Matauranga Maori, but rehabilitation planning, water management and quality matters may well offer opportunity for important inputs from the active participant. In this regard, the content and direction

to be provided by the Cultural Balance Monitoring Plan (condition 4C Schedule One) should provide some guidance.

Accidental Discovery Protocol

35. The land use consent conditions include an accidental discovery protocol. The wording is the same as included in the subdivision conditions and these are discussed above.

Bonds and the Martha Trust

36. The purpose and operations of the bond and Martha Trust conditions are discussed in section 10.11 of the s42A Report. There are no issues between the applicant and the Councils regarding these conditions. I note that there is an Advice Note that follows condition 32 of the conditions included in Mr Turner's evidence which purports to give a useful "target" to aim for in annually fixing the rehabilitation bond quantum and this being advised to the consent holder. The useful target date in the Advice Note is of no real value, is not able to be enforced and in practice, the 31 May is not when the annual review of the rehabilitation bond occurs. Rather this is done in association with the annual review of the Rehabilitation and Closure Plan which is undertaken to meet the annual Peer Review Panel meeting usually in September. I recommend the Advice Note be deleted.

37. I consider that the annual review of the rehabilitation bond (and capitalisation bond) could be made the subject of more definitive programming and further that some updating of the Martha Trust is needed (eg Trust Deed, membership). However, these matters have not been the subject of the necessary discussion between the applicant and the Councils for any changes to current practice to be implemented through the Project Martha application process. Further, the bond and Trust conditions are also part of the EMMA consent and the conditions need to be consistent between EMMA and Project Martha. In any event, the current process works, bonds are annually reviewed, agreed and are held by the Councils.

38. Recent progress has been made in identifying those properties that will be the responsibility of the Trust post closure of the Martha Pit. Transfers of these properties will be held in escrow pending the closure of the Martha Pit and associated activities including activities authorised by any consents granted for Project Martha. An Escrow Deed has been drafted for this purpose. Legal descriptions and plans of the relevant

properties are included in Appendix 4 to the recommended conditions and are referenced in condition 41 (a) of the HDC current recommended conditions.

39. I also draw the Panel's attention to changes to condition 38 (HDC current recommended conditions) where what was previously an Advice Note has been made part of the condition proper and additional wording included. The additional wording draws attention to the need for the completion of closure of the site to include water quality matters. Ms Roa will address this matter. I support the amendment recommended. This change is agreed by the applicant.

Land Use Consent Conditions

40. The following sections refer to the recommended conditions forming part of the Project Martha consent proper (ie not included in Schedule One)

General Conditions

41. The recommended conditions included with the S42A Report include in condition 1 a reference to an Appendix that lists the activities that are authorised by the consent and to plans that show the area (Project Martha Area) to which the consent applies. Mr Turner had disagreed that the activities Appendix and the plans were necessary or appropriate. In his view, the reference to the application AEE was all that was needed to identify what the consent enables.

42. Through discussions over the course of the hearing it has been agreed between the applicant and the Council that the list of activities that are authorised by the consent (if granted) is to be included in the conditions as an Appendix.

Noise Conditions

43. The amendments proposed by Mr Turner to the noise conditions are supported. However, the conditions do not require that the results of monitoring, complaints and the like are reported to the Council. This is considered to be an oversight as regular 3 monthly reporting is a requirement under other recent mining consents in Waihi. To address this, an additional condition has been included in the current Council recommended conditions (#26A) requiring the reporting of noise complaints monitoring. A similar condition is included for vibration reporting (#53). This change is accepted by the applicant.

Blasting add Vibration Conditions

44. I note and strongly support the acceptance by the applicant of the Council's preference that the vibration limits be set as a 95 percent compliance measure, that development and production blasting be separately assessed and the requirement that averaging be included for both development and production blasts. The rationale for this approach is set out in section 10.3 of the s42A Report and I am supported in this position by Dr McKenzie in his evidence. The 95 percent compliance approach has been agreed with by the applicant Dr McKenzie is concerned to ensure that flyrock is managed such that there are no incidents of flyrock exiting the pit. The conditions produced as part of the s42A Report sought to address this matter by the adoption of a factor of safety requirement in the relevant condition (condition 47 vi). In his evidence Dr McKenzie considers that the matter is best addressed via the undertaking of a formal risk assessment with the outcomes and directions being included in the Vibration Management Plan. Amendments to the conditions are recommended (refer conditions 34A and 47(vi)) and have been agreed by the applicant.

45. The applicant has proposed that, in addition to blasting for safety reasons, blasting for "maintenance" purposes should be allowed to take place at any time in the underground mine (ie outside the specified blast "windows for the underground mine) Provision for maintenance blasting in the pit is not specifically sought as it could take place under the current conditions.

46. I am advised that maintenance blasts are generally quite small involving limited quantities of explosives and in an operational sense I can accept that such blasts to clear an overhang and the like are very useful. Appropriate definitions for "safety and maintenance blasts" have been included in the conditions. The Council, and the applicant have agreed that a duration limit of 2.0 s be placed on safety and maintenance blasts and this is included in the conditions recommended. An exception to this duration limitation is made to allow the clearance/repair of failures etc in the accesses, tunnels and shafts in the SUPA and Correnso mines that are to be used in operating the Martha underground Mine (necessary once the consents for these mines expire in 2025). The exception for the duration of these works is included in condition 33 f (iv).

47. A record of each safety and maintenance blast should be sent to the Council to ensure that blasting records are not compromised (refer condition 53).

48. I recommend that some changes be made to conditions 32 and 33 to set the requirements for maintenance blasts out in the same format that is applied for development and production blasting. These changes are agreed by the applicant.

49. I note that Mr Turner recommends the deletion of a condition requiring monitoring for vibration where blasting is within 250m of the historic Cornish Pumphouse (deletion of 33 l. applicant's recommended conditions). This condition is included in the EMMA land use consent (3.1(c)). I have stressed the importance of consistency in the conditions that are applied to the various planning authorisations applying to operations in the pit.

50. The wording of the EMMA condition regarding the Pumphouse monitoring is not clear. The condition requires that a report addressing changes to the building's structural integrity is to be prepared and served on the Council of the anniversary date of the commencement of the EMMA project. It does not say that this report is to be undertaken and served on the Council on each and every anniversary of commencement. If a report is required on the initial anniversary only, it can be said that this condition has been met – and thus there is no need to include it in the Project Martha conditions for consistency reasons. Further, there has certainly not been any annual report produced in response to this condition to my knowledge. In my view the condition is redundant.

51. As explained by Dr Mckenzie in his evidence, the real issue with the Pumphouse is to ensure that it does not suffer any damage as a result of blasting in the nearby mines including project Martha. The Pumphouse is a Waihi icon and I recommend that a structural survey of the item be required to be undertaken prior to the first blast taking place within a radius of 250m (horizontally or vertically) from the Pumphouse. This would be repeated at least every 5 years with a view to confirming if damage to the structure has occurred that may be attributable to blast induced vibrations originating from the nearby mines. Refer condition 33 l. The consent holder should be required to repair any such damage.

52. I am supported in this conclusion by Dr McKenzie.

Vibration Monitoring

53. In his presentation to the hearing Mr Schmidt criticised the Council regarding vibration monitoring performance. Other submitters have called for independent monitoring to be required. I have addressed these matters in the s42A Report.

54. I do not support the criticisms levelled at the Council in this regard. I am advised that the following actions are taken in response to exceedances or near exceedances of the type described by Mr Schmidt:

- If there are blasts creeping up towards the consent limit a member of Council's staff contacts OGNZL and reminds them of consent limits;
- On the very odd occasion where there are blasts over the limit Council requires a written report (as required by consent conditions) as to the reason for the exceedance and what mitigation measures have been taken to avoid further exceedances. OGNZL is also required to provide the Council with blast event information (See Correnso consent conditions 22 (c) and (d) and 20 (h));
- On the odd occasion when there are blasts after 2pm OGNZL call the Council prior to the 2pm deadline for the blast and advise/explain the reason for the delay
- If there are occasions where blast results are not being reported automatically then Council staff are in touch with the company to find out why – technology failures are usually the reason
- There are quarterly vibration reports which include records of complaints received prepared by OGNZL which are publicly available.

Surface Stability and Ground Settlement

55. What is proposed as Project Martha is to construct an underground mine partly under the town centre of Waihi. Other underground mines in the town also are under urban (largely residential) development. Further, the main area for underground mining in Project Martha is beneath the Martha Pit which has experienced pit wall stability issues in the form of the North Wall failure in recent times. Further pit wall instability could impact on land use in the vicinity of the pit perimeter.

56. It is accordingly most important to ensure as far as is possible that Project Martha does not result in ground surface instability and unanticipated settlement.

57. Careful attention has been given to the formulation of appropriate conditions to manage ground stability and settlement. These are based on the conditions that were formulated for the Correnso and SUPA consents but in this case, additional provisions are required because the Martha Underground mine is located under the pit in an area extensively impacted by historical mining activities.

58. The expert advice supporting the conditions that are recommended is from Dr Fuller and I rely on his advice in supporting the conditions. I note that the applicant and the Council are in full agreement as to the relevant stability related conditions (#70-75)

Property Policy

59. Section 10.6 of the s42A Report discusses the Project Martha application in terms of impacts on the property market and the measures to address possible property impacts arising from the proposal.

60. There is support for the retention of the property inspection regime proposed to address concerns regarding potential damage to property resulting from mining operations. The conditions refer to all structures not just residential dwellings.

61. The **AEP payment regime** is included in the recommended consent conditions and is supported. The Waihi Community Forum (WCF) has sought that the AEP be extended to include commercial properties. There has not been strong submitter support for this and I note that because there are residential dwellings in various locations in the town centre, commercial properties will not be subject to vibration levels that are significantly different to the residential dwellings at which compliance is measured. I do not agree with this request from the WCF. I also do not consider that the Panel has the legal authority to impose an extension to the AEP payments to commercial properties. As property prices are not an environmental effect, the AEP is not a measure that can be imposed on the applicant as a condition (other than where offered on an Augier basis). It is more in the nature of a compensation payment for a level of amenity disturbance which is generated but remains within acceptable limits through compliance with consent conditions regarding the level of vibration caused by blasting.

62. The WCF has sought the **"Streets Ahead" programme** be included as a condition requirement. The Streets Ahead programme is not included in the Project Martha Property Policy that OGNZL has promoted and has included on its website. However, the programme may still exist and operate through and in association with the WCF. Nevertheless, to be introduced as a condition, the Streets Ahead Programme would need to be mitigating a demonstrated effect of Project Martha and I do not agree that such a direct link is apparent. The programme appears to have achieved well supported outcomes and its continued operation could be considered by the applicant

either as part of the Property Policy (voluntary) or on an Augier basis as a condition matter.

63 The WCF seeks an extension of the **property purchase** opportunity to properties near but not directly above the mine as is provided for in the Correnso consent and there relates to residential properties only. Mr Moskal also supported such a change in his presentation to the Panel.

64. The Rex Orebody is the only aspect of Project Martha which underlies private property (not owned by the applicant or LINZ). The residential property near but not directly over this mine is the area to the south east of the site (ie with frontage to Kenny St). There is no strong submitter support for extending the opportunity for property purchase to areas close to but not over the area to be mined.

65. There is one submission from a property owner and/or occupier in this area. This is submitter #1 (Heather Ross). The submission is neutral in terms of the outcome sought but expresses concern regarding damage to the property from mining activities and wanting full compensation should any such damage occur. There is no direct reference to the opportunity to be purchased by the applicant.

66. Further, the duration of mining in the Rex Orebody is relatively short (stoping will last for less than 2 years). In these circumstances I do not think that the same case can be made for the conditioning of property purchase close to but not above the Rex Orebody as was accepted for Correnso which is surrounded by residential land and where the mine has operated for considerably longer (5 years to date).

67. The **Top Up Policy** is part of the Project Martha Property Policy operated by the applicant and the WCF requests that the policy be made a consent condition matter. The Top Up Policy is aimed at ensuring that the announcement of this mining venture does not adversely impact on property values in the vicinity.

68. The Top Up Policy relates to a defined area adjoining the Project Martha area in the Rex Orebody vicinity. A number of submitters in the vicinity of the Phase 4 Pit perimeter seek that the Top Up Policy be extended to cover that area. The applicant has done this and the Top Up area has recently been extended.

69. The purpose of the Policy is to maintain property prices. As concluded in the HDC response to Commissioners written questions, effects on property values are not regarded as an environmental effect in resource management terms. Accordingly, for

the Top Up Policy to be made a consent condition matter, it would need to be offered as such by the applicant on an Augier basis. No such offer has been made.

70. I note that this policy appears to have been supported by the community and to have worked reasonably well as a voluntary programme. I urge the applicant to continue the policy.

71. I also observe that such a policy would not be easily enforceable by the Council as a condition other than that the policy be required to continue. If enforcement involved ensuring the implementation of the policy to the satisfaction of parties, significant difficulties would be expected and Council would be involving itself in the financial dealings of the parties concerned.

72. The WCF also expresses concern over the amount of property owned in the town by OGNZL and is worried that if a lot of these properties were placed on the market, this could negatively impact prices and saleability. This matter was discussed at the Correnso hearing. It is unclear why the applicant would wish to negatively impact on the local property market by putting numerous of its properties up for sale at the same time. The applicant would be adversely affected by any resulting market price dip.

73 I note that the development of a **Property Divestment Strategy** is a matter included under the Property Section of the current SIPM (2107) as an “Indicator”. Indicator P_M_7 is—" Develop and implement a property divestment strategy”. The SIMP records that such a strategy was developed in 2015 but has been put on hold as the owner is not proposing to close the mine. The draft divestment strategy was not released to the public. The matter has also been the subject of discussion at the Community Meetings that take place as per condition 62 of the Correnso land use consent.

74. It is suggested that this matter is best addressed through the SIMP and that some action regarding the Indicator relating to the development of the policy be taken by the applicant.

75. In his submission to the hearing Mr Moskal requested that condition 88 be clarified. I do not agree that this provision is unclear in its intent. It says that only one offer under condition 84 or 85 need to be made for any property in order for the conditions to be satisfied. Condition 84 requires an offer to purchase or make an ex gratia payment is made where a property is located above stopes or a spiral decline. Condition 85 requires that an offer for an ex gratia payment be made where a property overlies

development blasting. That is, conditions 84 and 85 relate to different situations. What condition 88 does is say that only one offer needs to be made in respect of these different situations for the requirements of those conditions to have been met. Further, if a property changes hands, no further offer needs to be made.

76. It is also clear that if an offer of an ex gratia payment (residence over tunnel – condition 85) has been made and then the residence is subsequently going to be over a stope then a purchase offer under condition 84 must also be made (refer condition 94).

77. Mr Moskal also considers that rather than assessing property at "market value", the valuers should apply a "compensatory value" method. I understand that where properties are acquired under the Public Works Act provision is included for an element of compensation in the payment for property. In that situation, an element of compulsion is involved in the purchase of the property required for a public purpose. This is not the case for the purchase of land above the Rex Orebody stopes etc. I also note that additional payments are to be made where people elect to sell properties above the mine as provided for in condition 91.

SIMP

78. The Social Impact Monitoring Plan (SIMP) is a requirement of the Correnso and SUPA underground mine consents. The SIMP framework was developed by the Waihi Gold Co. in consultation with the Council and local stakeholders. It contains management plans for six themes and these form the structure for the annual monitoring report. The themes and other matters regarding the SIMP are discussed in section 10.8 of the s42A Report.

79. In my view, the SIMP process serves a useful function in building a base of information regarding the social impacts that mining is having on Waihi. The identification of trends is one such useful function. It is useful to know whether locals are being employed at the mine; if training and apprenticeships are being offered; whether expenditure by the operator is locally and regionally focussed; whether the contributions to the community are being maintained; what trends are emerging in property prices in the town and so on?

80. The data base would be particularly useful in a situation where mining was winding down towards closure in the Waihi area. This would be further into the future if the Project Martha land use consent is granted.

81. While supporting the retention of the SIMP process (which is accepted by the applicant) I doubt that the Monitoring Plan needs to be undertaken annually. While this will continue annually as a requirement of the Correnso and SUPA consents, these expire in 2025 whereas any consent granted for Project Martha will continue in force for a longer period (a 12 year work programme is indicated by the applicant). By that time a biannual monitoring programme is considered to be appropriate and reasonable to ensure continuity of trend identification.

82. Accordingly, amendments to conditions 78 and 80 are recommended to require the monitoring and reporting to be undertaken biannually as against annually.

Traffic and Transportation

83. The conditions regarding traffic and transportation have largely been agreed between the applicant and the Council. The one area of disagreement at the time of preparing this evidence was condition 104 which looks to address any road impact issues in a situation where either the aggregate required for the CAF is sourced from somewhere other than the Waitawheta Quarry or should trucks longer than 11m be used to transport the aggregate from the Waitawheta Quarry to the site. Mr de Haast has advised that the resource consent for the Waitewheta Quarry includes a financial contribution for road maintenance should the volumes of material produced by the quarry exceed a specified volume. Should this quarry supply the aggregate for the CAF material, that trigger volume will be exceeded and payments will be required (by the quarry owner). Further, the planned upgrade at the Crean Rd / SH 2 intersection will not accommodate vehicles over the 11 m length. In this situation, the Council has no need to seek any roading contribution from the applicant if the Waitawheta Quarry provides the required aggregate.

84. If another source of aggregate is chosen, the resource consent that such a site operates under may or may not include provisions relating to access road maintenance or upgrade. Further, the route from that site to the Baxter Road mine site entry is unknown and may or may not be able to accommodate frequent use by large trucks. For this reason, the Council proposes that a condition be included that allows a review of the consent conditions (limited to traffic aspects) to be initiated if the proposed alternative haulage route cannot accommodate the proposed vehicle configurations. Condition 123 d. provides for the formal review of the condition concerned.

85. I recommend the formal review of the condition in this circumstance as it provides a statutory pathway involving rights for challenge by the consent holder in the process. NZTA in its submission appears to seek the opportunity to review route requirements and upgrades particularly if an alternative source of aggregate is adopted but with no avenue available to the consent holder to challenge upgrades determined as necessary by the Council and/or itself. This position is unreasonable.

86. These matters are discussed in the evidence of Mr de Haast.