

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of an application
pursuant to Section 88
of the Act by
**WELCOME
GOLDMINES LTD
and AUAG
RESOURCES LTD** to
the Hauraki District
Council for a land use
consent for the
construction and use of
an exploration decline
and associated facilities
at Waihi.

Introduction

Welcome Gold Mines Limited and Auag Resources Limited (“the Companies” and/or “the applicants”) have lodged a resource consent application with Hauraki District Council (“the Council”) seeking land use consent to construct and use an exploration decline into the Favona resource.

The proposal is described in the application documents that are listed below. It is the construction and use of an exploration decline or tunnel for the purpose of best defining the Favona Prospect, being the prospective mineral resource in the area known as Favona. This area is situated, at its closest point, some 1km eastward from the existing Martha Mine at Waihi and immediately west of the existing processing plant for the Martha Mine. It is separated from the Waihi township by the line of hills and ridges in the locality.

The Companies hold an Exploration Permit (EP 40 426) over the Project Area and have been undertaking surface drilling to determine the presence of minerals. The exploration decline is proposed in the Project Area which is approximately 75.1ha and is shown on Figure

1-1 of the Assessment of Environmental Effects (“AEE”) report included with the application.

Separate applications have been made to the Waikato Regional Council (Environment Waikato) for resource consents relating to dewatering and discharging of water.

Determinations

The application is being considered by Mr AR Watson who has been appointed as an independent Commissioner (“the Commissioner”) by the Council under the provisions of Part IV of the Resource Management Act 1991 (“the RM Act”) with delegated authority from the Council to make a decision on the resource consent application.

The matter of notification/non-notification was earlier considered by the Commissioner. The associated decision dated 20 December 2002 was that the application need not be notified for the reasons set out in that decision.

The Proposal

The application for the Favona Exploration Decline is supported by the following documentation:

- Covering letter from Simpson Grierson (dated 2 December 2002);
- Application form;
- Assessment of Environmental Effects report (December 2002);
- Blasting and Vibration Effects report, Heilig & Partners Pty Ltd (November 2002);
- Assessment of Noise Effects report, Hegley Acoustic Consultants (November 2002);
- Geochemistry report, URS New Zealand Ltd (November 2002); and
- Groundwater Assessment report, URS New Zealand Ltd (November 2002).

The nature of the application and the potential adverse effects are described in the above documentation. In summary, the exploration

decline follows on from the 'at ground' drilling, which has identified a resource worthy of further investigation. The decline is a tunnel that provides access from the ground to underground exploration drilling positions close to where the mineral is expected to be found. This allows more accurate and thorough investigative drilling and sampling to be carried out to determine if development of the underground mine is viable.

On the surface, the physical evidence of the decline will include the access portal, haul road between the portal and the material stockpile and the escape shaft.

The material from the decline will be stockpiled on the existing stockpile used as part of the Martha Mine project (ie within the existing Mining Licence 32 2388).

The Commissioner has examined all of the above documents and a report on the application prepared by Meritec Limited Consultants (Mr Alan Matheson) dated February 2003. That report includes copies of the provisions from the Operative Hauraki District Plan and of the review reports prepared in relation to the noise and the blasting and vibration reports submitted with the application.

The District Plan

The relevant document is the Operative Hauraki District Plan. In determining the activity status of the application in the Rural zone, the following is noted:

- a) Permitted Activity Rule 5.1.6.1.9, provides for excavations of up to 2000m³ of minerals for end use on the property and movement of up to 2000m³ of clean fill material from one location on a property to another in any one year;
- b) Permitted Activity Rule 5.1.6.1.12, provides for exploration tunnels with a maximum volume of excavated material of 500 m² of surface area being covered to a maximum height of 2 metres:
and
- c) The Favona Project involves the extraction of greater volumes of material than is provided as a permitted activity (ie 55,000 bank

cubic metres and stockpile volume of around 72,000 m³ cf 1,000 m³ as a permitted activity under Rule 5.1.6.1.12).

The activity falls to be considered as a discretionary activity under Rule 5.1.6.3.2:

“Any permitted or controlled activity that does not meet the particular rules for permitted or controlled activities of the performance standards specified in Section 5.1.8.”

It is noted that the proposed activity falls within the definition of ‘Exploration’ not under the definition of ‘Mining’ or ‘Mining Operations’, and as such does not fall to be considered as a discretionary activity under Rule 5.1.6.3.14 – ‘Mining and mining operations’.

Assessment

The Commissioner has assessed the land use application having regard to the relevant matters in Section 104 of the RM Act and also with regard to Section 105.

In summary, the relevant objectives and policies of the District Plan seek to provide for the investigation and utilisation of the mineral resources of the District, while ensuring that the adverse effects of these activities are on the environment are avoided, remedied or mitigated.

In relation to effects on the environment the primary, potentially adverse effects from the proposal are those relating to noise and to blasting and vibration. The assessment of noise effects report and the assessment of blasting and vibration effects report submitted with the application have both been reviewed.

In summary, the noise effects review notes that it is the cumulative effect of noise that must be assessed. In that regard, the review notes the following:

- The existing plant already generates noise that is at the upper limit of the noise standard limits of Mining Licence 32 2388;
- It will be impossible to separate the noise sources from the activities within the Mining Licence area and those within the Favona Project Area, when it comes to monitoring;
- Construction Noise Standard limits would be appropriate to use if it was impossible to comply with the Mining Licence general noise limits;
- The AEE has demonstrated that there will be no difficulties in the construction work on the exploration decline meeting the Mining Licence general noise limits;
- The Construction Noise Standard limits would allow noise levels that would have more than a minor impact on the environment; and
- The Mining Licence general noise limits represent the 'best practical option' to ensure noise does not exceed a reasonable level.

Accordingly, the review report recommends noise conditions that are based on those contained in Mining Licence 32 2388, as adapted to relate to the Favona Project and to incorporate the latest New Zealand Standards. The applicants' acoustic advisor has recommended that in the event that blasting at the portal is required to create the portal entrance, this should only be done during the daytime. A condition is recommended in the Meritec report on the application to address this matter.

In draft conditions contained within the AEE, the applicants have requested that noise conditions apply to the notional boundary of any occupied dwelling not owned by the consent holder or by a related company (eg Waihi Gold Company), or any property subject to an agreement with the consent holder or related Company. The potential concern with this approach is that the applicants could buy additional property or enter into agreements with property owners subsequent to the granting of the resource consent, which would have the effect of creating a moving noise boundary into areas of Waihi that previously were not considered as likely to be adversely affected by noise. Accordingly, it is recommended in the Meritec report that the condition refer to the land ownership and property owner agreement shown in Figure 1-4 of the AEE. There is the potential that properties within this boundary could be sold or new people move into a dwelling who have not signed an agreement with the

Companies. This would mean that these people could be subject to higher levels of noise than they anticipated. The recommended noise conditions in the Meritec report address this issue.

In summary, the blasting and vibration effects review noted the following:

- As ground vibration due to blasting is a primary adverse effect likely to be generated by the Project, regular monitoring of ground blast vibration is required;
- Air over pressure due to blasting and vibration from other sources (continuous vibration) are likely to cause either very minor or no adverse effects. Regular monitoring of these effects is not initially required;
- The AEE has demonstrated that there will be no difficulties with meeting the standards of Rule 9.4.3 of the Operative District Plan; and
- Vibration levels required to cause structural damage to buildings are significantly greater than the vibration standards specified in the recommended consent conditions from the applicants. Therefore building structural condition surveys are not required. However, the consent holder may undertake such a survey for the three properties selected for blast vibration monitoring sites prior to blasting operations commencing.

Accordingly, the review report recommends the vibration conditions be those contained in the Operative District Plan, supplemented by additional conditions relating to monitoring and reporting.

The applicants have suggested a similar condition apply to Company owned dwellings and properties subject to an agreement for vibration as that for noise. For the same reasons as applying to noise, a similar condition is recommended in the Meritec report for vibration.

The Commissioner concurs with the analysis in the review reports and has adopted the recommendations from those reports by carrying those matters through into conditions on the grant of consent to the application.

In relation to visual effects it is noted that the surface expressions of the Favona Project are limited to the portal, haul road, escape shaft

and waste stockpile. The waste stockpile is within Mining Licence 32 2388 and accordingly would not be a new feature to the landscape. Conditions included in the decision relating to rehabilitation sufficiently address the matters that need to be undertaken at the completion of the project. Similarly, the effects of the project on any archaeological sites is covered by the condition requiring standard operating procedure be followed in the event of finding an archaeological feature.

Overall, the Commissioner's assessment of the adverse effects indicates that any adverse effects are able to be avoided or mitigated to an extent that they are minor, either by the manner in which the activity is to be undertaken or by compliance with the conditions of consent.

In relation to the regional planning documents the importance of minerals to the economic and social wellbeing of the region is recognised in the Operative Waikato Regional Policy Statement. It identifies the two main issues as:

- Access to mineral resources being restricted; and
- Adverse environmental effects of mineral exploration and development.

The second of these matters is of relevance to this application. The AEE for the proposal shows that the adverse effects of mineral exploration proposed in the application can be managed through the manner in which the exploration is to be undertaken and compliance with appropriate conditions on a consent. There are otherwise no provisions within the Proposed Waikato Regional Plan that provide any particular guidance with respect to this application from the point of view of Hauraki District Council.

The application falls within the catchment of the Hauraki Gulf as defined by the Hauraki Gulf Marine Park Act 2000. Section 9 of the HGMPA requires that a consent authority must, when considering an application for a resource consent for the Hauraki Gulf, its islands and catchments, have regard to Sections 7 and 8 of the HGMPA.

The assessment of the application with respect to Part II of the RM Act below is considered to sufficiently address the matters to be considered in Sections 7 and 8 of the HGMPA. The application is

found to be for a proposal that is not inconsistent with the objectives and policies of the HGMPA.

In terms of Part II of the RM Act relating to its purpose and principles, the Commissioner notes that the purpose of the RM Act is to promote the sustainable management of natural and physical resources. The consideration of the purpose and principles involves an overall broad judgement of whether the proposal will promote the sustainable management of natural and physical resources, taking into account conflicting considerations, the scale or degree of them and their relative significance or proportion.

The specific provisions that have been considered to be of particular relevance to the application are the requirement to avoid, remedy or mitigate any adverse effects of activities on the environment; the requirement to have particular regard to the efficient use and development of natural and physical resources and the maintenance of amenity values; and, the requirement to take into account the principles of the Treaty of Waitangi.

These matters are closely related. The Commissioner considers the proposal is in accord with these provisions. It is to be carried out in a manner that is not inconsistent with the sustainable management purpose of the RM Act and with the associated principles of it.

The applicants have demonstrated there has been consultation with Iwi. In addition, the Commissioner is advised that Council staff have also discussed the proposal with Ngati Tamatera who hold mana whenua in this area. The response from Ngati Tamatera is a blanket opposition to any mining proposal, not any specific matter that Ngati Tamatera has identified as being of particular concern to them in relation to the Favona Project. The Commissioner considers that the requirements under Section 8 of the RM Act have been satisfied.

The Commissioner notes that the application is not contrary to those objectives and policies of the Operative District Plan that seek to ensure that the adverse effects of activities (in this instance an extractive industry activity) on the environment are avoided, remedied or mitigated. Accordingly, the application is not considered to be contrary to the purpose and principles of the RM Act.

In concluding the assessment of the application the Commissioner notes that the objectives, policies and rules of the Operative District Plan seek to enable the exploration of mineral resources in a manner that avoids, remedies or mitigates the adverse effects of the activity on the environment. The assessment and review of the AEE and supporting technical documents undertaken in the Meritec report on the application has confirmed that any adverse effects of the proposed activity are minor and can be managed to ensure compliance with the conditions recommended in that report to apply to a consent. Ongoing monitoring will ensure that any adverse effects not anticipated will be recorded and mitigation measures put in place to address the adverse effects.

It is recorded that the applicants have sought a lapse period of approximately 5 years for the associated discharge and water permits from Environment Waikato, in order that these applications will coincide with the expiry of the exploration permit for the Favona prospect (ie 21 April 2008). They have also sought a lapse period of approximately four years (ie one year less than the consent duration, as Stage 1 of the decline is expected to take 1 year to complete).

Land use consents are generally granted for an unlimited term and there is no reason to restrict the term of this land use consent. A four year lapse period from the date of commencement of the consent (the same as for the water permit) is sought and there is no reason why this time period should not be granted.

DECISION

Pursuant to Section 105(1)(b) of the Resource Management Act 1991 and the Operative Hauraki District Plan, the Hauraki District Council **grants consent** to the application (being discretionary activity 85.050.326.D) by Welcome Gold Mines Limited and Auag Resources Limited to construct and use an exploration decline into the Favona resource, located at Waihi East, Waihi.

Pursuant to Section 108 of the Resource Management Act 1991, the consent is subject to the following conditions:

General

1. The development to be carried out in general accordance with the plans and information submitted in the application, but as amended by the conditions set out below.
2. The land use activities permitted under this consent for all activities relating to the Favona Exploration Decline within the Favona Exploration Project Area, being the construction and use of an exploration decline and associated facilities, include, but are not limited to the following activities:
 - Earthworks;
 - Construction and use of a portal, and exploration decline, drill recesses, escape shaft and ancillary buildings;
 - Construction and use of roads;
 - Construction and use of services infrastructure (power, air, water etc);
 - Storage and use of hazardous substances;
 - Surface and underground exploration drilling and sampling;
 - Stockpiling waste material
 - Removal of ancillary facilities on the completion of the Project;
 - Rehabilitation of the land for pastoral use.

Noise

3. All noise associated with the construction and use of the Exploration Decline and Underground Exploration shall be measured on or close to the boundary of any residentially zoned site or the notional boundary of any occupied rural dwelling site not owned by the consent holder or related Company, or not subject to an agreement with the consent holder or related Company as shown on Figure 1-4 of the Assessment of Environmental Effects (attached to this consent as **Attachment A**). In the event that a property is sold, and is not subject to an agreement between the consent holder (or related Company) and the purchaser, or in the event that there is no longer an agreement between the consent holder (or related Company) and the occupier

of a rural dwelling site, the measurement of noise shall revert to being on or close to the boundary of that property.

All noise associated with the construction and use of the Exploration Decline and Underground Exploration shall be measured over the periods specified below, and shall not exceed the following limits:

| | | |
|-----------------|-------------------------------|------------------------|
| Monday-Friday | 0700-2100 | 55dBA L ₁₀ |
| Saturday | 0700-1200 | 55dBA L ₁₀ |
| All other times | | 40dBA L ₁₀ |
| All nights | 2100-0700 (the following day) | |
| | | 70dBA L _{max} |

The noise shall be measured cumulatively with other noise emanating from all operations within the process plant, operations within the waste and tailings area, and the conveyor and associated activities.

The measurement periods to determine the L₁₀ shall be representative of any single working day and shall consist of at least three measurement periods of at least 15 minutes duration each, in any non consecutive 60-minute periods spread over the working day.

The mean corrected noise level shall be calculated on an energy basis from the measurements and no single corrected measured level shall exceed the permitted mean level by more than 5dBA.

(NOTE: The term 'related Company' includes Waihi Mines Limited, Welcome Gold Mines Limited, Auag Resources Limited, Martha Mining Limited, Waihi Gold Mining Company Limited, Waihi Gold Company Nominees Limited, Otter Gold Mines Limited and Newmont)

4. Subject to the express provisions of Condition 3, the noise levels shall be measured and assessed in accordance with the requirements of the New Zealand Standards NZS6801:1999 Measurement of Environmental Sound and NZS6802:1991 Assessment of Environmental Sound.

5. Monitoring and Reporting

The consent holder shall at weekly intervals during the construction of the portal, haul road and escape shaft and at intervals not exceeding 3 months during the remainder of the activities, assess and record representative noise levels generated by exploration decline operations.

Representative noise levels shall be measured and assessed in accordance with the methods specified in Condition 4, and as set out in the Noise Management Plan (Condition 6).

The consent holder shall, unless otherwise directed to do so by Council following consultation with the consent holder, provide a summary report to the Council at the end of each 3 month period from commencement of work to completion on the following:

- i) Results of the noise monitoring;
- ii) All complaints received during the previous 3 month period, action taken by the consent holder and the resolution (if any); and
- iii) Any other matters of concern raised with the consent holder.

6. Noise Management Plan

The consent holder shall, prior to the commencement of consent, prepare a noise management plan to the satisfaction of the Manager Environment and Planning. The objective of this plan is to detail the methods to be used to comply with Conditions 3, 4 & 5.

Blasting and Vibration

7. Ground vibration

The activity shall comply with Rule 9.4.3 of the Operative Hauraki District Plan including Standard 9.4.3.3A - Continuous Vibration and Standard 9.4.3.3B – Impulsive Vibration from Blasting.

(NOTE: The magnitudes of vibrations from Favona Exploration Decline Project activities may be increased by concurrent Martha Mine activities. In terms of the Operative Hauraki District Plan, Rule 9.4.2, vibrations from sources other than the Favona Exploration Decline Project activities are background vibrations and are additive to vibrations from the Favona Exploration Decline Project.)

8. Air overpressure

The peak overall sound pressure level due to air blasts shall not exceed 128 dB, linear (unweighted).

(NOTE: Air overpressure vibration from sources other than Favona Exploration Decline Project activities shall be regarded as background vibration and treated in the same manner as the ground vibration standards)

9. Portal Construction

Blasting to create the portal entrance may only be undertaken between the hours of 0700 – 2100 on any day of the week for a period of 6 weeks from commencement of creating the portal entrance.

10. Health and Safety

All blasting shall be carried out so as to ensure the safety of persons in the Project Area and immediate vicinity. Blasting procedures shall comply with the Health and Safety in Employment Act 1992 and the Health and Safety in Employment (Mining Underground) Regulations 1999.

The consent holder shall notify the Health and Safety Inspector of the blasting procedures to be employed and any changes to the procedures.

11. Monitoring

a) Ground Vibration

i) Continuous vibration

Monitoring shall not be required unless the consent holder receives a complaint. The monitoring location shall be at the affected property boundary closest to the vibration source.

If required, vibration shall be monitored until the consent holder demonstrates compliance with the relevant standard.

ii) Blasting vibration

Ground vibration from all blasts shall be monitored. The monitoring system shall be automated to allow for the immediate analysis of each blast.

Monitoring locations shall be at the boundary of the three (3) residences that are nearest to the blast site as shown on Plate F in the report prepared by Heilig & Partners Pty Ltd, appended to this consent as **Attachment B**. In the event that one or more of these properties are sold, and is not subject to an agreement between the consent holder (or related Company) and the purchaser, or in the event that there is no longer an agreement between the consent holder (or related Company) and the occupier of a dwelling site, the monitoring location shall revert to being at the boundary of that property that is nearest to the blast site.

A roving monitor shall be deployed to record vibrations in locations where complaints regarding vibration have been made.

If required, vibration shall be monitored until the consent holder demonstrates compliance with the relevant standard.

(NOTE: The term 'related Company' includes Waihi Mines Limited, Welcome Gold Mines Limited, Auag Resources Limited, Martha Mining Limited, Waihi Gold Mining

Company Limited, Waihi Gold Company Nominees Limited, Otter Gold Mines Limited and Newmont)

b) Air overpressure

Monitoring shall not be required unless the consent holder receives a complaint. The monitoring location shall be at the affected property boundary closest to the blast.

c) Monitoring equipment

Monitoring equipment, calibration and readings shall comply with accepted New Zealand, Australian and International Standards and Codes of Practice for the vibration sources monitored and vibration standards specified.

12. Management and Reporting

a) No blasting operations shall be carried out without the written approval of the Favona Decline Project Engineer. Before blasting commences the Favona Decline Project Engineer shall ensure that the operations will not cause:

- i) Danger, damage and undue discomfort to any person; and
- ii) Danger and damage to property.

b) In the event that blast monitoring shows that the vibration standards may be exceeded, the consent holder shall implement mitigation actions. These may include:

- i) Limiting the rate of excavation advance;
- ii) Reducing the blast hole diameter;
- iii) Reducing the weight of explosive in the blast hole;
- iv) Using alternative explosive types;
- v) Using electronic delays to adjust sequencing; and

- vi) Drilling and blasting in two passes.
- c) The consent holder shall, unless otherwise directed to do so by Council following consultation with the consent holder, provide a summary report to the Council at the end of each 3 month period from the commencement of work through to completion on the following:
 - i) Results of the vibration monitoring;
 - ii) All complaints received during the previous 3 month period, action taken by the consent holder and the resolution (if any); and
 - iii) Any other matters of concern raised with the consent holder.
- d) When dealing with public complaints and concerns, the operating procedure presented by the consent holder in its Assessment of Environmental Effects (December 2002, Appendix A, Part 1, Schedule 1) shall be used.

(NOTE: Schedule 1 is appended to this consent as Attachment C)

Hours of Work

- 13. Activities may take place 24 hours per day 7 days per week, subject to the restriction set out in Condition 9 above.

Fencing

- 14. The consent holder shall provide and maintain a secure fence around the Favona portal area, the escape shaft and any other area required for public safety purposes.

Lighting

- 15. Any night lighting established in the Project Area shall be installed, designed, located and shaded in order that the level of lighting measured at the boundary of any site not

owned by the consent holder or related Company or not subject to an agreement with the consent holder or related Company, as shown on Figure 1-4 of the Assessment of Environmental Effects (appended to this consent as **Attachment A**), is no greater than 8.0 lux.

In the event that a property is sold, and is not subject to an agreement between the consent holder (or related Company) and the purchaser, or in the event that there is no longer an agreement between the consent holder (or related Company) and the occupier of a dwelling site, the measurement of night lighting shall revert to being on or close to the boundary of that property.

(NOTE: The term 'related Company' includes Waihi Mines Limited, Welcome Gold Mines Limited, Auag Resources Limited, Martha Mining Limited, Waihi Gold Mining Company Limited, Waihi Gold Company Nominees Limited, Otter Gold Mines Limited and Newmont)

Archaeological Features

16. The consent holder shall comply with the Standard Operating Procedure in relation to the discovery of any archaeological feature as set out in **Attachment D** attached to this consent.

Settlement and De-watering Monitoring Plan

17. Prior to exercise of this consent, the consent holder shall prepare, and submit to the Council for its written approval, a De-watering and Settlement Monitoring Plan. The purpose of this Plan is to monitor and assess the effects of the activities on land settlement.

The Plan shall, as a minimum, provide an overall description of the groundwater and settlement monitoring system and the measures to be adopted to meet the objectives of the groundwater and settlement management system, as proposed in the consent application.

The Plan shall take account of the recommendations included in the report to the Waikato Regional Council entitled "*Favona Exploration Decline – Review of Groundwater Assessment*" dated January 2003 and prepared by Pattle Delamore Partners and also the letter to the Waikato Regional Council dated 13 January 2003 entitled "*Re: Favona Exploration Decline Consent Application*", prepared by Dr J Webster-Brown. The Plan shall also provide trigger limits that will initiate the implementation of contingency mitigation and/or monitoring measures. Final details of the monitoring locations are to be agreed with the Council.

The consent holder shall exercise this consent in accordance with the approved Plan.

(Note : This condition is complementary to Waikato Regional Council consent number 108554, Condition 1, Schedule One – Condition 5).

Monitoring – Tilt

18. In the event that a tilt greater than 1 in 1000 occurs between any two network monitoring locations installed in accordance with the De-watering and Settlement Monitoring Plan required pursuant to Condition 15 of this consent, and such tilt is caused by the de-watering, or there is a significant variance from the predicted settlement rates, the consent holder shall notify the Waikato Regional Council and the Hauraki District Council in writing, within 20 working days of receiving the results of the monitoring. The consent holder shall then:
 - Explain the cause of the non-conformance;
 - Agree with the Councils on the appropriate settlement contingency measures to be implemented as described;
 - Implement settlement contingency measures as appropriate; and
 - Advise the Councils on the steps the consent holder proposes to take in order to prevent any further occurrence of the situation.

(Note : This condition is complementary to Waikato Regional Council consent number 108554, Schedule One - Condition 6).

Reporting on Settlement, De-watering

19. The consent holder shall provide to the Council an annual De-watering and Settlement Monitoring Report. The report shall include at least the following information:

- The volume of water abstracted from the decline;
- The data from monitoring undertaken during the previous year including groundwater contour plans (derived from the data) in respect of the piezometer network;
- Interpretation and analysis of the monitoring data, in particular any change in groundwater profile over the previous year, any contingency actions that may have been taken during the year, predictions of future impacts that may arise as a result of any trends that have been identified, and what contingency actions, if any, the consent holder proposes to take in response to those predictions; and
- Comment on compliance with all conditions of this consent including any reasons for non-compliance or difficulties in achieving conformance with the conditions of this consent.

The report shall be forwarded in a format acceptable to the Council.

(Note : This condition is complementary to Waikato Regional Council consent number 108554, Schedule One - Condition 7).

Rehabilitation

20. The consent holder shall prepare a Rehabilitation Plan covering all areas that may be affected by the construction and use of the exploration decline. This plan shall be submitted to the Waikato Regional Council and

the Hauraki District Council for written approval prior to the exercise of this consent. The Plan shall set out details on flooding of the decline, plugging of the decline, landscaping, planting, fencing, and ongoing maintenance. The consent holder may amend the Plan at any time. No amendments shall be made to the Plan without the written approval of the Councils. Unless otherwise agreed in writing by the Councils, the consent holder shall undertake the rehabilitation works in accordance with the approved Rehabilitation Plan.

(Note : This condition is complementary to Waikato Regional Council consent number 108554, Schedule One - Condition 4).

Complaints Procedure

21. The Standard Operating Procedure for Complaints (attached as **Attachment C** to this consent) shall be used for any complaints received by the consent holder or related Company.

(NOTE: The term 'related Company' includes Waihi Mines Limited, Welcome Gold Mines Limited, Auag Resources Limited, Martha Mining Limited, Waihi Gold Mining Company Limited, Waihi Gold Company Nominees Limited, Otter Gold Mines Limited and Newmont)

Term and Lapse Period

22. This consent is for an unlimited term.
23. This consent lapses unless given effect to by 21 April 2008.

Bond

24. Unless otherwise agreed in writing by the Hauraki District Council and the Waikato Regional Council, the consent holder shall provide and maintain in favour of the Councils a rehabilitation bond to:

- i) Secure compliance with the conditions of this consent and to enable any adverse effect on the environment resulting from the consent holder's activities and not authorised by a resource consent to be avoided, remedied, or mitigated;
 - ii) Secure the completion of rehabilitation and closure of the activities authorised by this consent in accordance with the Rehabilitation Plan approved by the Councils; and
 - iii) Ensure the performance of any monitoring obligations of the consent holder under this consent.
- 25. The 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.
- 26. The 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 before expiry of this consent and for any adverse effects on the environment which become apparent during or after the expiry of the consent.
- 27. Unless the 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.
- 28. The amount of the bond shall be fixed prior to the exercise of this consent and thereafter at least annually by the Councils who shall take into account any calculations and other matters submitted by the consent holder, which are relevant to the determination of the amount. The amount of the bond shall be advised in writing to the consent holder at least one month prior to the review date.
- 29. The amount of the bond shall include:
 - i) The estimated costs (including any contingencies necessary) of rehabilitation and closure in accordance

- with the conditions of this consent, on completion of the operations proposed for the next year;
- ii) 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;
 - iii) The estimated costs of monitoring, in accordance with the monitoring conditions of this consent, until the consent expires; and
 - iv) 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.
30. Should the consent holder not agree with the amount of the 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 bond is disputed, such notice to be given by the consent holder within two weeks 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 31, the existing bond shall continue in force. That sum shall be adjusted in accordance with the arbitration determination.
31. 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.

32. The 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 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 bond on the completion of the rehabilitation).
33. The Councils shall release the bond on the completion of the rehabilitation. This means when the rehabilitation has been completed in accordance with the approved Rehabilitation Plan and demonstrated to be successful, to the satisfaction of the Councils
34. All costs relating to the bond shall be paid by the consent holder.
35. This consent shall not become operative unless and until the consent holder provides the bond to the Councils.
36. These conditions form an integrated whole and are not severable.

(Note : This condition is complementary to Waikato Regional Council consent number 108554, Schedule One – Conditions 8.1 to 8.13)

Administrative Charges

37. The consent holder shall pay to the Hauraki District Council any administrative charge fixed in accordance with Section 36 of the Resource Management Act 1991, or any charge prescribed in accordance with regulations made under Section 360 of the Resource Management Act 1991.

Review of Conditions

38. Pursuant to Section 128(1)(a)(i) and (ii) of the Resource Management Act 1991, the Council may review any or all of the conditions of this consent for the purpose of dealing with any adverse effects on the environment arising from the exercise of the consent and for the review of the appropriateness of the monitoring requirements required by the consent:

- 3 months from the commencement of this consent; and
- At 6 monthly intervals thereafter.

Such a review shall only be commenced after consultation between the consent holder and Council.

39. Notwithstanding Condition 38 above, where Council elects to review Conditions 24 – 36 of this consent, such a review shall be undertaken with the agreement of, and in conjunction with, the Waikato Regional Council.
40. Pursuant to Section 127(1)(a) of the Resource Management Act 1991, the consent holder may apply to the Council at any time after the grant of this consent for a change or cancellation of any condition of the consent. Such an application shall only be made after consultation between the consent holder and the Council.

Pursuant to Section 113 of the Resource Management Act 1991, the reasons for this decision are as follows:

- a) The proposed exploration decline is not contrary to the relevant objectives and policies of the Operative Hauraki District Plan, which recognise the mineral resources within the District and provide for the investigation and utilisation of those mineral resources, while ensuring that the adverse effects of these activities on the environment are avoided, remedied or mitigated.

- b) The proposal is also not contrary to any provisions in the relevant regional planning documents. Any adverse effects of mineral exploration can be managed through the manner in which the exploration is to be undertaken and by compliance with the conditions of this resource consent. In this respect the proposal is consistent with the Operative Waikato Regional Policy Statement. It is noted that the Proposed Waikato Regional Plan has no provisions that provide any particular guidance to this proposal from the viewpoint of the Hauraki District Council.
- c) Subject to compliance with the above conditions, the potential adverse effects on the environment from the exploration decline activities are either avoided or mitigated to a minor level. The review conditions, along with on-going monitoring, provide the opportunity to check that the conditions are meeting the intended outcomes.
- d) The conditions of this consent recognise and complement the conditions associated with the Martha Mine development (Mining Licence 32 2388 and land use consent 97/98-105) and the conditions associated with Resource Consents 108554 and 108556 from the Waikato Regional Council.
- e) In all the circumstances the proposal is in accord with Part II of the Resource Management Act 1991 relating to its purpose and principles.

Alan R Watson
Independent Commissioner
21 February 2003