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RESOURCE CONSENT APPLICATIONS MADE PURSUANT TO RESOURCE MANAGEMENT ACT 1991 SECTION 88 FROM WINSTONE AGGREGATES LIMITED – JOINT ARC/ACC HEARING OCTOBER/NOVEMBER 2009 Consent Numbers 36221 and 36222

Submissions from Three Kings United Group Incorporated

1. The Three Kings United Group Incorporated (the Group) lodged submissions to resource consent applications by Winstone Aggregates Limited for landuse, earthworks, contaminated site discharges and related matters to reclaim the Three Kings Quarry, while continuing with permitted quarrying and dewatering activities. These matters involve two consent authorities, the Auckland Regional Council and the Auckland City Council and, as appropriate, are the subject of a joint hearing under RMA section 102.

2. The Group was established in the early 1990's. It has been actively involved in matters relating to the Three Kings Quarry since that time, including the Quarry Management Plan and the Site Liaison Group mentioned in the ARC and ACC officers' reports. The Group was a party to the ARC water take and dust control permit, the ARC air discharge permit, and to the ARC consent for dewatering the Quarry to RL 0m, all referred to in the reports, and the Group played an active part in Environment Court mediation sessions associated with these. The Group is represented by its President Dianne Hill and Treasurer Austen Bell. Further to the submissions you have already received, Mrs Hill and Mr Bell will elaborate on their Group's concerns.

3. The Group acknowledges that the applicant has existing resource consents and agrees with the ACC officer's comment on page 15 that –

....., the applicant considers that in some cases it would be more appropriate for all existing and proposed activities at the site to be considered in combination (i.e noise, traffic generation, air quality). I concur with the applicant's suggested approach, however I will retain the right to disregard effects associated with the permitted quarrying activity where it is practical and appropriate to do so.

However, in considering all activities in combination, the report (on page 44) states that the combined effects of quarrying and cleanfill will be acceptable to the local environment, and that the future of dewatering is a matter to be addressed in the master planning of the area and future development of the site. The Group does not agree with this approach because the applications propose to introduce a new and significantly large

activity into the site with the potential to triple the amount of dust and noise originating from the site, increase the risk of contamination, and reduce pedestrian and traffic safety, so much so as to be incompatible with residential neighbourhood amenity values.

4. The Group believes the dewatering should cease before cleanfilling is allowed to commence. The reports give scant attention to the potentially adverse effects of cleanfilling and dewatering occurring at the same time, and rely heavily on management plans yet to be determined. For example,

..., I consider the adoption of Management Plans along with their regular review will ensure that the proposed activities can be managed to avoid, remedy and mitigate all adverse effects on the environment and local residential amenity to a degree where the effects are only minor. (ACC report page 37)

Throughout the reports there is much emphasis and reliance on adverse effects being mitigated in the future by yet-to-be formulated Fill Deposition Management Plan, a Cleanfill Management Plan, a Traffic Management Plan, Construction Noise Management Plan, the requirements of which appear to be vague and ‘flexible.’ By this I mean that management plans can be required to be prepared (pursuant to s 108(3) RMA) but their purpose should be to provide information about the way in which the consent holder intends to comply with the more specific controls laid down by the other conditions of a consent which, as we all know, should have certainty as to be enforceable, specific, clear, and accurate in the way they are expressed.

Furthermore the Group and the public will have very little influence, input or control over the preparation of these management plans. Public engagement and consultation with the community is vital in the formulation of these plans. In both reports the role of the Site Liaison Group is unclear, although it appears it will continue to be involved in the Quarry Management Plan, (ACC report page 46) and in the Site Traffic Safety Plan (proposed condition 6, ACC report page 57).

5. Therefore, the Group opposes the applications in their entirety and submits that the ad hoc approach exemplified by these applications is not good resource management practice. Instead, prior to any further resource consents being granted, a comprehensive plan should be developed, as part of a consultative process, that proposes the end-use of the quarry site and the means whereby this would be achieved, taking into account the activities currently operating on the site as well as those proposed, such as in-filling, rehabilitation, landscaping, traffic management and time scales for each activity. I understand that a master plan process has been in place for the past 12 months, with properly constituted meetings having been held regarding cessation of quarrying and dewatering and the quarry’s future use. Members of the Site Liaison Group have attended these meetings in good faith. The resource consent applications being considered now are likely to limit or inhibit future options for the quarry site.

6. The comprehensive development or master planning approach is not new. Many large developments throughout the Auckland region have been preceded by such plans,

with concept plans and subsequent district plans changes put in place to help ensure an orderly process, and a sustainable, environmentally responsible, and publicly acceptable outcome. Such planning process would also consider alternatives for the site, including options for achieving the end-use. It appears that these have not been considered in the officers' reports. For example, the option of partial filling of the quarry has not been considered. However, it would be under a master planning process.

7. In her submission, Mrs Hill describes the quarry site as an “ugly gaping dirty hole.” In my submission, if this was a hole of similar size in a rural situation, the local council would want a clear idea of its future purpose prior to considering any resource consents to fill it in. It would require an overall plan, based on sustainable environmental principles, outlining its future use, including the proposal's compatibility with land uses in the vicinity, infrastructural considerations and transportation implications, before addressing possible plan changes and rezonings, and only then considering subsequent designation and resource consent applications. In this instance the “hole” is in a built-up, urban situation. Even more important therefore to avoid ad hoc decision-making that could compromise the principles of sustainable management as set out in Part 2 of the Resource Management Act 1991. In this case, such comprehensive approach would also allow matters, such as on-going impacts from dewatering, the on-going contentious issue about the quality of the water extracted and whether or not it is contaminated and meets drinking water standards, and compensation cover for properties damaged by subsidence within the dewatering zone, to be resolved.

8. However, the question as to whether the material to be deposited in the quarry is actually “cleanfill” or “landfill” needs to be answered prior to any consents being granted. The application being considered by the Auckland City Council is for *consent to reclaim the Three Kings Quarry by way of a cleanfill activity*... Because the material to be deposited is likely to contain varying levels of contaminants, I believe it would not meet the definition of “cleanfill”. Therefore it would be “landfill” and would require new resource consent applications, publicly notified, to be made to both Councils. This matter must be clarified now as, in my submission, it is not legally correct to leave it for some future “management planning” process to determine.

9. Further, regarding the consent applications before commissioners at this time, one can take an extemporised approach and make an ad hoc decision to grant the consents sought. However, in my submission, such decision-making taken by way of resource consents should not dictate the community's strategic directions for the future. At the present time expectations as to the future of the quarry site differ enormously and the absence of strategic planning at this crucial time will make it more difficult in the future to achieve agreement on an environmentally sustainable outcome that is acceptable to the Three Kings community and beyond.

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Wyn Hoadley
Barrister
2 November 2009