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Report to the Landcare Committee
from Geoff Dick, Manager Flood Protection (Operations)

Hutt River Mouth Extraction – Grant of Licence to Winstone Aggregates Ltd

1. Purpose

To advise the Committee that a new licence to extract sand and gravel from the Hutt River mouth has been negotiated with Winstone Aggregates Ltd (Winstones), and to recommend that the licence is forwarded to the Policy and Finance Committee for approval.

2. Exclusion of the Public

Grounds for the exclusion of the public under Section 48(1) of the Local Government Official Information and Meetings Act of 1987 are:

That the public conduct of the whole or relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists, (i.e., to preserve commercial confidentiality and to enable the Council to carry on negotiations, including commercial negotiations, without prejudice or disadvantage).

Interests protected:

Wellington Regional Council

Winstone Aggregates Ltd

3. Background

Sand and gravel have been extracted from the Hutt River mouth for over 70 years. This extraction operation stops the formation of a sand bar across the mouth of the river and minimises general aggradation in the estuary reach, which if allowed to happen would raise flood levels and impede drainage. Accordingly, the extraction operation is an important component of the Hutt River scheme. The operation also provides a fine rounded sand which is an important component in concrete aggregates.

An excavator sitting on top of a barge extracts the sand and gravel from the river. Once the barge is full it is towed back to shore where the extracted material is loaded into an onshore screening plant. The material is screened on site to separate the sand from stones, shells and general debris. The sand is then washed and stockpiled. About 75 percent of the extracted material is saleable product. The balance is disposed of using a combination of on-shore and off-shore sites.

The current operator, Winstones, has operated on the site since 1981 (previously as Firth Industries). They developed the existing plant and site layout. Winstones operate on a totally commercial basis with sand and aggregate sales covering all costs.

The Council owns the sand extraction site. The Council also holds the resource consents for both the extraction operation and the disposal of the un-saleable portion of the dredged material.

4. Previous Licence

Winstones' previous licence expired on 31 December 1995. The expiry set into motion a major project to replace a number of regulatory and access requirements so that the extraction operation could continue, and a new licence negotiated.

Project achievements include:

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| (1) Extraction consent renewal | A 15-year coastal permit to extract sand and shingle from the Hutt River mouth granted in May 1996 (expires May 2011). |
| (2) Disposal of by-product material | A temporary 25 year coastal permit granted to dispose of surplus (non-saleable) materials from the sand processing operation. |
| (3) Access through Hikoikoi Reserve | Easement granted by Hutt City Council in July 1997 and a new access road constructed in November 1997. |
| (4) Liability for Crown Royalties | Waiver granted by the Minister for the Environment in June 1998. |

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| (5) Long-term plan for disposal of extraction by-product | Options study completed in July 1998. Twelve year coastal permits granted for the disposal of by-product in June 1999. |
| (6) Renewal of Winstones' Licence | Negotiations of conditions of operation, and commercial terms completed June 2001. |

Previous Committee reports on the Hutt River mouth project include Reports 96.281, 96.282, 97.15, 97.261, 97.262 and 99.478.

5. **Proposed New Licence to Winstone Aggregates Ltd**

Negotiations with Winstones have concluded, with Winstones agreeing to enter into a new licence to occupy Council land and extract sand and shingle from the mouth of the Hutt River. The proposed new licence endeavours to meet both the commercial requirements of Winstones and the river management requirements of this Council.

Key elements of the proposed new licence are as follows:

- The new licence will commence 1 July 2001 and expire 17 May 2011, a term of approximately 10 years. The licence will expire when the extraction resource consent, WGN950154(01), held by the Council expires.
- The licence provides for average annual extraction of up to 50,000 cubic metres with a maximum of 65,000 cubic metres in any one year. All extraction will be in accordance with the terms and conditions of Resource Consent WGN 950154(01).
- The licence enables the Council to direct where the extraction takes place from within the defined extraction area. However, material extracted under direction which has a lower commercial value than normal will result in a reduction in the extraction fee payable.
- Winstones will occupy 2.75 hectares of the Council's 3.22 hectare Hutt Mouth land, Certificate of Title 37D/637. They can use the land only for purposes related to the extraction operation including stockpiling, processing and blending sand and shingle. The remaining 0.47 hectares of the land not occupied by Winstones has instead been landscaped and will effectively be incorporated into the adjacent Hikoikoi Reserve.
- The licence to occupy includes a number of conditions to minimise potential impacts on the adjacent Hikoikoi Reserve and Petone foreshore, and to preserve the Council's ability to eventually widen the mouth to the hydraulic line. These conditions include hours of operation, limits on stockpile heights, the amount of sand that can be brought on site from other sources, controls on construction of new buildings, and a general requirement to maintain a tidy and clean site.
- The licence conveys the right for Winstones to use the right of way through the adjacent Hikoikoi Reserve.
- The licence provides for the disposal of the non-saleable proportion of extracted material either by taking to a designated off-shore dump site (resource consent WGN 990012(01) – coarse fraction) or by placing some of the material on a short section of Petone foreshore (resource consent WGN 990012(02) – fine fraction).

- Only the natural by-products of the processing operation can be disposed into Wellington Harbour and onto Petone foreshore.
- The Licensee is required to indemnify the Council from all claims and actions resulting from actions of the Licensee.
- The licence does not contain a right of renewal and requires the Licensee to clear the site at term end. This gives the Council the option of either negotiating a further term or tendering the right to extract.

6. **Commercial Terms of Proposed New Licence to Winstone Aggregates Ltd**

Existing Terms

The previous licence that expired on 31 December 2001 required Winstones to make the following payments to the Council:

- A site occupation fee or rental of \$7,500 plus GST per annum;
 - An extraction fee of \$1.80 plus GST per cubic metre;
- = a total fee payable on 50,000m³ per annum of **\$97,500 plus GST**.

These fee payments have continued over the five and a half years while we obtained new resource consents and formalised the access to the site.

Proposed New Terms

The proposed new payment schedule from 1 July 2001 is as follows:

- A site occupation fee or rental of \$12,000 plus GST per annum;
 - An extraction fee of \$1.50 plus GST per cubic metre;
- = a total fee payable on 50,000m³ per annum of **\$87,000 plus GST**.

The above site rental is proposed to apply for five years until 30 June 2006. It will then be reviewed with the new rent applying from 1 July 2006 for the balance of the licence term.

The proposed extraction fee is indexed to a mining and quarrying Producers Price Index compiled by Statistics New Zealand. The extraction fee will be reviewed according to this price index on each anniversary of the commencement date of the licence.

Comments on the Proposed New Fee Schedule

Setting a fair site rental and extraction fee was not straightforward. Assuming Winstones extract the full 50,000m³ per annum the total payment to the Council under the new fee schedule will be \$10,500 plus GST per annum less than it would have under the previous licence. There are sound reasons for this reduction.

Site Rental

A registered valuation for the site rental was obtained from Rolle Hillier Parker Limited, public valuers. The site rental valuation was \$32,200 per annum. However, a review of this valuation by O'Brien Property Consultancy Ltd suggests that this figure is considerably higher than a reasonable market assessment, given that the site is only suitable for either the extraction operation or as a reserve.

The Rating Valuation of the site is currently \$96,000, with a special assessment to reflect the commercial use of \$160,000 (which recognises that the current use of the site is well in excess of that allowed by the zone). A normal ground licence fee is usually set at 7 to 8 percent of that value. This would indicate a site licence fee between \$11,000 and \$12,800.

Winstones also only occupy 85 percent of the land and at a relatively low intensity. Taking this into consideration a site rental of \$12,000 was adopted.

Extraction Fee

The proposed fee was set by comparison with the extraction fee in the expired licence, fees payable for extraction from the river upstream, and fees payable at Fitzroy Bay. These are listed as follows:

- The previous licence fee was \$1.80 per cubic metre;
- The best offer we received for gravel to be extracted from the Hutt River between the Ava Rail and Kennedy-Good Bridges is \$2.00 per cubic metre. This offer was received by way of a public registration of interest; and
- We understand that the royalty payable by Horokiwi Quarries to the Crown for sand extracted from Fitzroy Bay is \$1.70 per cubic metre. On top of this there is a fee payable to the Hutt City Council for the use of the road.

The most relevant fee is probably the \$2.00 per cubic metre Hutt River extraction fee. However, this gravel from the lower channel can be processed into almost 100 percent saleable product. By comparison, only about 75 percent of the material extracted from the river mouth is saleable product (note that the licence fee is set on the volume extracted not the volume sold).

In addition to the above, we looked at the additional costs to the operation resulting from the new resource consent conditions. The principal increased cost is the need to barge the reject coarse material to the approved off shore dumping site. The cost of this barging is up to \$15,600 per annum assuming 5200 cubic metres is dumped at a cost of \$3.00 per cubic metre. This equates to the \$0.30 reduction in the extraction fee from \$1.80 to \$1.50 per cubic metre.

7. **General Comment**

The licence negotiations with Winstones have been intense. During the many meetings and discussions a number of key issues about the proposed agreement have repeatedly come into focus. These are summarised as follows:

- The primary benefit from the licence agreement is not the financial return but the flood protection benefits from the ongoing extraction operation.
- The secondary benefit from the licence is the financial return to the Council. The payment recognises that the sand and gravel resource has a significant commercial value.
- The operation must remain commercially viable. Winstones have constantly said that the operation is currently only marginally viable and will not stand an increase in the total fees paid to this Council, as well as the additional resource consent costs. There is some evidence to support Winstones' claims that the level of profitability of the operation has diminished from previous years.
- Staff from both Winstones and the Flood Protection Group have worked closely together through the process of renewing consents and obtaining permanent access arrangements through the Hikoikoi Reserve. The value of this "partnership" to date is significant and is likely to remain so for the term of the licence. It is also worth noting that Winstones directly funded a significant proportion of the resource consent application costs.
- Winstones are making a strong effort to address environmental concerns with the operation raised through the resource consent process. Initiatives underway include landscaping the site boundaries, safety fencing the silt ponds, removing demolition material from the foreshore and derelict plant and equipment from the site.

Overall I think the proposed licence to Winstones is a good deal for the Council. We have achieved all our flood protection and environmental requirements, and a fair schedule of payments. The mouth extraction operation is set to run smoothly for the term of the licence.

Further negotiation with Winstones is unlikely to enhance the Council's position. In addition, the alternative of finding a new operator and having Winstones vacate the site, has considerable risks and is unlikely to achieve any increase in the rent or extraction fee, given the investment that would be required.

8. **Recommendations**

That the Committee:

- (1) *Receive the report and note the contents.*

(2) *Recommends to the Policy and Finance Committee that:*

- (a) *A new licence is granted to Winstone Aggregates Ltd, to extract sand and shingle from the Hutt River mouth, to occupy Regional Council land held in CT 37D/637 for the purposes of processing and stockpiling, and to deposit surplus materials back into Wellington Harbour. All extraction, processing and deposit of surplus material to comply with resource consents WGN 950154(01), 990012(01) and 990012(02), and as outlined in this report.*
- (b) *The proposed new licence commences 1 July 2001 and terminates 17 May 2011, when the relevant resource consents expire.*
- (c) *The initial site licence fee shall be \$12,000 plus GST per annum and the extraction fee shall be \$1.50 plus GST per cubic metre of sand and shingle extracted. The site licence fee to be reviewed at 1 July 2006 and the extraction fee to be reviewed annually.*
- (d) *The Council Common Seal be affixed to the necessary documents.*

Report prepared by:

Approved for submission:

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