

---

**UNDER THE**

Resource Management Act 1991 (the Act)

**IN THE MATTER OF**

Land use consent applications by CJ Industries Limited to extract gravel from 134 Peach Island Road, Motueka from the berm of the Motueka River and on the landward side of the stopbank at Peach Island with vehicle access via a right of way over 493 Motueka River West Bank Road, Crown land and unformed legal road (RM200488 and RM200489); and discharge permit application by CJ Industries Limited to discharge contaminants to land from backfill material associated with the proposed gravel extraction (RM220578)

---

**MEMORANDUM OF COUNSEL FOR VALLEY RAGE INC SEEKING LEAVE FOR EXPERTS CALLED BY  
VALLEY RAGE TO SPEAK AT RECONVENED HEARING**

Dated: 4 May 2023

---

 **KATE SHEPPARD**  
— CHAMBERS —

PO Box 10 318  
Wellington 6140  
P 021 385 130  
**Counsel:** Dhilum Nightingale  
**Dhilum.Nightingale@kschambers.co.nz**

## **MAY IT PLEASE THE COMMISSIONER**

1. This Memorandum is filed on behalf of Valley Rage Inc (Valley Rage), a submitter on these resource consent applications.
2. The purpose of this Memorandum is to seek leave for two experts called by Valley Rage to speak at the reconvened hearing on 9 May 2023. Valley Rage also seeks leave for Ollie Langridge (submitter #109 and a member of Valley Rage) to appear to address and correct statements made in the Applicant's Right of Reply regarding their existing resource consent for the yoga and mediation centre at 520 Motueka River West bank Road.

### **Reasons**

3. The information filed with the Applicant's Right of Reply is extensive and comprises legal submissions and 12 briefs of evidence. The Applicant has taken the opportunity to argue the supposed merits of its case again. Some of the information it has presented is new. It is fair, appropriate and in the interests of natural justice for Dr Harvey and Dr Campbell to be granted leave to respond to some of the new information presented in the Right of Reply and to be available to answer any questions the Commissioner may have for them. These reasons are expanded on below.

### **Pit head erosion**

4. Originally the Applicant proposed that the pit size would be "no greater than 1600m<sup>2</sup>, ie 20 x 80m, though the shape may vary from time to time" (Evidence of Timothy Corrie Johnston, 15 July 2022, para 3.25). Similarly, Mr Aiken says "The maximum depth of excavation is 5 m (likely less), the maximum width of excavation is 20 m and the maximum excavation length is 80 m" (Evidence of Simon Aiken, 15 July 2022). The Applicant proposed to quarry and reinstate each pit before beginning the next one.
5. In the new information the Applicant filed on 23 March 2023, it suggests a three-tranche approach for Stage One. This new proposal was not discussed in the pit erosion caucusing despite Ms Gepp inferring that it was.<sup>1</sup> Valley Rage remains concerned that the new proposal is a substantial change from the application as notified (for the second time).
6. The erosion modelling undertaken by Mr Aiken of Tonkin + Taylor estimated the volume of eroded material would be between 4,246m<sup>3</sup> and 5, 314m<sup>3</sup> based on a single backfilled 80m x 20m x 5m deep pit during a 10 % AEP 48-hr storm event that has a 10-15% probability of occurrence during an assumed 12-15 month Stage 1 operational period.
7. Now the Applicant wants to excavate Stage One in three tranches across three seasons (between October to March each year). It can be assumed (and this may be something the Commissioner wishes to clarify with the Applicant) that each tranche will be some 8,000m<sup>2</sup> in size and contain 5 pits that are each 1,600m<sup>2</sup>. Even though the Applicant says only one

---

<sup>1</sup> Right of Reply, CJ Industries, 24 April 2023, para 19.

tranche will be mined at any one time, there has been a substantial change to the proposal because instead of having 1 x 1,600m<sup>2</sup> pit (with uncompacted, erodible backfill susceptible to surface flow), there will now be 5 x 1,600m<sup>2</sup> of these backfilled pits at the end of the mining season, prior to establishment of erosion retarding vegetation. The potential five-fold increase in erosion potential equates to potentially a five-fold increase in the volume of backfill and replaced topsoil that will be mobilised in the modelled 10% AEP event, which will, based on Mr Aiken's analysis, increase the long term average annual suspended sediment yield of the Motueka River by between 9.2% and 11.5% rather than the 1.8% to 2.3% estimated by Mr Aiken for the single pit. Suspended sediment eroded from the backfilled pits will be conveyed to the Motueka River via the Shaggery Stream and then into Tasman Bay.

8. Flooding events on the Motueka River have occurred in every season of the year based on Tonkin + Taylor's analysis of flooding events at the upstream Woodstock gauge. The bankfull capacity of the Motueka River at the Woodman gauge, which is located in the Peach Island reach of the river, is according to TDC Hydrology Section staff, 900 m<sup>3</sup>/s and the annual flood at the gauge is 1205 m<sup>3</sup>/s which indicates that on average there will be overbank flow on the highly constricted (by the Peach Island Stopbanks) Motueka River floodplain, that includes the backchannel, annually, which is confirmed by the 10 years of recorded observations of flooding in the backchannel by Ms. Coralie La Frantz. No modelling or analysis of erosion potential of the backfilled pits has been undertaken for the more frequent flood events.
9. The Applicant's tranche model relies on a vegetated cover establishing during autumn and prior to winter, and also seems to assume flood events do not occur in summer months which is factually incorrect.
10. Given the substantial change in its proposal, Valley Rage seeks leave for Dr Harvey to speak at the reconvened hearing on 9 May 2023 to outline his concerns about the erosion potential and deficiencies in Mr Aiken's modelling arising from the new three-tranche proposal. Dr Harvey, who has many decades of experience in hydrological flow modelling and fluvial geomorphology would also like the opportunity to respond to the comments in paragraph 24 of Ms Gepp's Right of Reply submissions (24 April 2023) and comments by the Applicant's experts in their reply evidence regarding the discharge of sediment into the receiving environment.

### **Soil management**

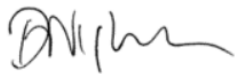
11. In paragraph 21 of her Right of Reply submissions, Ms Gepp states that the JWS does not record Dr Iain Campbell meaningfully engaging with the remediation that occurred in Appleby. Ms Gepp also says that to the Applicant's knowledge, Dr Campbell has not undertaken a site inspection.
12. The Appleby example was discussed at expert caucusing and subject to confidentiality undertakings. It is for this reason that there is limited discussion about this remediation in the JWS. Ms Gepp's allegation of Dr Campbell failing to engage meaningfully on the issue is misleading. Dr Campbell has been involved with the Appleby site from its inception and also participated in the consent hearing. Subsequently he was on the site when he was doing

sampling work for Tasman District Council. There are various reasons why the Appleby site is different from the Peach Island site and Dr Campbell can elaborate on this at the hearing.

13. In addition, Dr Campbell did inspect the Peach Island site area and took samplings from around the boundary. Leave is therefore sought for Dr Campbell to address these points and statements Dr Hill has made regarding the quality of the backfill material and how it will not degrade the drainage characteristics of the site. Dr Campbell also wishes to comment on the new conditions Dr Hill supports regarding 'post-restoration' monitoring.

**Resource Consent: RM211153: Olly and Natalya Langridge**

14. Ollie and Natalya Langridge were submitters on these consent applications and they are members of Valley Rage. As the Commissioner is aware, the Langridges have an existing resource consent for a yoga and mediation centre at 520 Motueka River West Bank Road.
15. Ms Gepp's Right of Reply (paragraphs 14-15) makes incorrect assumptions about the operating times/days of the yoga and meditation centre. The consent allows retreats to run during weekdays and there will be amenity impacts on this consent which the Applicant accepts is part of the environment against which the effects of the proposal must be assessed. The Right of Reply also makes statements and assertions regarding noise and terrestrial ecological assessments in relation to the Langridge's property. The Langridges wish to appear at the hearing on 9 May to address these points and leave is respectfully sought for this to occur.



---

D Nightingale  
**Counsel for Valley Rage Inc**