

# **ATTACHMENT C**

## **PREVIOUS WRC AND TCDC DECISIONS FOR THE EXISTING STRUCTURE**



**PLANNERS PLUS LIMITED**

Land Development, Resource Consent and Planning Specialists.

IN THE MATTER

of the Resource Management Act 1991, and its amendments and regulations

COPY

AND

IN THE MATTER

of an application by Buffalo Beach Homeowners Association for a restricted coastal permit and a resource consent for the construction and maintenance of a sea wall.

BETWEEN

BUFFALO BEACH  
HOMEOWNERS  
ASSOCIATION

(RMA 0897/03)

Appellant

AND

WAIKATO REGIONAL  
COUNCIL

First Respondent

AND

THAMES-COROMANDEL  
DISTRICT COUNCIL

Second Respondent

BEFORE THE ENVIRONMENT COURT

Principal Environment Judge R J Bollard sitting alone pursuant to section 279 of the Act

IN CHAMBERS at Auckland on 24 August 2005

CONSENT ORDER

HAVING CONSIDERED the Notice of Appeal, the Respondents' reply and the Memorandum submitted on behalf of the parties, THIS COURT HEREBY ORDERS BY CONSENT that the appeal be allowed to the extent that:

The conditions of consent attaching to the grant of resource consent by Thames Coromandel District Council be amended as follows:

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**(a) Term.**

The term appearing at the beginning of the Conditions shall be deleted and the following inserted:

*"Term: The term of this consent shall be the longer of either:*

*(a) 6 years from the date of commencement of this resource consent; or*

*(b) 1 year after the public policy referred to in condition 24(b) of this consent has been adopted by both Waikato Regional Council and Thames Coromandel District Council*

*provided that in no event shall the term be longer than 10 years from the date of commencement of this resource consent."*

**(b) Condition 1.**

Insert after the words "... erosion protection", the words: "(in this consent referred to as the "seawall")."

**(c) Condition 2.**

Delete condition 2 and insert the following two conditions (and renumber the conditions thereafter):

*"2. The placement of the seawall shall be confined to the dimensions of the existing structure set out in condition 4 below. To this end, no alteration or addition to the seawall shall be undertaken beyond the maximum dimensions set out in condition 4 without the appropriate authorisation from the Waikato Regional Council and the Thames-Coromandel District Council*

*Note: A separate resource consent may be required to authorise the alteration or addition to the seawall other than maintenance. Any such resource consent shall be obtained by the Consent Holder at its sole expense prior to any works being undertaken.*

***Maintenance of the Structure***

*3. Subject to any conditions in this consent regarding maintenance, the Consent Holder may maintain the seawall within the maximum dimensions set out in condition 4."*



**(d) Condition 3 (Now 4)**

Amend condition to read as follows:

*"4. The seawall shall not exceed the following maximum dimensions:*

*Height:(a) "Massbloc" section of wall: The height of the present "massbloc" block wall as at the date of commencement of this consent*

*(b) Rock revetment section of wall: Generally the height of the present "massbloc" block wall as at the date of commencement of this consent to the intent that:*

*(i) The rock revetment should be at or below the height of the massbloc wall except to the extent that account be taken of the irregular size and shape of available rocks placed at the top of the rock revetment.*

*(ii) The overall effective protection height of the seawall is not to be increased.*

*Width: (c) "Massbloc" section of the block wall: The width as at the date of commencement of this consent.*

*(d) Rock revetment section of the seawall: The width assessed at a batter of 2:1 horizontal to vertical*

*Length:(e) The length of the wall as at the date of commencement of this consent (subject to compliance with the condition 12 hereof to alter the southern end of the wall.)*

*Note: The dimensions of the seawall shall be determined by the Consent Holder and provided to the Council within 1 month of the date of commencement of this consent and shall be deemed to be the dimensions at the date of commencement of this consent.)"*

**(e) Condition 5 (Now 6).**

*(i) Delete in the first line the word "inform" and substitute the words "provi. written advice".*



- (ii) Insert at the end of the condition *"unless the maintenance works are required for emergency repair works in which case, the Consent Holder shall advise the aforementioned Councils of the works done as soon as practicable following completion of the work."*

**(f) Condition 8 (now 9)**

- (i) Enumerate the existing condition as "(a)."
- (ii) In the first line after the words "... holders shall", insert "(subject subclauses (b) and (c) of this condition)."
- (iii) Add new conditions 9(b) and 9(c) as follows :

*"(b) Nothing in this condition authorises*

- (i) Public access over private property*  
*(ii) Alteration or removal of any structure to the extent that such structure exists on private land*

*(c) The Consent Holder may by means of signage at appropriate points advise that in respect of public access along the top of the seawall*

- (i) Access along the top of the seawall may be unsafe; and/or*  
*(ii) Access along the top of the entire length of the seawall is impractical because in parts the wall is in private property; and/or*  
*(iii) Alternative access is available either via the beach or the roading/reserves network.*

*Any such signage shall first be submitted for approval by Thames Coromandel District Council prior to installation."*

**(g) Condition 17 (now 18).**

- (i) Remove the note following condition 17 (now 18) and substitute a further condition (condition 19) as follows:

*"19. If the works referred to in condition 18 constitute maintenance pursuant to condition 3 hereof, no such works may*



*commence unless and until the Consent Holder has first given prior written advice to the Waikato Regional Council and the Thames-Coromandel District Council in accordance with condition 6 hereof.*

*If the works referred to in condition 18 constitute alterations or additions pursuant to condition 2 hereof, no such works may commence unless and until the Consent Holder has first obtained the appropriate authorisation from the Waikato Regional Council and the Thames-Coromandel District Council in accordance with condition 2 hereof."*

- (ii) Insert the note which previously followed former condition 17 so that follows new condition 19.
- (iii) renumber conditions thereafter.

**(h) Condition 18 (now 20).**

- (i) Delete the reference to condition "16 and 17" in the first line and substitute "17 and 18."
- (ii) In the fifth line delete the word "structure" and substitute "seawall".
- (iii) In clause (d) delete the word "structure" and insert the word "seawall".

**(i) Condition 20 (now 22).**

- (i) Delete reference to condition "19" in the first line and insert condition "21".
- (ii) Alter the enumeration from (1) & (2) to (a) & (b)
- (iii) Alter the enumeration from (a)-(g) to (i)-(vii)
- (iv) In subclause now (i), delete the word "structure" and substitute the word "seawall".
- (v) In subclause now (ii), after the words "... sediment losses" insert "from properties immediately landward of the seawall"...
- (vi) In subclause now (iii), add at the end "to avoid remedy or mitigate a identified effects of the seawall".
- (vii) In subclause now (vi) after the words "... other material" insert "forming part of the seawall"....



(viii) In subclause now (vii) delete the word "structure" and insert the word "seawall".

(ix) Insert a further paragraph in condition (now 22) as follows:

*"Where practicable, the Management Plan shall be consistent with any other beach management plan for any other part of Buffalo Beach (which other beach management plan is operative at the date of approval of the Management Plan of the Consent Holder by the relevant council) but only to the extent that the Consent Holder has the ability and capacity to ensure consistency."*

(j) **Condition 21 (now condition 23).**

Delete references to condition "17 and 18" and insert conditions "21 and 22".

(k) **Condition 22 (now 24).**

(i) Delete the text of subclause (a) and insert :

*"For a period of one month either side of the second, fourth, sixth and eighth anniversary of the date of commencement of this consent; or"*

(ii) In subclause (b) in the second line after the word "erosion" insert the word "hazard"

(iii) In subclause (b) after the words ".. management which" insert the words "public policy".

(iv) In subclause (c) after the word "substantial" delete the words "irreparable".

(v) After subclause (c)(iii) and before the note insert:

*"For the purposes of this condition, "substantial failure of the seawall" means that as a result of a major adverse weather event the seawall is no longer providing protection to property and structures located on the majority of the properties intended to be protected by the seawall".*



(I) **Resulting Text.**

The resulting conditions attaching to the Consent of the Thames Coroman District Council is attached to this Order as Appendix 1.

2. There is no order as to costs.



*R J Bollard*

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R J Bollard  
Principal Environment Judge

APPENDIX 1**THAMES-COROMANDEL DISTRICT COUNCIL – RESOURCE CONSENT**

**PURSUANT TO** sections 105 and 108 of the Resource Management Act 1991, the Thames-Coromandel District Council grants consent to the Buffalo Beach Homeowners Association to retain in place and maintain a concrete block wall faced with rip rap protection (coastal defence structure or seawall) at or above Mean High Water Mark Spring (MHWS) (approximately 325 metres in length) adjacent to the properties affected by coastal erosion at Buffalo Beach Road, Whitianga, subject to the conditions and restrictions set out below.

**Term** The term of this consent shall be the longer of either:

- (a) 6 years from the date of commencement of this consent: or
- (b) 1 year after the public policy referred to in condition 24(b) of this consent has been adopted by both Waikato regional Council and Thames Coromandel District Council

provided that in no event shall the term be longer than 10 years from the date of commencement of this resource consent.

**General**

1. The placement and maintenance of the massblock and rock rip-rap seawall on the Buffalo Beach foreshore for erosion protection (in this consent referred to as the "seawall") shall be undertaken generally in accordance with the application for this resource consent and with the supporting document entitled "Buffalo Beach Homeowner's Association – Application for Resource Consents – Statement of Supporting Information and Assessment of Environmental Effects – Buffalo Beach Erosion Protection Works including Massblock Wall and Beach Nourishment March 2002", and as identified in the resource consent conditions below.
2. The placement of the seawall shall be confined to the dimensions of the existing structure set in condition 4. To this end, no alteration or addition to the seawall shall be undertaken beyond the maximum dimensions set out in condition 4 without the appropriate authorisation from the Waikato Regional Council and Thames-Coromandel District Council.



(Note: A separate resource consent may be required to authorise the alteration or addition to the seawall other than maintenance. Any such resource consent shall be obtained by the Consent Holder at its sole expense prior to any works being undertaken.)

#### Maintenance of the structure

3. Subject to any conditions in this consent regarding maintenance, the Consent Holder may maintain the seawall within the maximum dimensions set out in condition 4.
4. The seawall shall not exceed the following maximum dimensions:
 

Height:

  - (a) "Massbloc" section of the seawall: The height of the present "massbloc" block wall as at the date of commencement of this consent.
  - (b) Rock revetment section of the seawall: Generally the height of the present "massbloc" block wall as at the date of commencement of this consent to the intent that:
    - (i) The rock revetment should be at or below the height of the massbloc wall except to the extent that account be taken of the irregular size and shape of available rocks placed at the top of the rock revetment.
    - (ii) The overall effective protection height of the seawall is not to be increased.

Width:

  - (c) "Massbloc" section of the block wall: The width as at the date of commencement of this consent
  - (d) Rock revetment section of the seawall: The width assessed at a batter of 2:1 horizontal to vertical

Length:

  - (e) The length of the wall as at the date of commencement of this consent (subject to compliance with condition 12 hereof to alter the southern end of the wall.)

(Note: The dimensions of the seawall shall be determined by the Consent Holder and provided to the Council within 1 month of the date of commencement of this consent and shall be deemed to be the dimensions at the date of commencement of this consent.)



5. During any maintenance of the protective wall the Consent Holder shall ensure that unimpeded access is maintained along the beach outside working hours except through areas that the safety of the public would be endangered as a result of the works.

#### Notice of maintenance works

6. The Consent Holder shall provide written advice to the Waikato Regional Council and the Thames-Coromandel District Council in writing of the starting and expected completion dates of any maintenance works at least 5 days prior to the works commencing unless the maintenance works are required for emergency repair works in which case, the Consent Holder shall advise the aforementioned Councils of the works done as soon as practicable following completion of the work.

#### Environmental protection

7. The Consent Holder shall ensure that no discharge of contaminants (e.g. oil, diesel, petrol) to the Coastal Marine Area occurs as a result of the exercise of this resource consent. To this end, all machinery shall be refuelled above the Mean High Water Springs mark.
8. All activities authorised by this consent shall be undertaken in such a manner that minimises disturbance to the Coastal Marine Area.

#### Public Access

9. (a) The Consent Holder shall (subject to subclauses (b) and (c) of this condition) ensure there is at all times unimpeded public access along the top of the seawall authorised by this Consent, except where maintenance of the seawall is being undertaken in accordance with condition 3 hereof.
- (b) Nothing in this condition authorises:
- (i) Public access over private property
  - (ii) Alteration or removal of any structure to the extent that such structure exists on private land
- (c) The Consent Holder may by means of signage at appropriate points advise that in respect of public access along the top of the seawall:
- (i) Access along the top of the seawall may be unsafe; and/or
  - (ii) Access along the top of the entire length of the sea wall is impractical because in parts the wall is in private property; and/or



- (ii) Alternative access is available either via the beach or the roading/reserves network.

Any such signage shall first be submitted for approval by Thames Coromandel District Council prior to installation

10. The Consent Holder shall ensure the removal of any structures which have been located which impede public access along the seawall. (For the avoidance of doubt, nothing in this condition requires the alteration or removal of any structure to the extent that that structure exists on private land.) The Consent Holder shall advise the Thames-Coromandel District Council within 10 working days of the removal of any such structure
11. The Consent Holder shall facilitate the erection of signage:
- (a) On the Thames-Coromandel District Council reserve at the northern end of the seawall; and
  - (b) At the southern end of the seawall; and
  - (c) At the seaward end of the public accessways to Buffalo Beach from Buffalo Beach Road -

warning the general public of the dangers of traversing the seawall. A plan showing the wording and location of the signage proposed shall be submitted to the Thames-Coromandel District Council for approval no later than 20 working days on the grant of this consent.

#### End wall effects

12. The Consent Holder shall adopt such measures as may be necessary to avoid, remedy or mitigate adverse hydrological effects caused by the ends of the seawall. As a minimum, the Consent Holder shall ensure the removal of the of the groyne structure at the southern end of the wall (where the wall turns seaward) and shall alter the seawall at the southern end of the seawall so that it turns into the dune. Details of the engineering modifications proposed to achieve compliance with this condition shall be forwarded to the Waikato Regional Council and the Thames-Coromandel District Council for approval no later than 60 working days from the commencement of this resource consent and at least 20 working days prior to the commencement of the works.

#### Noise

13. Maintenance and repair works in the coastal marine area in the vicinity of Buffalo Beach shall be carried out in a manner that complies with the noise levels set out in NZS 6803: 1999 'Acoustics in Construction Noise' or any subsequent updated version of that document.



### Responsibility for operations

14. The Consent Holder shall be responsible for all contracted operations related to the exercise of the resource consent relating to the maintenance and repair of the seawall, and must ensure contractors are made aware of the conditions of this resource consent and ensure compliance with those conditions.

### Site representative

15. The Consent Holder shall appoint a representative(s) prior to the exercise of this resource consent, that shall be the Principal Contact Person(s) for Waikato Regional Council and Thames-Coromandel District Council in regard to matters relating to this resource consent. The Consent Holder shall inform the Waikato Regional Council and Thames-Coromandel District Council of the name and contact details within 20 working days of this resource consent commencing in terms of section 125 of the Resource Management Act 1991. Should the Principal Contact Person be replaced during the term of this resource consent, the Consent Holder shall inform the Waikato Regional Council and the Thames-Coromandel District Council and shall provide within 10 working days written notice to the Waikato Regional Council and the Thames-Coromandel District Council of the identity and contact details of the new Principal Contact Person.

### Structural integrity

16. The Consent Holder shall be responsible for the structural integrity and maintenance of the seawall, and for the provision and maintenance of any erosion control works that become necessary to preserve the structural integrity of the seawall, and/or to control erosion as a result of the exercise of this consent. Any such works through the term of this consent shall be at the expense of the Consent Holder.

(Note: A separate resource consent may be required as a result of the need to undertake erosion control works. Any such resource consent shall be obtained by the Consent Holder at their sole expense prior to the commencement of any such works.)

### Responsibility for maintenance of structure

17. The Consent Holder shall maintain the structure so that no part of the structure is lost (e.g. breaks loose due to water or wind action) or results in a navigational hazard. Any material that is lost from the structure shall, as soon as possible, be retrieved by the Consent Holder. Should the material lost be a hazard to navigation the Maritime Safety Authority or such other appropriate body shall be immediately informed.



### Structural integrity - monitoring

18. The Consent Holder shall ensure that the seawall is subject to inspection as to its structural integrity at least once a month and within 48 hours of king tide events or weather conditions which have the potential to affect the structural integrity of the seawall. If the inspection should find any such problems the Consent Holder shall ensure that works are undertaken to rectify the problem as soon as possible. No such works may commence unless and until the Consent Holder has obtained the prior approval of the Waikato Regional Council and the Thames-Coromandel District Council in accordance with Condition 2 hereof.
19. If the works referred to in condition 18 constitute maintenance pursuant to condition 3 hereof, no such works may commence unless and until the Consent Holder has first given prior written advice to the Waikato Regional Council and the Thames-Coromandel District Council in accordance with condition 6 hereof.

If the works referred to in condition 18 constitute alterations or additions pursuant to condition 2 hereof, no such works may commence unless and until the Consent Holder has first obtained the appropriate authorisation from the Waikato Regional Council and the Thames-Coromandel District Council in accordance with condition 2 hereof.

(Note: A separate resource consent may be required as a result of the need to undertake erosion control works. Any such consent shall be obtained by the Consent Holder at their sole expense prior to the commencement of any such works.)

### Structural integrity and beach nourishment – Annual Report

20. Notwithstanding the obligations, in Conditions 17 and 18 hereof, the Consent Holder shall submit by 1 November of each year during the term of the resource consent, an annual written report to the Waikato Regional Council and the Thames-Coromandel District Council outlining the performance of the seawall in terms of effect on the beach profile, ecological values and end wall effects. The report shall include details of:
- Any significant changes in the beach profile in front of and adjacent to the seawall;
  - Any complaints received regarding the effects of the seawall, and the response to those complaints;
  - A photographic record of the effect of the seawall on the beach environment and end wall effects;



- (d) Details of whether any part of the seawall including rock armouring, have become dislodged, and the actions taken to remedy this;
- (e) Details of any property damage caused by the coastal erosion in the previous 12 months and of any insurance claims made by members of the Consent Holder during that period; and
- (f) Summary of any beach nourishment projects undertaken in front of the seawall during the last 12 months.

### Management Plan

21. The Consent Holder shall prepare a Northern Buffalo Beach Management Plan setting out the measures to be adopted to ensure that the obligations in this resource consent are complied with. For the purposes of this condition, Buffalo Beach North shall comprise that stretch of beach

From the Taputapuata Stream mouth (Mother Browns Creek) to the Taraporiki Stream mouth.

22. The management plan required by Condition 21 hereof, shall be
- (a) Prepared by persons who are suitably qualified and experienced in coastal engineering, coastal processes and coastal ecology, and who are independent of the Buffalo Beach Homeowners Association or any member thereof;
  - (b) Lodged with the Waikato Regional Council and the Thames-Coromandel District Council for approval within 3 months of the date of commencement of this consent.

(Note: Such approval shall not to be unreasonably withheld and shall be provided within 15 working days of the plan being filed with the relevant Council. If the approval is not provided within 15 working days, the management plan is deemed to be approved as lodged.)

As a minimum, the Management Plan shall include a description of:

- (i) The measures proposed to ensure the ongoing maintenance and integrity of the seawall;
- (ii) The measures proposed to ensure that sediment losses from properties immediately landward of the seawall to natural water are minimised;



- (iii) The mitigation measures to be implemented to avoid remedy or mitigate any identified effects of the seawall;
- (iv) The monitoring to be undertaken to produce the information required by Conditions 16 and 17 hereof
- (v) The structure and method of funding of the work required in the Management Plan,
- (vi) The measures proposed to ensure that rocks or any other material forming part of the seawall are not dispersed along the foreshore or coastal marine area and that any such dispersal is remedied, and
- (vii) Contingency plans in the event of there being any threat to the seawall.

Where practicable, the Management Plan shall be consistent with any other beach management plan for any other part of Buffalo Beach (which other beach management plan is operative at the date of approval of the Management Plan of the Consent Holder by the relevant council) but only to the extent that the Consent Holder has the ability and capacity to ensure consistency.

23. The Management Plan required by Conditions 21 and 22 hereof can be amended by forwarding proposed amendments to the Waikato Regional Council and Thames-Coromandel District Council for approval.

(Note: Such approval shall not to be unreasonably withheld and to be provided within 15 working days of the plan being filed with the relevant Council. If the approval is not provided within 15 working days, the Management Plan is deemed to be approved as amended).

#### **Review and change of conditions.**

24. The Thames-Coromandel District Council may:
- (a) For a period one month either side of the second, fourth, sixth and eighth anniversary of the date of commencement of this consent; or
  - (b) On the adoption of public policy by the Waikato Regional Council and/or the Thames-Coromandel District Council regarding coastal erosion hazard management which public policy directly affects the properties located landward of and protected by the seawall authorised by this consent; or
  - (c) In the event of a substantial failure of the seawall,

serve notice on the Consent Holder under section 128 (1) of the Resource Management Act 1991, of its intention to review the conditions of this resource consent for the following purposes:



- (i) To review the effectiveness of the conditions of this resource consent in avoiding or mitigating any adverse effects on the environment from the exercise of this resource consent and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions; or
- (ii) If necessary and appropriate, to require the holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the surrounding environment due to effects of the seawall; or
- (iii) To review the adequacy of and the necessity for monitoring undertaken by the Consent Holder.

For the purposes of this condition, "substantial failure of the seawall" means that as a result of a major adverse weather event the seawall is no longer providing protection to property and structures located on the majority of the properties intended to be protected by the seawall.

(Note: Costs associated with any review of the conditions of this resource consent will be recovered from the Consent Holder in accordance with the provisions of section 36 of the Resource Management Act 1991.)

#### Covenants

25. Each of the registered proprietors of the properties protected by the seawall authorised by this consent shall enter into the following deeds:
- (a) A deed of covenant under section 108(2)(d) of the Resource Management Act 1991;
    - (i) Undertaking to the Thames-Coromandel District Council to comply with the conditions of consent.
    - (ii) Indemnifying the Thames-Coromandel District Council from any claims resulting from the construction and continuance of the structure authorised by this consent.
  - (b) A deed of land covenant in favour of all other registered proprietors of the properties located landward of and to be protected by the seawall authorised by this consent undertaking with those other registered proprietors that the registered proprietor of that lot will:
    - (i) Comply with the conditions of this consent; and
    - (ii) Make a financial contribution to ensure compliance with the conditions of this consent, such financial contribution being

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commensurate with the frontage of the property protected by the seawall.

#### Administration charge

26. The Consent Holder shall pay to the Thames-Coromandel Council any administrative charge fixed in accordance with section 36 of the Resource Management Act 1991, or any charge prescribed in accordance with regulation made under section 360 of the Resource Management Act 1991.

#### ADVICE NOTES

1. Where a resource consent has been issued in relation to any type of construction (e.g. dam, bridge, jetty) this consent does not constitute authority to build and it may be necessary to apply for a Building Consent from the relevant regulatory authority.
2. This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the Consent Holder and the property owner.
3. This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA).
4. The Consent Holder may apply to change the conditions of the resource consent (except for the duration) if circumstances change (s.127 RMA).
5. The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the Consent Holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the Consent Holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consent.



# Resource Consent Certificate

**Resource Consent Number:** 107307

**File Number:** 61 18 36A

**Pursuant to the Resource Management Act 1991, the Waikato Regional Council  
hereby grants consent to:**

Buffalo Beach Homeowners Assoc  
C/O Meritec Limited  
Attention: D Burton  
P O Box 434  
Hamilton

*(hereinafter referred to as the Consent Holder)*

**Consent Type:** Land use consent

**Consent Subtype:** Bed – structure

**Activity authorised:** Continue to use an existing structure in the CMA being a seawall protection structure, and the continued occupation of the CMA, for property protection purposes in the vicinity of Buffalo Beach, Whitianga

**Location:** Buffalo Beach - Whitianga

**Map Reference:** NZMS 260 T11:513-844

**Term** The term of this consent shall be the longer of either:

(a) 6 years from the date of commencement of this resource consent ;  
or

(b) 1 year after the public policy referred to in condition 22(b) of this consent has been adopted by both Waikato Regional Council and Thames Coromandel District Council

provided that in no event shall the term be longer than 10 years from the date of commencement of this resource consent.

**Subject to the conditions overleaf:**

Doc # 874172

**CONDITIONS****General**

1. The placement and maintenance of the massbloc and rock rip-rap seawall on the Buffalo Beach foreshore for erosion protection (in this consent referred to as the "seawall") shall be undertaken generally in accordance with the application for this resource consent and with the supporting document entitled "Buffalo Beach Homeowner's Association – Application for Resource Consents - Statement of Supporting Information and Assessment of Environmental Effects. – Buffalo Beach Erosion Protection Works including Massbloc Wall and Beach Nourishment March 2002", and as identified in the resource consent conditions below.
2. The Hydrographic Office of the Royal New Zealand Navy, and the Maritime Safety Authority shall be given written notice of the details of the seawall within 3 months of the date of commencement of this resource consent.
3. The placement of the seawall in the coastal marine area shall be confined to the dimensions of the existing structure set out in condition 5 below. To this end, no alteration or addition to the seawall shall be undertaken beyond those maximum dimensions without the appropriate authorisation from the Waikato Regional Council and the Thames-Coromandel District Council.

(Note: A separate resource consent may be required to authorise the alteration or addition to the seawall other than maintenance. Any such resource consent shall be obtained by the Consent Holder at their sole expense prior to any works being undertaken.)

**Maintenance and Alterations to the Structure**

4. Subject to any conditions in this consent regarding maintenance, the Consent Holder may maintain the seawall within the maximum dimensions set out in conditions 5.
5. The seawall shall not exceed the following maximum dimensions:
  - Height:
    - (a) "Massbloc" sections of wall: The height of the present "massbloc" block wall as at the date of commencement of this consent.
    - (b) Rock revetment section of wall: Generally the height of the present "massbloc" block wall as at the date of commencement of this consent to the intent that:
      - (i) the rock revetment should be at or below the height of the massbloc wall except to the extent that account be taken of the irregular size and shape of available rocks placed at the top of the rock revetment; and
      - (ii) the overall effective protection height of the seawall is not to be increased.
  - Width:
    - (c) "Massbloc" section of the block wall: The width as at the date of commencement of this consent.
    - (d) Rock revetment section of the seawall: The width assessed at a batter of 2:1 horizontal to vertical
  - Length:
    - (e) The length of the wall as at the date of commencement of this consent (subject to compliance with the conditions imposed by Thames Coromandel District Council to alter the southern end of the wall.)

(Note: the dimensions of the seawall shall be determined by the Consent Holder and provided to the Council within 1 months of the date of commencement of this consent and shall be deemed to be the dimensions at the date of commencement of this consent.)

6. During any maintenance of the protective seawall the Consent Holder shall ensure that unimpeded access is maintained along the beach outside working hours except through areas that the safety of the public would be endangered as a result of the works.
7. The Consent Holder shall provide written advice to the Waikato Regional Council and the Thames-Coromandel District Council of the starting and expected completion dates of any maintenance works at least 5 days prior to the works commencing unless the maintenance works are required for emergency repair works in which case, the Consent Holder shall advise the aforementioned Councils of the works done as soon as practicable following completion of the work.

### **Environmental Protection**

8. The Consent Holder shall ensure that no discharge of contaminants (e.g. oil, diesel, petrol) to the coastal marine area occurs as a result of the exercise of this resource consent. To this end, all machinery shall be refuelled above the Mean High Water Springs mark.
9. All activities authorised by this consent shall be undertaken in such a manner that minimises disturbance to the coastal marine area.

### **Public Access**

10. (a) The Consent Holder shall, (subject to (b) and (c) below), ensure there is at all times unimpeded public access along the top of the seawall authorised by this resource consent, except where maintenance of the seawall is being undertaken in accordance with condition 4.
  - (b) Nothing in this condition authorises
    - (i) Public access over private property
    - (ii) Alteration or removal of any structure to the extent that such structure exists on private land
  - (c) The consent holder may by means of signage at appropriate points advise that in respect of public access along the top of the seawall
    - (i) Access along the top of the seawall may be unsafe
    - (ii) Access along the top of the entire length of the sea wall is impractical because in parts the wall is in private property
    - (iii) Alternative access is available either via the beach or the roading/reserves network.

Any such signage shall first be submitted for approval by Thames Coromandel District Council prior to installation.

### **Noise**

11. Maintenance and repair works in the coastal marine area in the vicinity of Buffalo Beach shall be carried out in a manner that complies with the noise levels set out in NZS 6803: 1999 'Acoustics in construction noise' or any subsequent updated version of that document.

### **Responsibility of Operations**

12. The Consent Holder shall be responsible for all contracted operations related to the exercise of the resource consent relating to the maintenance and repair of the seawall, and must ensure

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contractors are made aware of the conditions of this resource consent and ensure compliance with those conditions.

### **Site Representative**

13. The Consent Holder shall appoint a representative(s) prior to the exercise of this resource consent, that shall be the Principal Contact Person(s) for the Waikato Regional Council and the Thames-Coromandel District Council in regard to matters relating to this resource consent. The Consent Holder shall inform the Waikato Regional Council of the representative's name and contact details within 20 working days of this resource consent commencing in terms of section 125 of the Resource Management Act 1991. Should the Principle Contact Person be replaced during the term of this resource consent, the Consent Holder shall provide within 10 working days of the replacement written notice to the Waikato Regional Council and the Thames-Coromandel District Council of the identity and contact details of the new Principle Contact Person.

### **Structural Integrity**

14. The Consent Holder shall be responsible for the structural integrity and maintenance of the seawall, and for the provision and maintenance of any erosion control works that become necessary to preserve the structural integrity of the seawall, and/or to control erosion as a result of the exercise of this consent. Any such works through the term of this consent shall be at the expense of the Consent Holder.

(Note a separate resource consent may be required as a result of the need to undertake erosion control works. Any such resource consent shall be obtained by the Consent Holder at their sole expense prior to commencement of any such works.)

### **Responsibility for Structure Maintenance**

15. The Consent Holder shall maintain the structure so that no part of the structure is lost (e.g. breaks loose due to water or wind action) or results in a navigational hazard. Any material that is lost from the structure shall, as soon as possible, be retrieved by the Consent Holder. Should the material lost be a hazard to navigation the Maritime Safety Authority or such other appropriate body shall be immediately informed.

### **Structural Integrity – Monitoring**

16. The Consent Holder shall ensure that the seawall is subject to inspection as to its structural integrity at least once a month and within 48 hours of king tide events or weather conditions which have the potential to affect the structural integrity of the seawall. If the inspection should find any such problems the Consent Holder shall ensure that works are undertaken to rectify the problem as soon as possible.
17. If the works referred to in condition 16 constitute maintenance pursuant to condition 4 hereof, no such works may commence unless and until the Consent Holder has first given prior written advice to the Waikato Regional Council and the Thames-Coromandel District Council in accordance with condition 7 hereof.

If the works referred to in condition 16 constitute alterations or additions pursuant to condition 3 hereof, no such works may commence unless and until the Consent Holder has first obtained the appropriate authorisation from the Waikato Regional Council and the Thames-Coromandel District Council in accordance with condition 3 hereof.

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(Note: A separate resource consent may be required as a result of the need to undertake erosion control works. Any such consent shall be obtained by the Consent Holder at their sole expense prior to any works being undertaken.)

### **Structural Integrity and Beach Nourishment – Annual Report**

18. Notwithstanding the obligations, in condition 16 hereof, the Consent Holder shall submit by 1 November of each year during the term of the consent, an annual written report to the Waikato Regional Council and the Thames-Coromandel District Council outlining the performance of the seawall in terms of effect on the beach profile, ecological values and end wall effects. The report shall include details of:

- (a) Any significant changes in the beach profile in front of and adjacent to the seawall;
- (b) Any complaints received regarding the effects of the seawall, and the response to those complaints;
- (c) A photographic record of the effect of the seawall on the beach environment and end wall effects;
- (d) Details of whether any part of the seawall, including rock armouring, have become dislodged, and the actions taken to remedy this;
- (e) Details of any property damage caused by the coastal erosion in the previous 12 months and of any insurance claims made by members of the Consent Holder during the period; and
- (f) Summary of any beach nourishment projects undertaken in front of the seawall during the last 12 months.

### **Management Plan**

19. The Consent Holder shall prepare a Northern Buffalo Beach Management Plan setting out the measures to be adopted to ensure that the obligations in this resource consent are complied with. For the purposes of this condition, Buffalo Beach North shall comprise that length of beach from the Taputapuatea Stream mouth (Mother Browns Creek) to the Taraporiki Stream mouth.

20. The management plan required by condition 19 hereof, shall be:

- (a) Prepared by persons who are suitably qualified and experienced in coastal engineering, coastal processes and coastal ecology, and who are independent of the Buffalo Beach Homeowners Association or any member thereof.
- (b) Lodged with the Waikato Regional Council and the Thames-Coromandel District Council for approval within 3 months of the date of the commencement of this consent.

(Note: Such approval shall not be unreasonably withheld and shall be provided within 15 working days of the plan being filed with the relevant Council. If the approval is not provided within 15 working days, the management plan is deemed to be approved as lodged.)

As a minimum the management plan shall include a description of:

- (i) The measures proposed to ensure the ongoing maintenance and integrity of the seawall

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- (ii) The measures proposed to ensure that sediment losses from properties immediately landward of the seawall to natural water are minimised;
- (iii) The mitigation measures to be implemented to avoid, remedy or mitigate any identified effects of the seawall;
- (iv) The monitoring to be undertaken to produce the information required by condition 15,
- (v) The structure and method of funding of the work required in the management plan,
- (vi) The measures proposed to ensure that rocks or any other material forming part of the seawall are not dispersed along the foreshore or coastal marine area and that any such dispersal is remedied, and
- (vii) Contingency plans in the event of there being any threat to the seawall.

Where practicable, the Management Plan shall be consistent with any other beach management plan for any other part of Buffalo Beach (which other beach management plan is operative at the date of approval of the Management Plan of the Consent Holder by the relevant council) but only to the extent that the Consent Holder has the ability and capacity to ensure consistency.

21. The management plan required by conditions 19 and 20 hereof can be amended by forwarding proposed amendments to the Waikato Regional Council and the Thames-Coromandel District Council for approval.

(Note: Such approval shall not be unreasonably withheld and shall be provided within 15 working days of the amendments being filed with the relevant Council. If the approval is not provided within 15 working days, the management plan is deemed to be approved as amended.

### **Review and Change of Conditions**

22. The Waikato Regional Council may;

- (a) For a period of one month either side of the second, fourth, sixth and eighth anniversary of the date of commencement of this consent; or
- (b) On the adoption of public policy by the Waikato Regional Council and the Thames-Coromandel District Council regarding coastal erosion hazard management which public policy directly affects the properties located landward of and protected by the sea wall authorised by this resource consent; or
- (c) In the event of a substantial failure of the seawall

serve notice on the Consent Holder under section 128 (1) of the Resource Management Act 1991, of its intention to review the conditions of this resource consent for the following purposes:

- (i) To review the effectiveness of the conditions of this resource consent in avoiding or mitigating any adverse effects on the environment from the exercise of this resource consent and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions; or
- (ii) If necessary and appropriate, to require the holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects of the surrounding environment due to effects of the seawall; or

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- (iii) To review the adequacy of and the necessity for monitoring undertaken by the Consent Holder.

For the purposes of this condition, "substantial failure of the seawall" means that as a result of a major adverse weather event the seawall is no longer providing protection to property and structures located on the majority of the properties intended to be protected by the seawall.

(Note: Costs associated with any review of the conditions of this resource consent will be recovered from the Consent Holder in accordance with the provisions of section 36 of the Resource Management Act 1991.)

### Covenants

23. Each of the registered proprietors of the properties protected by the seawall authorised by this resource consent shall enter into the following deeds:

(a) A deed of covenant under s108(2)(d) of the Resource Management Act 1991;

(i) Undertaking to the Waikato Regional Council to comply with the conditions of consent.

(ii) Indemnifying the Waikato Regional Council from any claims resulting from the construction and continuance of the structure authorised by this resource consent.

(b) A deed of land covenant in favour of all other registered proprietors of the properties located landward of and to be protected by the seawall authorised by this resource consent undertaking with those other registered proprietors that the registered proprietor of that lot will:

(i) Comply with conditions of this resource consent; and

(ii) Make a financial contribution to ensure compliance with the conditions of this resource consent, such financial contribution being commensurate with the frontage of the property protected by the seawall.

### Administration Charge

24. The Consent Holder shall pay to the Waikato Regional Council any administrative charge fixed in accordance with Section 36 of the Resource Management Act 1991, or any charge prescribed in accordance with regulation made under Section 360 of the Resource Management Act 1991.

*Dated at Hamilton this 16<sup>th</sup> day of September 2005*

*For and on behalf of the  
Waikato Regional Council*



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**Advice Notes**

1. Where a resource consent has been issued in relation to any type of construction (e.g. dam bridge, jetty) this consent does not constitute authority build and it may be necessary to apply for a Building Consent from the relevant regulatory authority.
2. This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the Consent Holder and the property owner.
3. This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and or the same use as originally granted (s134-137 RMA).
4. The Consent Holder may apply to change the conditions of the resource consent (except for the duration) if circumstances changes (s.127 RMA).
5. The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this resource consents will be charged to the Consent Holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the Consent Holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of resource consent.

**COASTAL PERMIT**

**SAR-05-26-01-11**

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Pursuant to the provisions of section 119 of the Resource Management Act 1991, I, Chris Carter, Minister of Conservation, hereby grant to Buffalo Beach Homeowners Assn a permit (coastal permit SAR 05-26-01-11) to carry out a restricted coastal activity involving the placement and maintenance of a Massbloc and rock rubble seawall, for erosion control purposes, in the coastal marine area at Buffalo Beach, Whitianga, NZMS 260 T11: 513844, in accordance with the information supplied with the application and subject to the attached conditions of consent.

Dated at Wellington this 16<sup>th</sup> day of September 2005.

A handwritten signature in black ink, appearing to be 'Chris Carter', written over a faint circular stamp.

**Hon Chris Carter**  
**Minister of Conservation**