



DOCM-5617402

8 November 2018

Waikato Regional Council  
Private Bag 3038  
Waikato Mail Centre  
Hamilton  
3240

Dear Sir/Madam

**Buffalo Beach Homeowners Association – Resource Consent Application for Upgrade to Coastal Defence Structure Buffalo Beach Road, Whitianga**

Please find enclosed a submission by the Director-General of Conservation on Buffalo Beach Homeowners Association's notified application for upgrades and modifications to the coastal defence structure at Buffalo Beach Road, Whitianga.

The Director-General's submission identifies concerns that the proposal does not adequately address and mitigate potential effects on coastal process, coastal fauna and public access.

Please contact Maggie Burns (RMA Planner) in the first instance if you wish to discuss any of the matters raised in this submission (email [mburns@doc.govt.nz](mailto:mburns@doc.govt.nz) or phone 027 632 2961).

Yours sincerely



Amy Robinson  
Planning and Land Manager

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***Submission on publicly notified application for resource consent for coastal defence structure – Buffalo Beach Road, Whitianga***

***Resource Management Act 1991***

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**To:** Waikato Regional Council

**Name of submitter:** Lou Sanson, Director-General of Conservation

**Applicant:** Buffalo Beach Homeowners Association

**Submission on:** Application to upgrade coastal defence structure at Buffalo Beach Road, Whitianga

**Application numbers:** APP138330

**Trade competition:** I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991.

**My submission relates to:** The whole application, but in particular the parts relating to the effects on coastal processes, fauna and public access

**My submission is:** I oppose the application

**Director-General's interest in the application**

1. The Director-General of Conservation ('the Director-General') has all the powers reasonably necessary to enable the Department of Conservation ('the Department') to perform its functions.<sup>1</sup> A function of the Department is to advocate the conservation of natural and historic resources generally.<sup>2</sup> Section 2 of the Conservation Act 1987 defines 'conservation' to mean *'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation'*.

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<sup>1</sup> Refer section 53 Conservation Act 1987

<sup>2</sup> Refer section 6(b) Conservation Act 1987

## **Reasons for Director-General's submission**

2. The applicant has not demonstrated that the proposal aligns with the principles of sustainable management, and has not recognised and provided for the matters of national importance listed in Section 6 of the Resource Management Act 1991 (the Act), specifically:

*c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*

*d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers: and*

*h) the management of significant risks from natural hazards*

3. I am concerned that the proposal does not adequately address:
  - a. Potential effects in terms of coastal processes, including, but not limited to, end effect erosion.
  - b. Potential effects on indigenous fauna.
  - c. Potential effects on public access.

## ***Effects on Coastal Processes***

4. The previous consent included conditions to monitor the effects of the structure on coastal processes, however these conditions were not followed as monitoring was not undertaken. The Assessment of Environmental Effects and relevant planning documents also provide inadequate assessment of potential effects on coastal processes. The lack of monitoring coupled with inadequate coastal processes assessment limits the understanding of the potential effects of the existing and proposed structure. In the absence of such information a precautionary approach applies as directed by Policy 3 of the New Zealand Coastal Policy Statement 2010 (NZCPS).
5. The proposed upgrade is higher and steeper than the current structure. This can be expected to induce erosion of the sand in front of the structure at higher rates than the existing structure, while an 8m landward return on the southern end of the structure will not mitigate, and may worsen, end-effect erosion. These effects will be exacerbated as sea level increases.

6. Rebuilding a larger seawall does not constitute adaptive planning as claimed in the application. Adaptive management requires an understanding of the environment in order to direct the appropriate monitoring and a framework of trigger points and strategies to deal with effects that are observed.
7. It is also noted that Thames Coromandel District Council have been repairing the end-effect erosion utilising existing beach scraping permits that it holds. The consent condition compliance review undertaken by Waikato Regional Council in 2013 notes that that the Buffalo Beach Homeowners Association is responsible for controlling erosion caused by the structure at its own expense. Instead these short-term repairs have been funded by the community.

### ***Effects on Fauna***

8. The application has provided an ecological assessment and refers to a previous assessment completed in 2001. The two ecological assessments are either dated or do not provide sufficient detail for robust assessment of ecological aspects of the proposal. There is little to no information on the potential effects and how these are proposed to be avoided, if high value, or otherwise remedied or mitigated.
9. There are potential ecological effects associated with the upgrade and modification to the existing seawall. This includes the potential loss in existing beach habitat which may be significant for shorebirds and potential effects from construction works. The applicant has not provided sufficient information to quantify that there are less than minor effects on indigenous biodiversity or proposed measures to avoid, remedy or mitigate any potential effects.

### ***Planning assessment***

10. The application proposes a structure that is higher, wider and steeper than the existing seawall. This will limit public access along the beach front to a greater degree than the existing structure. The application is therefore inconsistent with objectives and policies in the NZCPS, Waikato Regional Policy Statement (WRPS) and Waikato Regional Coastal Plan (WRCP), and does not adequately recognise and provide for matters of national importance in the Act, specifically section 6(d).
11. Objective 4 and Policy 19 of the NZCPS recognise the need for public access to and along the coastal marine area. Policy 19 (a) specifically requires recognition of the need for walking access

to and along the coast that is practical, free of charge and safe for pedestrian use. With the proposed upgrades and modifications to the existing seawall, the application is contrary to this direction by further reducing the already compromised public access.

12. WRPS Policy 12.4 requires public access to the coastal marine area be maintained and enhanced. The application is contrary to this policy as the proposed upgrade will reduce public access along the coastal marine area, potentially constraining the ability for the land/water edge to adjust over time in response to natural processes and potentially result in inappropriate loss of existing public access.
13. The WRCP also provides policy direction in Policy 9.1.1 which states that public access should only be restricted in certain circumstances, none of which apply to the proposed works.
14. Policy 11 NZCPS specifies a hierarchy of protection to indigenous biodiversity. Firstly, it requires the *avoidance* of adverse effects of activities on specified significant indigenous biodiversity values. The next layer of management is to avoid significant adverse effects on other aspects of indigenous biodiversity as well as to avoid, remedy and mitigate other adverse effects. As discussed above, the application fails to provide adequate assessment of the potential effects on indigenous species and does not provide detail on how avoidance of effects will be achieved. Policy 11.1 of the WRPS also provides direction to maintain and enhance indigenous biodiversity. Based on the lack of detail in the two ecological assessments, it is not possible to determine whether the application is consistent with these policies.
15. Policies 24, 25 and 27 of the NZCPS provide clear direction to avoid the proliferation of hard protection structures in the coastal environment. There are other more appropriate mitigation measures, particularly soft protection measures such as beach renourishment that can be taken to manage coastal erosion, which better align with the policy direction in the NZCPS. These alternatives have not been adequately considered in the application.
16. The applicant has misinterpreted Policy 25 of the NZCPS as only requiring consideration of managed retreat in extreme circumstances. This is incorrect. Only abandonment is to be considered in extreme circumstances. Managed retreat is to be considered in any location affected by coastal hazards over the next 100 years.

17. Policy 27(4) specifically requires that when hard protection structures are considered necessary, they should not be located on public land if there is no significant public or environmental benefit in doing so. The structure is partly within Thames Coromandel District Council reserve land and as the structure is for the protection of private property, there is no significant public or environmental benefit in it being in this location. The current structure is therefore inconsistent with this policy and should be relocated onto private property if the structure is considered necessary.

***Consent duration***

18. Resource consent for the existing seawall was limited to 10 years to allow reconsideration of the structure in light of the results of monitoring to ensure adequate understanding of any potential effects of the structure on the coastal environment.

19. Since the existing seawall was originally consented there has been a change in policy direction in the NZCPS and WRPS, and an improved understanding of potential sea level rise.

20. As discussed above, the applicant has failed to undertake the required monitoring to adequately understand the potential effects of the structure on the coastal environment.

21. On this basis it would be inappropriate to grant the applicant a 35-year term of consent.

**The Director-General seeks the following decisions from the consent authority:**

22. I seek the following:

- a) That the consent authority **declines the application.**
- b) If a decision is made to grant the application:
  - i) Ensure a detailed coastal processes assessment is undertaken to understand the potential effects of the proposed upgrade and potentially modify the design in order to mitigate these.
  - ii) Ensure a detailed ecological assessment is undertaken to understand the potential effects of the proposed upgrade on indigenous species.
  - iii) Suitable conditions to ensure any potential adverse effects on indigenous biodiversity are avoided.
  - iv) Suitable conditions to ensure more appropriate end effect management such as renourishment and/or beach scraping for the life of the structure.

- v) Suitable conditions for annual monitoring of changes to the beach in front of and adjacent to the seawall, and annual reporting of the results.
  - vi) Suitable conditions to ensure adverse effects are avoided, remedied or mitigated and where adverse effects cannot be avoided, remedied or mitigated, adequate offsets including undertaking dune restoration and management works in a suitable location south of the structure.
  - vii) A consent duration of not exceeding 10 years, if granted.
- c) Such other relief as may be necessary and appropriate to address my concerns.

I **wish to be heard** in support of my submission.

If others make a similar submission, I will consider presenting a joint case at hearing.

A copy of this submission has been served on the applicant.

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Amy Robinson  
Planning and Land Manager  
Acting pursuant to delegated authority

Date: 8 November 2018

**Address for service:**  
RMA Shared Services  
Department of Conservation  
Private Bag 3072  
Hamilton 3240  
Attn: Maggie Burns, 027 632 2961

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011.