



P.O. Box 20717 Glen Eden Auckland 0641

**SUBMISSION ON APPLICATION PUBLICLY NOTIFIED OR NOTICE OF WHICH
WAS SERVED UNDER SECTION 94(1) CONCERNING RESOURCE CONSENT**

Sections 94(1), 96, 127(3), 136(4), and 234(4), Resource Management Act 1991

TO: WAIROA DISTRICT COUNCIL & HAWKES BAY REGIONAL COUNCIL

NAME OF SUBMITTER: SURFBREAK PROTECTION SOCIETY INCORPORATED ("SPS")

INTRODUCTION

This is a submission by SPS on resource consent applications [Wairoa District Council file reference no. 080061] to both above named Councils by Paul Williams, Murray Mexted and S. Van Breda Malherbe for land use consents, subdivision consents, discharge consents and water permits, as described and set out in the document "*M Mexted and P Williams North End Judges Parade: Mahanga Resource Consent Applications/ Aee And Further Information*", October 2008, prepared by Environmental Management Services Limited ("the

application”); in addition the application states that consent is sought for works on public road (owned by Wairoa District Council) fronting the site. The location of the proposed activity described in the application is the north end of Judges Bay Parade, Mahanga, Wairoa District.; the legal description is Lots 1 and 2 DP 28759 comprised in certificates of title Y3/202 and Y3/203.

The specific parts of the application that this submission relates to are: the proposal/proposed activity in its entirety.

SUBMISSION

SPS is dedicated to the conservation of Surfbreaks. Surfbreaks are a natural characteristic, and part of the natural character, of the New Zealand coastline/coastal environment, of which there are few when compared to the total length of the New Zealand coastline¹. SPS fully supports the submission on the above mentioned applications submitted by the Mahia Board Riders Club. SPS also supports the concerns of local residents in relation to hard engineering of the beach, and interference with the stream known as Hine Rauira.

The site on which the proposal will be constructed is within the coastal environment and immediately adjacent to surf breaks at Mahanga, namely the Mahanga point (“the Point”) and the Mahanga Beach break (“beach break”), directly off shore from the proposed sea wall construction. The Point and beach break are separated by a relatively deeper channel, which on larger swells, connect up to make an impressively long surfable wave / ride. The Point and beach break are part of the natural character and landscape of the coastal environment within which the proposal will be located. Mahanga, and the coastal environment in the area in which the development is proposed generally, is an area/place of very high amenity

¹ Scarfe (2008) states that there is only: “one surfing break every 39km to 58km. Many of these surfing breaks are only surfable a few days per month or year when the tide, wind and wave conditions are suitable.”

values/recreational amenity and natural character and landscape values; the Point and beach break are part of, and contribute to, that existing environment. Surfbreaks and surfing enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.

Mahanga beach / the Point is one of the 470 listed surf breaks in Wavetrack's New Zealand Surfing Guide² "(Wavetrack guide)". This publication is a recompilation of the original "A guide to surfing in New Zealand". First published in the 1970's the new Wavetrack guide is a must have for surfers touring New Zealand, both national and international. Mahia, as a surfing destination, is rated highly, comparable to Taranki's Surf Highway 45, in the Wavetrack guide. An excerpt from the Wavetrack guide adequately sums up its value;

The introduction to the guide states on page 5:

"...we do have an array of world-class breaks providing incredible consistency. New Zealand is one of the last few remaining surf destinations able to offer large, uncrowded water to surfers. Not only this, but the scenery is spectacular and the unique shape of the land presents many options to those wishing to take advantage of all it has to offer – one of which is that the drive from coast to coast rarely takes longer than three hours. This guide only scratches the surface of all that is available in this beautiful country".

Surfing is unique in that it is considered both a sport AND recreation; most participants view it as the latter, and travel the globe seeking the "perfect wave." Surfing and surfbreaks provide high amenity values and attracts high numbers of both national and international tourists, and surfing as a sport and recreational pursuit contributes significantly to local, regional and national economies.

With regard to the hard engineered sea wall SPS is, inter alia, concerned that no (or an inadequate) Assessment of Environmental Effects (AEE) has been conducted regarding, inter alia, the likely effect of the proposal generally, and the sea wall more particularly, on the beach break Mahanga beach / the Point and the coastal environment in the relevant existing environment of Mahanga / Mahia generally.

Sufficient particulars must be given with an application to enable those who might wish to make a submission to assess the effects on the environment, and on their own interests, of the proposed activity³. The applicant must provide the details and information necessary to enable that to be done. It is submitted that the applicant has failed to do so; for example, the applicant has provided no particulars, or an assessment, of regarding the likely effect of the proposal generally, and the sea wall more particularly, on Mahanga beach / the Point and the coastal environment in the relevant existing environment of Mahanga / Mahia generally. Such effects could have significant adverse effects on amenity values and the environment. The material prepared and given by the applicant is not proportionate to the potential effects of the proposed activity and, moreover, does not allow those who might wish to make a submission (such as SPS) to assess the effects on the environment, and on their own interests, of the proposed activity⁴.

The only reference to the surf breaks in the application is this one sentence at page 29;
“Mahanga Beach is an attractive feature of the local area, is a relatively safe swimming beach and also provides a beach surf break and point surf break.”

² **Wavetrack New Zealand Surfing Guide**, P.B. Morse, P.Brunskill, Greenroom Surf Media Limited, November 2004;
www.newzealandsurfingguide.com

³ See: AFFCO New Zealand Limited v Far North District Council [1994] NZRMA 224

⁴ Ibid

⁴ Ibid

These hard engineered structures (sea walls) are infamous for significantly adversely affecting/destroying surf breaks of a “surfable quality”; most notably in NZ with the loss of the Omaha beach point break in the 1970’s, and Wahi Beach the latter of which has led to a significant reduction in beach profile. SPS is concerned that the proposal, if granted, could lessen the profile at Mahanga, exposing the boulders under the now existing sand; that could in turn lead to adverse effects on the surfbreaks noted above and on the environment generally. Castle point in the Wairarapa has suffered a similar fate, where previously existing sand has been depleted after the construction of a sea wall.

The beaches in Wahi, Omaha and Castle point have changed dramatically since the introduction of such structures (particularly Wahi and Castlepoint) with the loss of sand and lowering of the general beach profile, by removing the sand down to a rock / reef base, leaving the beach unsuitable for bathers (thereby adversely affecting, inter alia, amenity values), and changing the beaches sedimentary cycles.

SPS is highly concerned about the actual and potential adverse effects that will or are likely to arise if consents are granted for the proposal; SPS submits that the ‘Precautionary Principle’ has been overlooked in regard to these issues and to this high public amenity factor, and that the ‘Precautionary Principle’ must be adopted and applied by the consent authorities in the circumstances of this case.

SPS is not satisfied with the applicant’s assertion that the proposed seawall construction is above Mean High Water Springs (“MHWS”) Photo evidence taken to date, and recent consultation with Mahia Board Riders, shows that MHWS exists above the profile submitted by the applicant (first paragraph of 7.5 page 29) - see **Appendix 1** [attached hereto](#).

SPS is concerned that no modelling with regard to future impacts and potential adverse effects on the surf breaks mentioned, and the environment of Mahanga / Mahia generally, has been provided by the applicant. SPS is of the view that potential impacts of such hard engineering and diversion of the Hine Rauira stream could create a scenario where an “extensive dumping wave” could replace the two existing point and beach breaks, voiding Mahanga’s existing surfing amenity; this would result in significant adverse affects on the ‘environment’ and ‘amenity values’ (as defined in section 2 Resource Management Act 1991 (“the Act”)), natural character and landscape values.

Surf breaks are defined by the ability of a wave to break in a manner that allows a surf rider to progress along the unbroken section (unbroken wave face) for an extended period of time.

SPS are also of the view that a precedent will be set if consents for the proposal are granted, in that hard engineering of the beach is being proposed to RECLAIM foreshore for subdivision, without immediate threat being qualified on EXISTING housing.

SPS is concerned that the applicant seeks consents for construction in the Coastal Marine Area (“CMA”), which is public space, for the luxury of reclamation for personal gain, not for existing property protection or for public benefit, at the potential expense of two of New Zealand’s well recognised Surf breaks. SPS, inter alia, note for the consent authorities attention the proposed New Zealand Coastal Policy Statement 2008, where submissions by SPS (and those of many other Surf Rider clubs and organisations) have been considered with regard to the recognition of Surf breaks as unique geological features, and for their amenity value; they are also part of the natural character of the coastal environment and part of the landscape values of the existing environment generally.

It is further noted by SPS, and must be recorded by the consent authorities, that the pines on the public land preceding the applicant’s property provide adequate protection to the existing

structure in close proximity to the adjacent sea, although it has been determined by another submitter (Margaret Fraser) that the structure on that land has been illegally built on said public land. It is the understanding of SPS that further development of this land section is requested by the applicant for dwellings and septic tanks.

Research conducted by SPS has revealed that the Hine Rauira stream appears to have a seasonal cycle, whereby it flows onto the beach regularly during the months of March through to December, and is unable to flow through to the beach during January and February. The “stagnation” referred to by the applicant is part of the natural cycle, and allows for decomposition and enrichment of the local ecosystem. SPS is of the view that the applicant’s proposal will adversely affect the Hine Rauira stream.

The relevant, objectives, methods, policies, rules and standards in the relevant District Plans and Regional Policy Statement and Plans were developed and promulgated with a purpose to avoid adversely effecting amenity and landscape values, the character of areas, the natural character of the coastal environment and the environment generally; and to protect the quality of all those things and the environment from adverse effects caused by inappropriate subdivision, use and development.

If consents are granted, the proposal will have significant adverse effects on amenity and landscape values, the character of the relevant area and the environment generally; and will not protect the quality of all those things and the environment. Neither will the proposal maintain and enhance amenity values and/or the quality of the environment. The proposal is inappropriate particularly (but not limited to) in terms of scale and will not achieve sustainable management should consents be granted.

The actual and potential adverse effects of the proposal (that can in fact be ascertained and assessed) cannot be adequately mitigated by the applicant, nor, it is submitted, have they

been in the proposal. The proposal will have significant adverse effects on amenity and landscape values, the character of the area within which the site is situated, the coastal environment and the environment generally in terms of scale, actual and potential effects and cumulative effects that cannot be adequately avoided or mitigated.

The proposal is contrary to and inconsistent with the purpose and principles in Part 2 of the Act and the provisions of the Act generally; the proposal is contrary to and inconsistent with the provisions of the New Zealand Coastal Policy Statement 1994, the proposed New Zealand Coastal Policy Statement 2008 and the Proposed National Policy Statement for Freshwater Management; the proposal is contrary to and inconsistent with the provisions of the Operative Hawkes Bay Regional Resource Management Plan 2006 (incorporating the Regional Policy Statement and other earlier statutory documents), the Operative Hawkes Bay Regional Coastal Plan 1999, the Proposed Hawkes Bay Regional Coastal Environmental Plan 2006; the proposal is contrary to and inconsistent with the provisions of the Operative Wairoa District Plan 2005 including Wairoa District Plan Change 1 B

The proposal fails to achieve the purpose of the Act: the sustainable management of natural and physical resources.

The following decisions are sought from the consent authorities: that the consent authorities refuse to grant consents for the application in its entirety.

SPS wishes to be heard in support of its submission. If others make a similar submission, SPS will consider presenting a joint case with them at the hearing.

Dated 30 January 2009

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SIGNED on behalf of

Surfbreak Protection Society Inc.

By Monique Davis

Secretary

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