

Decision on Whangamata Marina Society Inc's Restricted Coastal Activity Applications

1. The following paragraphs explain why I propose to allow the applications for the construction and operation of the Whangamata Marina, and the conditions which I am placing on my consent.
2. On 16 October 2006 the Hon Chris Carter suggested that he transfer his decision making power under section 119 of the Resource Management Act 1991 to me as Minister for the Environment.
3. On 25 October 2006 I agreed to accept that delegation and noted that I would not communicate with the Minister of Conservation, his office or his department on this matter until my decision was made. I have received advice and briefings from the Solicitor-General
4. I read the reports and ruling of the Environment Court including the amended draft conditions dated 12 December 2005. I was advised of the directions made by Justice Fogarty when he quashed the Minister of Conservation's original decision. Those directions included the possibility of seeking amplification or clarification of aspects of the Environment Court's reports.
5. On 31 October 2006 I took advantage of that direction and sent a series of questions to His Honour R J Bollard, Principal Environment Court Judge. His Honour replied on 9 November 2006 that he would endeavour to respond as expeditiously as possible but he was of the view that the full panel of the Court should consider and provide the response. Mr McIntyre and Dr Hackett were appointed as Deputy Environment Commissioners from 20 November 2006.
6. The Environment Court did indeed respond expeditiously and on 28 November 2006 I received a full response to the questions I had asked. I am very grateful to the Principal Environment Judge and the two Deputy Environment Commissioners for the efforts they have made and the very useful information they provided. The answers have greatly assisted me in making a decision and have helped to clarify my understanding on some of the issues that were raised during the hearings.
7. As a result of the Environment Court's clarification I decided that I was in a position to make a decision having taken into account the earlier report of the Environment Court and having had regard to the matters set out in section 104 of the Resource Management Act. I consider that I had considerably more information than my colleague the Minister of Conservation had when he made his decision. That information has enabled me to review with greater understanding the conditions proposed by the Court.
8. I have concluded that I will grant the applications for the two restricted coastal activities sought for the Whangamata Marina by the Whangamata Marina Society Inc, subject to conditions. The conditions are based on those recommended by the Environment Court on 12 December 2005, but have been adapted in light of my considerations of the information provided by the Court and having had regard to the matters set out in section 104 of the Resource Management Act.
9. As with the Environment Court, I have had particular concerns about the impact on tangata whenua and the change in the environment caused by the loss of the salt marsh. The Environment Court reports (particularly decision A173/2005)

considered these matters in detail as well as providing an overall evaluation. In light of the Environment Court's further information I am now comfortable in adopting the Court's reasoning in relation to section 104 of the Resource Management Act and the provisions of the Hauraki Gulf Marine Park Act 2000.

10. Attached to this decision are the coastal permits and conditions. A number of the changes from the conditions recommended by the Environment Court are matters of clarification, for example, identifying who is meant by "the Department of Conservation" or ensuring consistency of wording, for example, changing "Environment Waikato" to "the Waikato Regional Council". Other changes specify what is implied, such as the consent holder complying with an agreed plan or cross referencing to another condition.
11. In relation to the coastal permit for the construction and operation of the works (being the marina, bund, breakwater, channel, rip-rap wall and associated facilities) I have:
 - 11.1 added to condition 10 a requirement to monitor if there are any long term adverse effects on the sand bar;
 - 11.2 added, as condition 15, a requirement to cease work if any archaeological remains (including koiwi) are discovered until an appropriate contingency plan has been put in place;
 - 11.3 added to condition 22 a requirement that the slipway be removed prior to the operation of the marina;
 - 11.4 provided in condition 29 that the Department of Conservation be consulted on the management plan for the operation of the marina; and
 - 11.5 provided in condition 32 that the Department of Conservation be consulted on the ecological monitoring plan and have specifically included in the assessments the kaimoana accessible from Moana Point.
12. In relation to the coastal permit for the placing of fill on the salt marsh I have added requirements to provide more information to the Department of Conservation and also added requirements for greater consultation with the Department of Conservation on the enhancement programme.
13. I consider that these changes provide greater certainty that the positive benefits that the Environment Court considered would result from the marina will occur, and that the negative effects that the Court did not consider would result from the marina, are monitored. If the Court's assessment proves not to be correct then remedial action could be taken pursuant to section 128 of the Resource Management Act if necessary.
14. I realise that I have come to a conclusion that differs from that of my colleague the Minister of Conservation. I have done so only after very careful consideration of the Environment Court reports, the requirements of the Resource Management Act and the Hauraki Gulf Marine Park Act, and the further information provided by the Court. I consider that the promotion of sustainable management of natural and physical resources can be achieved by the granting of these restricted coastal activity applications provided the stringent conditions imposed are complied with. It will

now be the job of the Waikato Regional Council (under section 119A of the Resource Management Act) to ensure that the conditions are complied with.

15. Finally, I note that although my office did receive some correspondence on this matter, I did not read any of it. All correspondents were replied to by the Solicitor-General. Now that I have made my decision I am able to read the letters and emails received.

Hon David Benson-Pope
Minister for the Environment

December 2006

The Minister for the Environment under delegation from the Minister of Conservation grants a coastal permit (application 953758) to the Whangamata Marina Society Incorporated, P O Box 37, Whangamata to (i) contain 4 hectares of the coastal marine zone; and (ii) to construct and operate a 300 metre breakwater and control structures related to the marina, and (iii) dredge a marina basin and channel, for the purposes of a 205 berth marina at or about map references NZS 260 T12:648-408 on the sea bed of the Moanaanuanu Estuary of the Whangamata Harbour, Blk XVI, Tairua SD, for a term to expire 35 years from the date of commencement of this consent, subject to the following conditions:

Base Documents

1. The design and construction of the works (being the marina, bund, breakwater, channel, rip-rap wall and associated facilities) authorised by this consent shall be in accordance with the principles outlined in the document entitled “Whangamata Marina Society – Proposed Whangamata Marina – Assessment of Environmental Effects and Resource Consents” dated 22 November 1995, produced by WORKS Consultancy, and the further information provided as supplements to this document.
2. The works shall be positioned as defined in the plans as shown in the document referred to in condition 1 as further modified during the consent process and by the plans revised in October 2004. The works shall not occupy a larger area than that which is described in that document. The general form, position and layout of the works shall be in accordance with those outlined in the supporting information of this application.

Construction and Design

3. The consent holder shall employ appropriately experienced registered engineers to supervise the development of a plan detailing construction methods, design, size, maintenance and location of the works. This engineer shall provide a design certificate describing the works to be constructed and stating that the works have been suitably investigated, are properly designed in accordance with good engineering practice and are in general accordance with the base documents referred to in conditions 1 and 2.
4. The consent holder shall provide a plan detailing the sequencing and programming of the works and the management and maintenance of the works.
5. A copy of the detailed plans required under conditions 3 and 4 and the engineer’s design certificate shall be provided to the Waikato Regional Council and to the Iwi representatives at least two months prior to the commencement of construction.
6. Prior to the commencement of construction authorised by this consent, the consent holder shall have the then existing level of the stream bed surveyed by a suitably

qualified and experienced person acceptable to the Waikato Regional Council and shall advise the Waikato Regional Council in writing of that survey level. If any future proposal to deepen the stream bed above the control structure is consented to by Waikato Regional Council, the consent holder will investigate whether the proposed deepening will lead to the aggrading of the channel between the marina basin and the main harbour channel. Should the investigation show that aggradation will not occur in the access channel between the marina basin and the main harbour channel, the consent holder will take such steps available to it to lower the height of the control structure.

7. At least one month prior to the date on which construction of the works authorised by this consent is to commence, the consent holder shall provide to the Waikato Regional Council evidence that all relevant consents have been obtained for the disposal of material to be dredged in the construction of the marina basin and channel. Provided, however, condition 21 of the consent upheld by the Environment Court to truck material to disposal destinations off-site shall not be invoked in terms of the present condition as a basis for holding all relevant consents have not been obtained.
8. The consent holder shall provide an appropriately experienced registered engineer to supervise the construction of the works. On completion of the works the engineer shall provide a construction certificate stating that the works have been constructed in accordance with the design developed for the marina under conditions 3 and 4, have been constructed in accordance with good engineering practice, and are in general accordance with the base documents referred to in conditions 1 and 2. A copy of that certificate shall be forwarded to the Waikato Regional Council and the Iwi representatives prior to the operation of the marina.
9. The consent holder shall inform the Waikato Regional Council and the Iwi representatives in writing of the starting and expected completion date of the works at least one month prior to the commencement of construction. The expected completion date must be in accordance with condition 19, two years or less than the date on which construction commences. If the commencement date and/or expected completion date alter by more than a month the consent holder shall inform the Waikato Regional Council and Iwi representatives in writing within a week of that alteration being known.
10. The consent holder shall retain appropriately qualified and experienced persons to develop a plan detailing procedures to be put in place to minimise the potential for sediment discharge from the site during construction of the works. This plan shall address among other things the following:
 - i. means of containing sediment in the dredge basin;
 - ii. means of containing construction debris to the work site;
 - iii. measures to be employed to reduce odours associated with disposal of dredged material;
 - iv. means of ensuring contractor compliance with this plan;
 - v. staff responsibilities and procedures to ensure compliance with the plan;

- vi. sampling sites and means of measuring suspended solids and turbidity;
- vii. monitoring of the sand bar at the harbour entrance to ascertain if the dredging and construction has any long term adverse effect.

This plan shall be to the satisfaction of the Waikato Regional Council and forwarded for Council's written approval at least one month prior to the commencement of construction. At least one month prior to forwarding the plan to the Waikato Regional Council, a draft will be sent to the Iwi representatives, which may suggest amendments to the plan, which must be submitted to the consent holder within one month of receipt of the plan by the Iwi representatives. If those amendments are not accepted by the consent holder, the consent holder shall forward the suggested amendments to the Council at the same time as it submits the plan for the Council's approval. The consent holder shall comply with the plan approved by the Council and construction shall not commence until Council has provided its written approval.

- 11. The construction of the access channel shall not cause suspended solids concentration of the harbour water further than 150 metres from the site of construction, and up to 1 metre below the water surface or half the depth of the water column, whichever is less, to increase by more than 50 grams per cubic metre above background level.
- 12. The construction activities at the site shall not cause the turbidity of the harbour water as measured at control points, to be determined in consultation with the Waikato Regional Council, at any point further than 150 metres from the site of construction, and up to one metre below the water surface or half the depth of the water column, whichever is less, to increase by up to 5 NTU above the background level.
- 13. The consent holder shall be responsible for implementing the best practical option so as to minimise sediment discharge, damage to the seabed and surrounding environment whilst accessing the site and carrying out the works.
- 14. The quantity of material to be removed by dredging shall not exceed 167,000 cubic metres during the construction of the marina basin and channel. Records of the amount of material removed shall be kept by the consent holder and shall be made available at all reasonable times to the Waikato Regional Council and to the Iwi representatives.
- 15. If any archaeological remains (indicating koiwi) are found the works within a 20 metre radius of the relevant area where the remains are found shall cease and the tangata whenua and Historic Places Trust shall be consulted forthwith, with an appropriate contingency plan being formed, paying heed to Maori protocol, before the works are allowed to recommence.
- 16. The material excavated shall be disposed of by the consent holder wherever practicable according to the following priority:
 - (a) Not less than 110,000 cubic metres on sites adjacent to the marina to achieve the minimum practical operating level.

- (b) Disposal of appropriate material to beach nourishment or to stock pile for beach nourishment to the Waikato Regional Council's requirements where consents for these activities have been obtained.
 - (c) Disposal for other public good purposes agreed by the Waikato Regional Council and for which any necessary disposal consents have been obtained.
 - (d) Disposal by sale on commercial terms with the net proceeds of sale to be placed in a fund to be utilised by the Waikato Regional Council to protect or restore the coastal environment at Whangamata.
 - (e) Disposal on sites adjacent to the marina up to the maximum levels allowed by consents granted by the Waikato Regional Council and the Thames Coromandel District Council.
 - (f) To other sites for which any necessary consents have been obtained or are not required.
17. Construction vehicles shall not be permitted in any part of the coastal marine area beyond the boundaries of the construction site authorised by this consent.
 18. Any erosion control works that become necessary as a result of the exercise of this consent shall be undertaken as directed by the Waikato Regional Council at the expense of the consent holder.
 19. Construction works authorised by this consent shall not extend for more than two years from the date on which construction commences.
 20. Noise levels of the construction site shall comply with those set out in NZS 6803: 1999, "The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work". Prior to construction commencing, the consent holder shall supply to Waikato Regional Council a certificate from an appropriately qualified acoustic engineer certifying that the noise levels of the construction can meet those set out in NZS 6803: 1999.
 21. Public access shall not be restricted in the coastal marine area subject to safety requirements during construction and boat security after construction.
 22. A shore based sewage pump out, handling and disposal facility to service boats using the marina shall be planned and these shall be implemented within two years of the date on which construction of the works authorised by this consent commences or prior to the operation of the marina, whichever is the earlier. The slipway operated by Ocean Sports Club shall be removed prior to the operation of the marina in accordance with the agreement reached between the Club and the consent holder.
 23. The exercise of this consent shall not result in the discharge of any visible oil or grease.
 24. The consent holder shall, on request in writing from either the Waikato Regional Council or the Iwi representatives, provide a registered survey plan of the work structures and their location.

25. The consent holder will provide a roosting area for seabird species at the seaward end of the training wall. The surface area of this roost will be not less than 300m² at an RL of 11.6. The rock facing of the roost area is to be surfaced with heavy shell or other material suitable for seabird roost areas.

Operation and Maintenance

26. The following maximum noise levels shall apply to all operation and maintenance activities under the control of the marina operator:

7:00 a.m. to 10:00 p.m. –55 dBA (L10)

10:00 p.m. to 7:00 a.m. –45 dBA (L10)

as measured at the waterfront on Beach Road or at the notional boundary of any residential building (20 metres forward of the façade of the building).

Noise levels shall be in accordance with NZS 6803: 1999, “The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work.”

27. Maintenance dredging operations of the marina basin shall only be undertaken one hour after the tide starts to go out, ceasing two hours before the tide starts to come in, unless otherwise authorised in writing by the Waikato Regional Council.
28. An appropriate maintenance dredging and disposal plan shall be prepared annually and forwarded to Waikato Regional Council for approval in writing prior to maintenance dredging being undertaken for that year. This plan shall include an estimate of the amount of sediment to be dredged, sediment characteristics, disposal site(s) and an assessment of effects at the disposal site. The consent holder is responsible for securing any consents necessary for the disposal or maintenance dredgings. At least one month prior to forwarding the plan to the Waikato Regional Council a draft will be sent to the Department of Conservation and the Iwi representatives, which may suggest amendments to the plan, which must be submitted to the consent holder within one month of receipt of the plan by the Department of Conservation and the Iwi representatives. If those amendments are not accepted by the consent holder, the consent holder shall forward the suggested amendments to the Council at the same time as it submits the plan for the Council’s approval. The consent holder shall comply with the plan approved by the Council.
29. The consent holder shall prepare and keep a current management plan for all aspects of the marina facilities and operational procedures to ensure that the operations on the marina site do not have an adverse effect on the environment. This plan shall provide:
- i. Description of operations and facilities and their maintenance requirements;
 - ii. Contingency measures associated with operations and facilities and any training required;
 - iii. Berth contract provisions which are directed to ensure that berth holders act in an environmentally appropriate manner;

- iv. Detail on any penalty provisions that the marina operator may impose for inappropriate actions.

A draft of this plan shall be provided to the Waikato Regional Council within three months of the date of commencement of this consent and the final plan shall be completed within six months of the date of commencement of this consent, and forwarded to the Waikato Regional Council for written approval. At least one month prior to forwarding the plan to the Waikato Regional Council a draft will be sent to the Department of Conservation and the Iwi representatives, which may suggest amendments to the plan, which must be submitted to the consent holder within one month of receipt of the plan by the Department of Conservation and the Iwi representatives. If those amendments are not accepted by the consent holder, the consent holder shall forward the suggested amendments to the Council at the same time as it submits the plan for the Council's approval.

- 30. The marina shall be operated (including undertaking maintenance and training) as detailed in the management plan approved by the Waikato Regional Council as outlined in condition 29 above.
- 31. The consent holder shall retain an appropriately experienced and suitably qualified person acceptable to the Waikato Regional Council to evaluate and characterise the level of contaminants on the site and develop a contingency plan for the prevention and removal of spills of hydrocarbons and other contaminants from entering the coastal marina area. The plan shall detail:
 - i. what spill prevention measures have been undertaken on site;
 - ii. what equipment is kept on site to remove spills;
 - iii. what training staff have in the use of such measures;
 - iv. how the disposal of contaminated materials will be undertaken.

A draft of this plan shall be provided to the Waikato Regional Council and the Iwi representatives within three months of the date of commencement of this consent for comment and the final plan (incorporating any comments that are accepted by the person retained to develop the contingency plan) shall be completed within six months of the date of commencement of this consent. The consent holder shall comply with the final contingency plan's requirements.

Monitoring

- 32. The consent holder shall retain appropriately experienced and suitably qualified persons acceptable to Waikato Regional Council, after reference to and discussion with the Department of Conservation, to develop an ecological monitoring plan to determine the impact of the construction of the works and marina operation on the surrounding habitat, water quality and aquatic biota. This programme shall be to the satisfaction of the Waikato Regional Council, and forwarded for approval at least two months prior to the commencement of construction. At least one month prior to forwarding the plan to the Waikato Regional Council a draft will be sent to the Department of Conservation and the Iwi representatives, which may suggest amendments to the plan, which must be submitted to the consent holder within one

month of receipt of the plan by the Department of Conservation and the Iwi representatives. If those amendments are not accepted by the consent holder, the consent holder shall forward the suggested amendments to the Council at the same time as it submits the plan for the Council's approval. The ecological monitoring plan shall include reference to the following:

- i. assessment of habitats including those of Mangroves, Eel grass, Shellfish beds, and Avifauna communities (to specifically include NZ Dotterel and Variable Oystercatcher);
 - ii. Assessment of aquatic biota (including kaimoana) in the marina basin and its vicinity (including the area accessible from Moana Point) for species density, distribution, and community composition;
 - iii. Frequency and period of monitoring prior to, during and after construction including attention to the critical breeding periods of the NZ Dotterel and Variable Oystercatcher (October-February);
 - iv. Harbour water quality as a result of dredging and an investigation of the parameters to be measured;
 - v. Contaminated water quality including bacterial levels in both the marina basin waters and in shellfish in the vicinity including those accessible from Moana Point, hydrocarbon concentrations in the marina basin, and the concentration of elements derived from antifouling products in the marina waters/aquatic species;
 - vi. Reporting procedures.
33. The consent holder shall undertake the monitoring programmes contained in the ecological monitoring plan and forward the results of those programmes at the intervals detailed in the plan to the Waikato Regional Council, the Department of Conservation and the Iwi representatives.
34. Prior to the commencement of construction, the consent holder will demonstrate to the satisfaction of Waikato Regional Council that the consent holder has sufficient funds committed to carry out the construction of the works in accordance with the consents granted and shall provide a legally enforceable bond jointly in favour of and to the satisfaction of the Thames Coromandel District Council and the Waikato Regional Council ("the Councils"). The bond is intended to ensure that in the event of the consent holder failing to complete the works, there are sufficient funds available to the Councils in order to:
- i. remove structures from below Mean High Water Springs ("MHWS"); and
 - ii. secure the completion of earthworks, filling, rehabilitation, landscaping and stormwater reticulation to the extent necessary and practicable to avoid, remedy or mitigate adverse effects on the environment and ensure that there is no ongoing liability for the Councils; and

- iii. enable any adverse effects on the environment resulting from the consent holder's activities and not authorised by a resource consent to be avoided, remedied or mitigated; and
 - iv. enable the Councils to undertake the monitoring and management of the site until completion of the landscaping and satisfactory operation of the stormwater reticulation system to the extent contemplated in (ii) above.
35. The quantum of the bond will be determined as follows:
- i. Prior to the commencement of construction the consent holder will provide to the Councils a project plan that will identify key construction targets at approximately 6 monthly intervals throughout the marina project;
 - ii. The project plan will include an estimate of the costings for removal of structures below MHWS and remediation of the land above MHWS for each of the construction targets and consistently with the intent of this bond as stated in condition 34) above;
 - iii. Prior to commencement of construction the consent holder will obtain a bond sufficient to cover the maximum risk to the Councils as represented by the highest cost estimate in paragraph (ii) above;
 - iv. The consent holder will maintain the bond agreed under paragraph (iii) until construction is complete and all works have been carried out in accordance with the Landscape and Stormwater Management Plans required by the resource consents granted by the Thames Coromandel District Council.
36. In the event that the consent holder and the Councils are unable to agree on the quantum of the bond, the dispute shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1996.
37. With the exception of arbitration costs incurred under condition 36), all costs relating to the bond shall be paid by the consent holder.
38. The Waikato Regional Council may initiate a review of the conditions of this consent under section 128 of the Resource Management Act 1991, every two years after the date of commencement of the consent in the month of October for the purpose of avoiding, remedying or mitigating any adverse effects on the environment from the exercise of this consent.
39. All sample methods of analysis shall be as detailed in the "Standard Methods For The Examination of Water and Waste Water, 1998" 20th edition by A.P.H.A. and A.W.W.A. and W.E.F. or any subsequent update or by some other method approved in advance in writing by Waikato Regional Council.
40. 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.

General

41. This consent lapses on the expiry of five years after the date of commencement of the consent.

Advice Note

- (a) In this Consent the Iwi representatives means either a collective nominee or an individual representative of each of the following parties:

- Hauraki Maori Trust Board;
- Te Kupenga o Ngati Hako Incorporated;
- Whangamata Maori Committee
- Te Runanga o Ngati Puu.

The choice of individual representative or a group nominee is at the discretion of the Iwi parties and will be advised to the consent holder on an annual basis. If no such annual advise is received the consent holder will meet its requirements under this consent by relying on the previously nominated Iwi representatives.

- (b) In this Consent, the Department of Conservation means the Conservator, Waikato Conservancy or the Conservator's nominee.

The Minister for the Environment under delegation from the Minister of Conservation grants a coastal permit (application 953761) to the Whangamata Marina Society Incorporated, P O Box 37, Whangamata to reclaim 1.4 hectares of the coastal marine zone by placement of fill onto a salt marsh for development of a hardstand and parking area for the purposes of a 205 berth marina at or about map references NZS 260 T12:648-408 on the sea bed of the Moanaanuanu Estuary of the Whangamata Harbour, Blk XVI, Tairua SD, subject to the following conditions:

1. The consent holder shall inform the Waikato Regional Council, Department of Conservation and the Iwi representatives in writing at least one month prior to the reclamation taking place.
2. The consent holder shall inform the Waikato Regional Council, Department of Conservation and the Iwi representatives prior to the commencement of construction of the method by which material shall be discharged into the reclamation area.
3. All sediments that are placed onto the salt marsh under the exercise of this consent shall be placed to the satisfaction of the Waikato Regional Council.
4. The consent holder shall be responsible for implementing the best practical option so as to minimise sediment discharge, damage to the seabed and surrounding environment whilst accessing the site and carrying out the fill placement.
5. Construction works shall be carried out in a manner that complies with the noise levels as set out in NZS 6803: 1999, "The Measurement and assessment of Noise from Construction, Maintenance and Demolition Work". Prior to construction commencing, the consent holder shall supply to Waikato Regional Council a certificate from an appropriately qualified acoustic engineer certifying that the noise levels of the construction can meet those set out in NZS 6803: 1999.
6. If any archaeological remains (including koiwi) are found the works within a 20 metre radius of the relevant area where the remains are found shall cease and the tangata whenua and Historic Places Trust shall be consulted forthwith, with an appropriate contingency plan being formed, paying heed to Maori protocol, before the works are allowed to recommence.
7. The consent holder shall retain appropriately experienced and suitably qualified persons acceptable to Waikato Regional Council to detail a fauna management plan to be put in place that details how the potential and actual effects on the fauna in and around the site during construction of the marina (including associated facilities and structures) will be minimised. The plan shall address fauna to be protected and the consent holder's or its agents' responsibilities and procedures to ensure compliance with the plan. The completed plan shall be provided to Waikato Regional Council for written approval, prior to commencement of construction. At least one month prior to forwarding the plan to the Waikato Regional Council a draft will be sent to the Department of Conservation and the Iwi representatives, which may suggest amendments to the plan, which must be submitted to the consent holder within one month of receipt of the plan by the Department of Conservation and the Iwi representatives. If those amendments are not accepted by the consent holder, the consent holder shall forward the suggested amendments to the Council at the same

time as it submits the plan for the Council's approval. The consent holder shall comply with the fauna management plan approved by the Council.

8. Following consultation with Thames Coromandel District Council, Waikato Regional Council, the Department of Conservation, Iwi representatives and under the guidance of an appropriately experienced and suitably qualified ecologist acceptable to the Waikato Regional Council, the consent holder shall undertake work to the value of \$45,000 (excluding gst) to enable enhancement and restoration works to be undertaken on the land described as the "enhancement area" on Figure 1 attached to Environment Court decision A173/2005 dated 26 October 2005 and in general accordance with the Moanaanuanu Estuary Enhancement Proposed Management Plan, being Appendix 6 to Mr Don's evidence to the September 2005 hearing. The enhancement and restoration works encompassed by this condition (excluding the initial 2 year maintenance programme) shall be completed before the marina commences operation.
9. Following the completion of enhancement measures detailed in condition 8 to this consent (including the initial 2 year maintenance programme) the consent holder shall provide money or services up to the value of \$2,000.00 (excluding gst) per annum for the purposes of monitoring and maintaining enhancement measures detailed in condition 8 to this consent. Such work shall be done in accordance with an Enhancement Maintenance Plan to be approved by the Waikato Regional Council, after consultation with the Department of Conservation and Iwi representatives.
10. To the extent practicable, and to the extent of the areas that are made available to the consent holder for enhancement prior to the date on which marina construction is programmed to commence, and following consultation with Thames Coromandel District Council, Waikato Regional Council, Iwi representatives and the Department of Conservation, native rush plants from the marina site saltmarsh that are not transplanted in accordance with condition 8 of this consent shall be used to enhance other estuarine sites in the District. That enhancement process will, as a priority, remedy sites from which pampas has been removed, to the extent that the total area of enhancement (including areas provided for under condition 8 of this consent) is equal to or exceeds the area of saltmarsh removed for development of the marina, provided that sufficient areas have been made available prior to the date on which marina construction is programmed to commence, and shall be carried out under the guidance of an appropriately experienced and suitably qualified ecologist acceptable to the Waikato Regional Council..

The Waikato Regional Council will advise the consent holder of areas available for enhancement at least two weeks in advance of the programmed date of commencement of construction.

11. The exercise of this consent shall not result in the discharge of any visible oil or grease.
12. The Waikato Regional Council may initiate a review of the conditions of this consent under section 128 of the Resource Management Act 1991, every two years after the date of commencement of consent in the month of October for the purpose of avoiding, remedying or mitigating any adverse effects on the environment from the exercise of this consent.

13. Construction works authorised by this consent shall not extend for more than two years from the date on which construction commences.
14. 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.
15. This consent lapses on the expiry of five years after the date of commencement of the consent.

Advice Note

- a) Sediment from this activity will potentially contribute to sediment entering the Moanaanuanu Estuary and the marina basin and shall be monitored as part of the conditions attached to coastal permits 953759 and 953760.
- b) In this Consent the Iwi representatives means either a collective nominee or an individual representative of each of the following parties:
 - Hauraki Maori Trust Board;
 - Te Kupenga o Ngati Hako Incorporated;
 - Whangamata Maori Committee;
 - Te Runanga o Ngati Puu.

The choice of individual representative or a group nominee is at the discretion of the Iwi parties and will be advised to the consent holder on an annual basis. If no such annual advice is received the consent holder will meet its requirements under this consent by relying on the previously nominated Iwi representatives.

- (c) In this Consent, the Department of Conservation means the Conservator, Waikato Conservancy and the Conservator's nominee.