

NORTHLAND REGIONAL COUNCIL
RESOURCE MANAGEMENT ACT
HEARING OF RESOURCE CONSENT APPLICATION APP.040213.01.01 BY THE
MANGAWHAI HISTORIC WHARF TRUST

MINUTE #1 OF THE HEARING COMMISSIONERS

Introduction

1. We, Dr Rob Lieffering and Ms Sharon McGarry, have been delegated the necessary functions and powers¹ by the Northland Regional Council (**NRC** or 'the Council') to act as independent Hearing Commissioners to hear and decide the application lodged by the Mangawhai Historic Wharf Trust ('**the Applicant**') for resource consents to construct a wharf at Mangawhai and occupy the coastal marine area. The application is referenced by the Council as APP.040213.01.01.
2. The function of this Minute is to give set out some preliminary matters in preparation for the hearing set down to commence at **9.30 am on Monday 21 September 2020** at the Mangawhai Club, 219 Molesworth Drive, Mangawhai Heads. In particular, the objective of this Minute is to provide directions for a smooth and easily navigable hearing process for all parties. This requires action from some of the parties in the next few weeks in readiness for the formal proceedings.
3. This Minute covers the following matters:
 - (a) Evidence preparation and circulation;
 - (b) Hearing process and presentations;
 - (c) Hearing schedule/timetable; and
 - (d) Site and locality visit.
4. We may issue further instructions by way of a Minute(s) before or during the hearing process. Closer to the commencement of the hearing we may issue a direction regarding expert conferencing with a view to receiving any joint expert witness statements addressing issues raised. All correspondence between the parties and the Hearing Commissioners will be facilitated by Ms Alissa Sluys at the NRC. Her contact details are provided at the end of this Minute.

Evidence Preparation and Circulation

5. In accordance with the requirements of section 103B of the Resource Management Act 1991 (**RMA**), the circulation of the following is required prior to the commencement of the hearing:
 - The report prepared by the reporting officer under section 42A of the RMA;
 - All expert and non-expert evidence of the Applicant; and

¹ Under 34A of the Resource Management Act 1991

- All expert evidence of submitters wishing to be heard at the hearing.

6. The timetable for pre-circulation of the above is as follows:

Time and Date	Action
4 pm, 28 August 2020	Reporting officer's section 42A RMA report due.
4 pm, 4 September 2020	Applicant to provide briefs of <u>expert and non-expert</u> evidence.
4 pm, 11 September 2020	All submitters to provide briefs of <u>expert</u> evidence (if calling any witnesses).
9.30am, 21 September 2020	Hearing commencement.

7. **Submitters:** please note that it is only those submitters who are intending to call 'expert' evidence who need submit those briefs by 11 September 2020. Expert witnesses are experts by virtue of their qualifications, experience, and independence.
8. While not strictly required for council hearings, we expect all expert witnesses to comply with Section 7 (Expert Witnesses) of the Environment Court's Practice Note 2014 in preparing their evidence or giving any oral evidence. We ask the parties to remind their experts that those witnesses have an overriding duty to assist us impartially on relevant matters within their area of expertise and they must not be an advocate for the party who engages them. The latest version of the Environment Court's Practice Note can be found at <https://www.environmentcourt.govt.nz/about/practice-note/>.
9. For completeness, any legal submissions (from the Applicant or any submitter) are to be presented during the hearing and there is no need for these to be pre-circulated.
10. Evidence must be provided electronically in pdf or Microsoft Word format, in accordance with the timetable in paragraph 6, via email to Ms Sluys, or by providing a weblink to download the documents. We understand that the NRC will collate all the pre-circulated evidence and make it available to the parties on its website as soon as possible after the due dates. If you wish to view hard copies of any evidence please contact Ms Sluys to find out how this can be arranged.

Hearing Process/Presentations

11. The pre-circulated evidence is being distributed to all parties prior to the hearing and, as such, will be read by us prior to the hearing commencing – that is, it is 'taken as read'. This means it will not be necessary for a verbatim oral presentation of the written statements of evidence at the hearing. We direct that each witness presenting expert evidence:
- Be introduced and asked to confirm their qualifications and areas of expertise;
 - Confirm the matters of fact and opinion contained in the statements of evidence;
 - Identify any corrections to be made; and

- Provide a summary of their evidence to draw attention to key points in their statement of evidence (in particular the reasons for disagreement with any other experts in their field of expertise) - We request that this be limited to no more than two A4 pages.
12. The Applicant's witnesses may also provide written rebuttal evidence on other expert statements of evidence pre-circulated by any submitter. We remind witnesses that no new evidence may be introduced, unless it is specifically in response to matters raised in other pre-circulated statements of evidence provided by another party.
 13. Non-expert evidence from submitters, including lay evidence or legal submissions, does not need to be pre-circulated and shall, instead, be tabled at the hearing and read aloud. We remind the parties that we will have also read all the written submissions that were lodged on the Application and therefore discourage submitters from reading their written submissions verbatim. Again, we are happy for submitters presenting to speak to a summary of their submission by either:
 - A separate tabled statement that condenses the key points from evidence (i.e. a couple of A4 pages); or
 - Highlighting particular points within their evidence during their presentation.
 14. With the above approach in place, we envisage presentations for all persons (expert and non-expert), except legal presentations, will be in the order of 15-30 minutes per speaker, though this is not a fixed time requirement. Our intent in signalling this is less a stipulation that speakers rigidly adhere to an imposed time limit, and more a guide for those wondering how long their presentation is likely to last. Further time may be required to answer any questions we may have.
 15. We want to be clear that all parties (Applicant, submitters, and the reporting officer) will be given the time they require to adequately present their views. The main reason the RMA directs pre-circulation of evidence is to minimise the time required for all parties to be present at the hearing itself. This expedited process will not, however, be at the expense of any party's ability to fully participate in the process.

Hearing Schedule/Timetable

16. The hearing has been set down for four days, but at this stage no detailed Hearing Schedule is available. The normal sequence of presentations will be the Applicant presents its case, the submitters then present their case/submission, and then the reporting officer will have an opportunity to respond to matters raised in evidence or during the hearing. Finally, the Applicant will be given the opportunity to deliver its Right of Reply. This may either be orally or in writing and we will discuss this on the final day of the hearing. In the event that the Applicant presents its Reply orally, then we request a written copy also be provided.
17. In terms of the submitters, Ms Sluys will contact those who indicated they wish to speak at the hearing (i.e. wished to be heard) to:
 - (a) Confirm that the party still intends to attend the hearing and to speak to their submission;
 - (b) Ask whether the party has any time restrictions or preferred day(s) to present their submission; and

- (c) Get an indication of the time required/requested to present their case (bearing in mind the guideline times discussed earlier in this Minute).
18. A Hearing Schedule will be prepared based on the responses Ms Sluys receives and this will be circulated to the parties before the hearing commences.

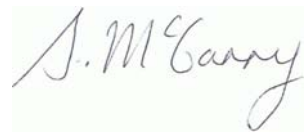
Site and Locality Visit

19. We will be undertaking a general site and locality visit prior to the hearing.
20. If any party has a desire for us to visit particular sites/localities associated with the application, they should advise Ms Sluys as soon as practicable.

NRC Contact Details

21. If any party wishes to seek further clarification in relation to this Minute or the hearing process please contact Ms Sluys in the first instance, by email: alissas@nrc.govt.nz or phone 09 470 1200 or toll free on 0800 002 004.

DATED 19 August 2020



Sharon McGarry (Chair)
On behalf of the Hearing Commissioners