

NORTHLAND REGIONAL COUNCIL

RESOURCE MANAGEMENT ACT

HEARING OF RESOURCE CONSENT APPLICATION APP.040213.01.01 BY

THE MANGAWHAI HISTORIC WHARF TRUST

MINUTE #2 OF THE HEARING COMMISSIONERS

1. The function of this Minute is to direct expert witness conferencing prior to commencement of the Northland Regional Council (NRC) hearing of the resource consent application APP.040213.01.01 by the Mangawhai Historic Wharf Trust, which is scheduled to commence at **9.30 am on Monday 21 September 2020** at the Mangawhai Club, 219 Molesworth Drive, Mangawhai Heads.
2. The purpose of directing pre-hearing expert conferencing is to assist us in the identification of areas of agreement and areas of disagreement between the expert witnesses. For this application we have received more than one brief of expert evidence in relation to ecology (with a focus on birds, particularly the New Zealand fairy tern) and planning matters.
3. We therefore direct the experts outlined in the table below to conference (by way of the internet or phone) with the aim of providing a joint witness statement clearly outlining the key issues and areas of agreement and disagreement, including the reasons for any matters where there is disagreement. The table also identifies some matters which we specifically want to have covered, however the conferencing should not necessarily be restricted to these matters.

Topic	Experts to Conference	Matters to be Covered
Ecology	Katrina Hansen Antony Beauchamp Ian Southey* Dr. John Craig	<ul style="list-style-type: none">• Which species, listed as 'threatened' or 'at risk' in the New Zealand Threat Classification System lists and those listed by the International Union for Conservation of Nature and Natural Resources as 'threatened', are known to be present in and around the subject site, including estimated numbers (if known).• What each of the above species use the subject site and surrounds for (e.g. breeding, roosting, feeding etc.).• Whether the <u>construction</u> of the wharf will have any adverse effect on these species and, if so, the nature and scale (magnitude) of those effects.• Whether the <u>use</u> of the wharf will have any adverse effect on these species and, if so, the nature and scale (magnitude) of those effects.• The scale of effects should identify whether they at an individual, local population, national population, and/or global population level.

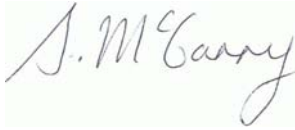
Planning	Katie McGuire Vishal Chandra Linda Kirk	<ul style="list-style-type: none"> • A number of policies of the relevant statutory planning documents use the terms ‘functional need’ and ‘operational need’ in relation to structures within the coastal marine area. What do these terms mean and does the proposed wharf qualify as having such a need. • What does ‘avoid’ mean in the context Policy 11(a) of the New Zealand Coastal Policy Statement – what level of effect, if any, is permissible. • What are the appropriate weightings to be given to the provisions of the relevant statutory planning documents, in particular the weighting to be given to the provisions of the Proposed Regional Plan that are under appeal. • What are the ‘key’ objectives and policies relevant to this application. Does the proposal meet the key objectives and is it consistent with the key policies, and if not, why not.
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* Mr Southey had lodged a submission on the application but this has been formally withdrawn. The New Zealand Fairy Tern Charitable Trust is calling Mr Southey as an expert witness.

4. We request that NRC facilitate this pre-hearing conferencing process and assist with the provision of copies of the two joint witness statements at the hearing, or preferably prior to the hearing if that is at all possible.
5. We remind the expert witnesses that their primary duty and obligation is to assist us impartially on relevant matters within their area of expertise and of the need to avoid advocacy for the party who engages them. The latest version of the Environment Court’s Practice Note for expert witnesses can be found at <https://www.environmentcourt.govt.nz/about/practice-note/>. We note that Dr Craig (for the Applicant) has not confirmed in his Statement of Evidence that he has read and agreed to comply with the Code of Conduct as set out in Section 7 of the Practice Note. He may wish to do so at the hearing.
6. An indicative hearing schedule will be available on request from Ms Sluys (NRC) on Thursday 17 September 2020.
7. We have had requests to visit the application site during both high and low tide conditions. We confirm we will do so prior to and during the hearing without any of the hearing parties in attendance.

8. 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.

DATED 14 September 2020

A handwritten signature in cursive script, reading 'S. McGarry', written in dark ink on a light green rectangular background.

Sharon McGarry (Chair)
On behalf of the Hearing Commissioners