

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Private Plan Change 85

to the Kaipara District Operative

District Plan: Mangawhai East

ORAL SUBMISSION OF HEATHER ROGAN

On behalf of the New Zealand Fairy Tern Charitable Trust

18th February, 2026

Mangawhai East: Proposed Plan Change 85

Submission to the Hearings Panel from New Zealand Fairy Tern Charitable Trust.

Introduction

1. My name is Heather Rogan, representing the New Zealand Fairy Tern Charitable Trust. I am the convenor of the Trust committee and also represent the community on the Department of Conservation's Tara Iti Recovery Group. I have been involved in fairy tern conservation since 2007.
2. Like many members of the Trust's committee and the volunteers who work to protect the tara iti/ NZ fairy tern, I have lived here for many years, having owned a place bordering on the harbour since 1993. Over the years as we have become more involved in this community and more aware of our surroundings, we have come to value our unique environment here. We are concerned at the scale and pace of development and its effect on the environment. The Trust is one of many community groups in the area working to protect the treasures we have here: the Harbour, the Sandspit, the surrounding bush covered hills and the abundant birdlife.

The Trust

3. The New Zealand Fairy Tern Charitable Trust (NZFTCT or the Trust) was set up in 2008 by volunteers to work with the Department of Conservation (DOC) to support and enhance protection of the critically endangered New Zealand fairy tern (tara iti). We work with DOC but we're independent of government.
4. The NZFTCT's aim is: "To help the New Zealand fairy tern survive and prosper in the fairy tern habitats of New Zealand for the benefit of present and future generations of New Zealanders." (NZFTCT constitution, 2008). Our conservation strategies include:
 - Volunteer support - Boat for transport to Mangawhai Spit, the most significant breeding ground; telescopes, binoculars, trail cameras, traps, transport subsidies.
 - Predator control - contracted trapper, trapping expenses.
 - Advocacy - Court cases, submissions.
 - Publicity, Education - visits to schools, public events, information signage.
5. Most relevant to this hearing is the fact that the Trust has been involved in a series of Environment Court cases since 2012, all intended to protect fairy tern habitat from actual or potential threats. (Table 1). In each case, the Environment Court has recognised the importance of protecting fairy tern habitat and has ruled accordingly. The Trust has the advantage of local knowledge and, being independent, it can take on cases that may be politically difficult for a government body such as the Department of Conservation (DOC). The ability to source funding outside of DOC, and the support of businesses and individuals have enabled the Trust to plan and initiate actions whenever a need has been identified.

Table 1. Court actions undertaken by the NZ Fairy Tern Charitable Trust.

Date	Issue	Site(s)	Threat Type	Conservation Outcome(s)	Reference
2012	Mangrove Removal, Dredging	Mangawhai Harbour	Disturbance to foraging	No capital dredging; Limited mangrove removal	NZEnvC 232 (2012)
2017 - 2023	Northern Regional Council Plan Mangroves Bird protection	Northland - Particularly Waipū and Mangawhai	Disturbance to bird breeding, roosting, foraging	Bird breeding period Aug -Mar- no disturbance. Roosting protected. Critical bird habitats protected	NZ EnvC 114 (2022) NZEnvC 093 (2023) NZEnvC127 (2023)
2018 - 2020	Wharf	Mangawhai Harbour	Disturbance to foraging, roosting	Consent declined. Foraging and roosting protected	Northern Regional Council (2020)
2022	PC 78 Development adjacent to harbour	Mangawhai	Adverse effects on water quality, foraging, disturbance	Explicit protections for tara iti written into plan.	NZEnvC 35 (2022)
2014	Housing development, golf course adjacent to Mangawhai Sandspit	Te Ārai	Disturbance to breeding, predators	Housing numbers limited, No pets, Monitoring water take from Te Arai Stream.	NZEnvC 000009 (2014)
2019	Illegal dam	Te Ārai Stream	Tara iti foraging – dam impeded fish passage upstream for breeding	Dam removed 2020. Te Ārai Stream mouth captive rearing site since 2020-2021 season.	NZEnvC 172 Court (2019)
2021 - 2023	Sandmining	Pākiri-Mangawhai Embayment	Tara iti breeding sites, foraging	Application declined in Environment Court	

Situation of NZ fairy tern/tara iti

6. The NZ fairy tern (tara iti) has teetered on the brink of extinction since the 1980s when the population was only three pairs. The population has increased slowly since then due to intensive efforts by DOC rangers and volunteers. The current population is around 40 birds, including 8-10 breeding pairs. The evidence from DOC staff, Dr Beauchamp and Ms Wiles gives more detail.
7. **Importance of Mangawhai Estuary:** Of the breeding pairs 6-8 of them breed at Mangawhai, making it a critical site, essential to their recovery. This is highlighted in the DOC evidence and that of Mr Southey. It is no exaggeration to say that breeding failure at Mangawhai would be fatal for the survival of fairy tern in New Zealand.
8. **Foraging territories:** Fairy tern feed only on live fish, which they need to consume in large numbers when preparing for breeding and when feeding their chicks. Each male in a breeding pair has a foraging territory which he defends vigorously. Maps of the foraging territories are shown in the Beauchamp and Southey evidence. As Mr Southey points out, the foraging territory adjacent to the proposed development area supports a particularly productive pair. They have provided six eggs for the captive rearing programme as well as rearing three chicks in recent years.
9. **Captive rearing** offers the best chance of increasing the population, but it relies on eggs laid by birds in the wild and places further stresses on breeding birds as it requires them to lay more than one clutch. Most of the eggs taken for captive rearing have come from eggs laid on the Mangawhai Sandspit and this season **all** have come from Mangawhai.
10. A recent study by Corkery et al (quoted in Ian Southey's evidence) has found that the number of adult fairy terns alive actually declines in most years but has recovered after exceptional years of productivity in 2014 and 2025, so the adult population has been about stable over the past 20 years. (DOC submission by Dr Beauchamp).

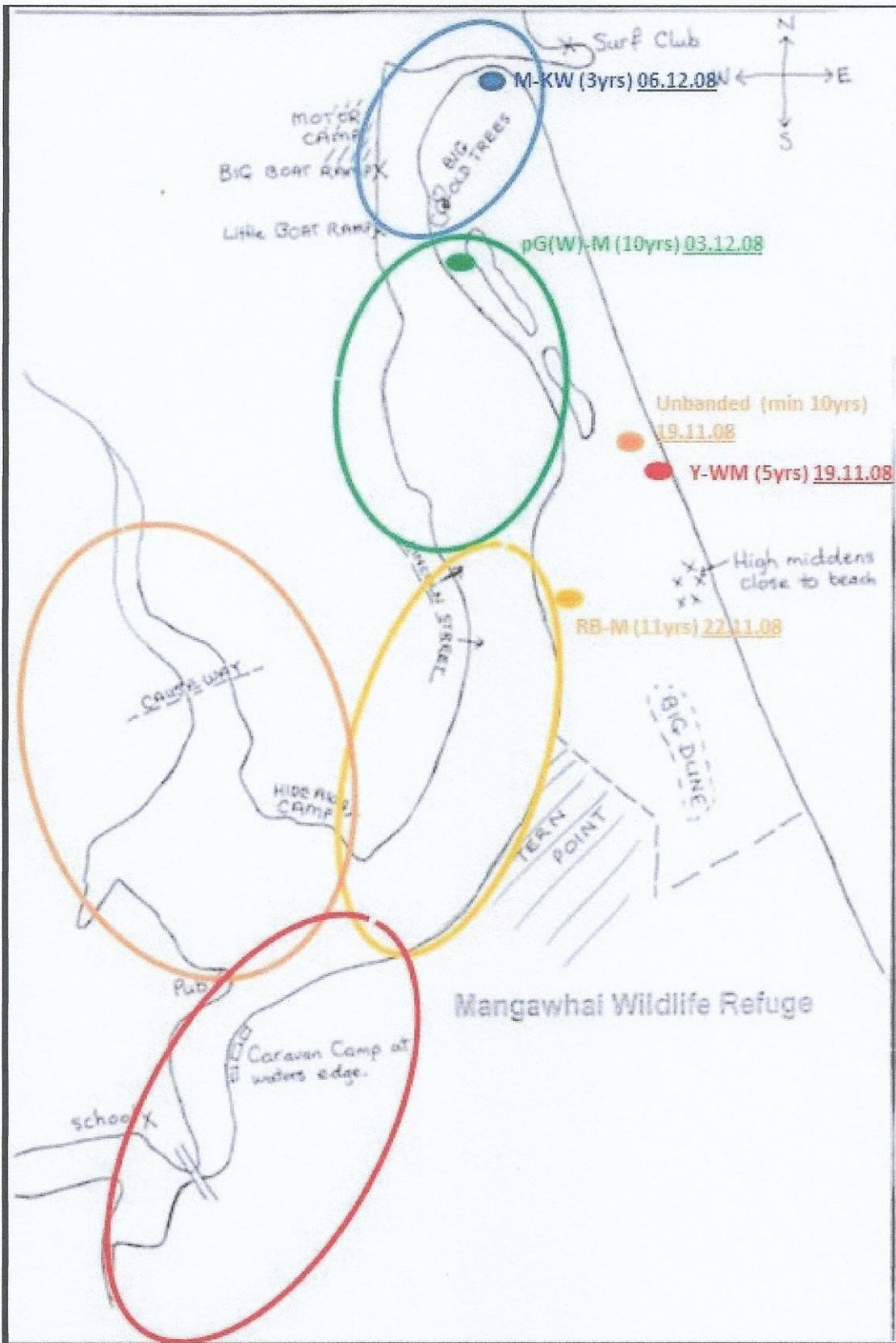
Threats posed by the proposed plan change

11. **Water quality.** NZ Fairy tern rely on clear water to be able to see their prey. Any increase in sedimentation from development such as is proposed, will have a detrimental effect on fairy tern survival. No matter what controls are put in place, increased sedimentation as a result of development is inevitable given the increase in periods of heavy rainfall we are now experiencing. We have all seen the discolouration of the harbour after heavy rain. New Zealand fairy tern feed only on live fish and rely on clean, clear water to see and catch their prey. This is particularly

important during the breeding season, September to March when fairy tern return to Mangawhai and feed predominantly in the Mangawhai estuary. They require large numbers of fish to prepare for egg laying and later to feed themselves and their chicks. Mangawhai is their most significant breeding area and adverse effects on their breeding success here would be disastrous for the survival of the species as a whole.

12. **Pollution** from run off, wastewater, storm water and other development effects has the potential to threaten food supplies for fairy tern and other endangered birds such as bittern. All watercourses on the PPC85 area flow into the estuary. Any contaminants entering the wetlands, saltmarsh, streams and drains on the PPC85 area will affect the health of the fish population. There have been failures of the existing system with wastewater polluting the harbour from the holding tanks in Alamar Crescent. This site is close to the harbour entrance, so was cleared relatively quickly by the tides. Any such spill from the proposed development would affect most of the harbour and take longer to clear.
13. **Predation** from introduced mammalian predators would inevitably increase with increased development on the scale proposed in such close proximity to the Mangawhai Sandspit, where fairy tern make their nests. Intensive trapping efforts by DOC and the trapper employed by the Trust have helped control predator numbers, but it's an ongoing battle and further pressure from increasing numbers of rats and cats in particular could be fatal to ground nesting birds such as fairy terns. In the 12 years Reg Whale has been trapping on the Sandspit Refuge and Tern Point for the Trust he has caught **192 cats, 1,357 rats, 751 hedgehogs**, as well as stoats, weasels, ferrets, pigs and others such as possums and rabbits. This is in addition to those caught by DOC Rangers.
14. **Disturbance from increased human use of the area will** inevitably have an adverse effect on fairy tern and other birds that rely on the area for feeding and roosting. Over recent years many of us have noticed a significant increase in people, dogs, kayaks, paddle boarders, kite sailors and other water-based craft in the lower harbour, especially in the summer months. Along with this increased activity, we have noticed a definite decrease in sightings of fairy tern and other shore birds. In the 2008- 2009 and again in the 2009-2010 seasons the lower harbour was a productive foraging territory for breeding fairy terns. See Map 1. (Evidence provided by the Trust at the Environment Court, 2012.) In the last few years this territory has been held by a single, unproductive male and is only used intermittently.

Map 1: Fairy Tern Foraging Areas 2008-2009



15. The activity in the upper reaches of the harbour has been much less, due, we believe to the lack of launching facilities and fewer houses and people: thus fewer dogs, people and water-based craft. We have observed that fairy terns seem to be less impacted and have been able to breed, fish and teach their young to feed off live fish in relative peace and safety.
16. **Any kind of disturbance** in the estuary is a high risk activity for the fairy tern and other ground nesting avifauna. Evidence provided by Ian Southey indicates that the initial response of the birds is "increasing vigilance which reduces feeding activity and efficiency." He goes on to say "birds respond with alert and evasive behaviours and these behaviours can impact reproductive success and survival".
17. A number of submitters (such as A Wiles and A Beauchamp from DOC, Jason Smith on behalf of KDC and our own expert Ian Southey) have pointed to the very real concerns relating to any increase in numbers of dogs in the PPC 85 area. Any increase in the dog population increases the risk of disturbing or harming the very bird population our Trust is trying to help save.
18. If PPC85 goes ahead, dogs and people will have increased and easier access to the **sand flats** which we understand, are not classified by KDC as "on lead" and dogs can therefore be "off leash": a very troubling issue. **Walkways** are also potentially a risk for adverse effects. One walkway is proposed for the coastal margin and "will direct people and dogs into a lesser used part of the harbour and closer to the sandspit where threatened bird breeding occurs". (A Beauchamp, DOC).
19. DOC rangers and volunteers from our committee regularly report dogs causing disturbance to roosting birds and birds attempting to feed at low tide. Attempts to enforce the by-laws are often met with derision or outright hostility.
20. **Disturbance on the water** is a particular concern because of the potential for adverse effects on fairy tern foraging. Any increase in the number of jet skis and other noisy, speeding watercraft in the area adjacent to the PP85 area poses unacceptable risks to fairy tern attempting to feed in the estuary during the breeding season when their need for food is at its highest. We are particularly concerned that there be no boat launching facilities from the site. Despite having given this feedback we were alarmed to see a picture of a boat ramp at the end of Raymond Bull Road in some of the developer's promotional material. The developers are openly promoting better access to the eastern shore of the estuary, an area which is currently isolated, wild and undeveloped and where fauna have relatively undisturbed access to roosting and feeding areas.

Conclusion

21. Any one of the threats outlined above could be fatal for fairy terns at Mangawhai and could raise the real possibility of extinction of this taonga species. Ian Southey pointed to instances of Council bylaws regarding the control of dogs being flouted. No matter how many conditions or restrictions are placed on the proposed development, it is unrealistic to expect that they will be adhered to.
22. Mangawhai harbour provides nesting, roosting, foraging and breeding areas, as well as being a source of food for many shore birds and migratory waders, particularly during the busy spring/summer breeding season when there are also increased numbers of people, birds, water-based craft competing to use the harbour.
23. The problem with this application is that its intention is to enable easier access to the harbour. We have serious misgivings about Mr Delaney's view that: "Any potential adverse effects on native terrestrial fauna (i.e., birds, bats and lizards), as a result of subsequent development works (e.g., exotic vegetation removal) would be assessed at the resource consenting phase and can be appropriately mitigated through the implementation of fauna management plans." (Paragraph 50). This deferral of consideration of adverse effects is repeated in paragraphs 48, 57, 61, 63 and 67. In our view this is unacceptable.
24. The harbour is precious to many people and is a vital habitat for shorebirds, particularly the New Zealand fairy tern. This is simply the wrong place for urban development of the kind proposed.