BEFORE THE KAIPARA DISTRICT COUNCIL'S HEARING PANEL

IN THE MATTER OF	the Resource Management Act 1991 (**the Act**)
AND	
IN THE MATTER	An application for Private Plan Change 85 (**PC85**) - **MANGAWHAI EAST** by Foundry Group Limited (formerly Cabra Mangawhai Limited) and Pro Land Matters Company to rezone approximately 94-hectares of land at Black Swamp and Raymond Bull Roads, Mangawhai

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SUPPLEMENTARY STATEMENT OF EVIDENCE OF MARK PIERRE DELANEY ON BEHALF OF THE APPLICANTS

(Ecology)

17 February 2026

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INTRODUCTION

1. My full name is Mark Pierre Delaney.

2. I have previously prepared a statement of evidence dated 16 December 2025 (**statement of evidence**) and rebuttal evidence dated 9 February 2026 on behalf of Foundry Group Limited (formerly Cabra Mangawhai Limited) and Pro Land Matters Company regarding an application for Private Plan Change 85 (**PC85**) under the Operative Kaipara District Plan 2013.

3. This supplementary evidence responds to:

   a. The Council ecologist's (Mr. Jason Smith) rebuttal evidence;

   b. The Department of Conservation evidence referencing Ball (2023)[1]; and

   c. Matters arising from a further site visit undertaken by me on 12 February 2026.

QUALIFICATIONS AND EXPERIENCE

4. I confirm I have the qualifications and experience set out at paragraphs 1-5 of my statement of evidence.

EXPERT WITNESS CODE OF CONDUCT

5. I repeat the confirmation provided in my statement of evidence that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with that Code. I confirm that the issues addressed in this supplementary evidence are within my area of expertise, and I have not omitted to consider material facts that might alter or detract from the opinions that I express.

SCOPE OF EVIDENCE

6. The scope of this statement is to:

[1] Ball, J. 2023. Foraging ecology and habitat suitability of the critically endangered New Zealand fairy tern or tara iti (*Sternula neresis davisae*) in Northland, New Zealand: a thesis presented in partial fulfilment of the requirements for the degree of Master of Science in Conservation Biology at Massey University, Albany, New Zealand.

a. Clarify the location of tara iti nesting relative to the site;

b. Provide additional context regarding existing dog controls under the Kaipara District Council Dog Policy and Bylaw 2019;

c. Record observations from my recent site visit; and

d. Clarify my position regarding the magnitude of effects on tara iti under the EIANZ Ecological Impact Assessment framework.

TARA ITI NESTING LOCATION CLARIFICATION

7. In his rebuttal evidence, Mr Smith refers to tara iti nesting adjacent to the site. I consider it important to clarify the geographic context of nesting activity at Mangawhai.

8. To my knowledge, current and recent tara iti nesting sites at Mangawhai are located on the sandspit at the harbour entrance and are not situated adjacent to, or in proximity to, the PC85 coastal margin.

9. The coastal edge of the PC85 site is separated from the known nesting habitat by over 2.5 kilometres of estuarine environment.

10. My assessment of potential effects therefore relates to disturbance of foraging habitat within the estuary, rather than disturbance of nesting habitat.

EXISTING DOG CONTROL FRAMEWORK

11. The Kaipara District Council Policy on Dogs and Dog Bylaw 2019 identifies: “Mangawhai Harbour beaches, adjoining reserves and mangrove areas along the southern edge of the harbour from the Insley Street causeway to the Mangawhai Sand Spit down to Mean Low Water Springs” as an On-leash Area.

12. The coastal edge of the PC85 site falls within this described area, being located along the southern edge of the Mangawhai Harbour between the Insley Street causeway and the Mangawhai Sand Spit.

13. While the maps included within the Policy appear to show the on-leash area extending only to approximately the seaward edge of the mangroves, the operative textual description clearly states that the control applies “down to Mean Low Water Springs”.

14. Mean Low Water Springs includes the intertidal mudflat environment seaward of the mangrove fringe. Accordingly, the tidal flat area adjacent to the PC85 site is also subject to the on-leash requirement.

15. Under the Bylaw, dogs within an On-leash Area must be kept on a leash and under control. Accordingly, off-leash dogs within this coastal and intertidal environment are already non-compliant.

16. In my opinion, the relevant issue in this location is therefore not the absence of regulation, but compliance, education and enforcement of the existing control framework.

SUPPLEMENTARY SITE VISIT

17. On 12 February 2026, during low tide, I revisited the coastal edge adjacent to the PC85 site and observed:

    a. Fresh dog prints within the saltmarsh;

    b. Informal walking and vehicle tracks extending northeast through the saltmarsh;

    c. Multiple dogs within the Riverside Holiday Park;

    d. Two dogs on leads using the legal access at Raymond Bull Road; and

    e. No dog control or wildlife signage along this stretch of coastline.

18. I did not observe any people, dogs, or dog prints within the exposed tidal flats at that time.

19. A line of mangroves between the saltmarsh and tidal flats restricts direct access, except at limited gaps including opposite the Raymond Bull Road access.

20. The tidal flats in this location were very soft and muddy at low tide. Walking across them required gumboots, and I accumulated a thick layer of mud while doing so. Dogs using this area would also be likely to become heavily covered in mud. As a dog owner

myself, I would not regard this particular location as an appealing place to walk a dog for that reason. I acknowledge, however, that these site conditions may not be representative of the entire coastal margin adjacent to the PC85 area, and I am not suggesting that people would never walk their dogs here. Rather, my observation is that the physical conditions at this specific access point are likely to limit casual dog use to some extent.

21. These observations demonstrate that there is existing informal access through the saltmarsh and coastal edge, and that the area is already used recreationally for walking, driving, and dog walking. Unmanaged dog presence and informal access occur under the existing rural baseline. I did not observe any signage relating to dog control or wildlife protection along this stretch of coastline.

BALL (2023)

22. In the Department of Conservation evidence, including that of Ms Wiles and Dr Beauchamp, reference is made to Ball (2023), a Master's thesis examining tara iti behaviour and disturbance at Mangawhai. Given the reliance placed on that research, I have reviewed the thesis in order to clarify the context of the findings and ensure that my assessment appropriately reflects the observations recorded in that study.

23. Ball (2023) undertook approximately 157 hours of observation during the 2021–2022 breeding season. Tara iti were observed for approximately 90 hours, with around 71 hours occurring within the estuarine environment.

24. Over 3,000 people were recorded during the study period, with walking being the most common activity. There was no statistically significant difference in tara iti sightings between weekdays and weekends, despite increased human activity on weekends.

25. Dogs were identified as the primary source of disturbance across bird species, with approximately 79% of dog-related disturbances involving off-leash dogs.

26. Leashed dogs were associated with substantially lower disturbance rates.

27. Despite the high observation effort and the frequent off-leash dog activity recorded during the study period, tara iti were observed to be disturbed on only two occasions.

28. Foraging dive locations showed substantial overlap with areas of higher human use, indicating a degree of tolerance while foraging.

29. The study also noted active avoidance of key watercraft areas by tara iti.

30. The Mangawhai estuary was not identified in the thesis as a key resting location for breeding tara iti.

31. In my opinion, the findings of Ball (2023) provide important context for assessing disturbance risk at Mangawhai. The study demonstrates that while human presence within the estuarine environment is frequent, recorded disturbance events affecting tara iti were relatively limited during the observation period.

32. The finding that the majority of dog-related disturbance events involved off-leash dogs, and that leashed dogs were associated with lower disturbance rates, highlights the importance of effective control and compliance. This is directly relevant to the proposed PC85 provisions, which reinforce containment and on-leash requirements rather than removing dogs entirely.

33. The thesis also notes behavioural avoidance associated with key watercraft areas, suggesting that watercraft restrictions may be more consequential than general pedestrian activity.

34. I acknowledge that even infrequent disturbance events may be significant for a species of Very High ecological value. However, when considered in the context of the existing recreational baseline and the proposed management controls, the Ball (2023) findings support my conclusion that the incremental change in disturbance attributable to PC85 remains negligible to low in magnitude.

RESPONSE TO THE MAGNITUDE OF EFFECTS DISCUSSION

35. Mr Smith considers that because tara iti are of “Very High” ecological value, any residual disturbance risk results in a Moderate overall level of effect.

36. The Environment Institute of Australia and New Zealand framework assesses magnitude based on the scale of expected change relative to baseline conditions.

37. In my opinion, magnitude must be assessed based on reasonably foreseeable change in disturbance frequency or intensity that would result in direct harm or a change in breeding success, and not on theoretical worst-case scenarios.

38. The baseline for the PC85 coastal margin already includes:

    a. Recreational use;

    b. Existing dog presence;

    c. Informal unmanaged access;

    d. Lack of dog control or wildlife protection signage; and

    e. Variable compliance with the existing on-leash bylaw.

39. PC85 does not weaken existing statutory dog controls and proposes:

    a. Containment requirements for dogs on private property;

    b. On-leash requirements reinforced through subdivision controls;

    c. Defined accessways;

    d. Educational signage; and

    e. Coastal edge planting to limit access and provide additional habitat.

40. The Ball (2023) findings demonstrate that off-leash dogs are the primary disturbance mechanism. In the location relevant to PC85, off-leash dogs are already prohibited under the existing bylaw. The proposed controls directly target the principal disturbance mechanism identified in the research.

41. While a total ban would reduce risk further, in my opinion, with effective implementation of containment, on-leash requirements, and signage, the incremental change in disturbance frequency attributable to PC85 remains negligible to low in magnitude.

POSITION ON DOG EXCLUSION

42. As stated previously, I am not opposed to the exclusion of dogs.

43. However, I consider that the proposed site-specific provisions requiring dogs to be contained and controlled on-leash represent appropriate and targeted mitigation.

44. Those measures align with the disturbance mechanisms identified in Ball (2023) and operate in conjunction with existing bylaws.

CONCLUSION

45. My supplementary site visit confirms existing unmanaged disturbance under the current rural baseline.

46. The relevant coastal margin is already classified as an On-leash Area under the Kaipara District Dog Policy (Bylaw).

47. PC85 does not introduce a new disturbance mechanism but provides structured management and reinforcement of existing controls.

48. Having considered the Ball (2023) research, the existing regulatory framework, and my recent site observations, my opinion remains that the residual magnitude of effect on tara iti remains negligible to low.

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Mark Pierre Delaney

17 February 2026