

**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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**HEARING SUMMARY OF BURNETTE ANNE O'CONNOR ON BEHALF OF THE**

**APPLICANTS**

**(PLANNING)**

**16 February 2026**

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Jeremy Brabant

Barrister

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## **INTRODUCTION**

1. My full name is Burnette Anne O'Connor.
2. I have previously prepared a statement of evidence dated 18 December 2025 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. I also prepared a Supplementary statement of evidence to address the changes in National Direction dated 30 January 2026 and a statement of rebuttal evidence dated 9 February 2026.
3. This summary statement sets out the limited remaining matters in contention and my professional opinion, in relation to these matters. The remaining matters in contention are:
  - The ability for the PC85 area to be serviced with wastewater.
  - The need for PC85 from a capacity perspective and well-functioning urban environment.
  - NPS HPL – Clause 3.6 (5).
  - The Business – Mixed Use zoning for Black Swamp Limited.
  - The keeping of dogs or not.
  - The Development Area provisions in relation to the above matters.

## **QUALIFICATIONS AND EXPERIENCE**

4. I confirm I have the qualifications and experience set out at paragraphs 1-5 of my statement of evidence dated 18 December 2025 (**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 rebuttal

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.

### **Wastewater Servicing**

6. Mr Clease concludes that wastewater servicing is the only remaining substantive issue, with all other matters resolved or narrowed.
7. Based on the evidence of Mr Fairgray, Mr White and Mr Thompson I understand that there is capacity within the planned wastewater system to service PC85.
8. I understand that the council assessment of the available capacity in the planned wastewater system is based on Mr Foy's calculations of the development capacity that will be delivered through plan enabled development, particularly resulting from The Rise, Mangawhai Hills, Mangawhai Central and infill. As set out in the summary prepared by Mr Thompson and his Figure 1 amending Mr Foy's figures, it is apparent that there will be at least an additional 500 connections available in relation to the Mangawhai Hills development due to private servicing and an additional capacity of approximately 715 HUE's in relation to the feasible and reasonably expected to be realised number of dwellings that will be delivered at Mangawhai Central. Mr Thompson also says the feasible and reasonably expected to be realised development capacity from infill is significantly less than assumed by Mr Foy.
9. I agree with the evidence of Mr White and Mr Fairgray that there are no known limitations to being able to provide additional upgrades to the wastewater system as required. I understand further upgrade options are detailed in the report - *Mangawhai Community Wastewater System, Master Plan Strategy by WSP dated 21 January 2022*- referred to by Messer's White and Fairgray. This is consistent with the previous advice we received from council when we engaged on infrastructure servicing issues in March 2025.
10. In reality there does not appear to be any wastewater limitation to servicing PC85 now or into the future.

### **Capacity, Demand and Well-Functioning Urban Environment**

11. As I have set out above based on Mr Thompson's feasible and reasonably expected to be realised development capacity assessment and the agreed ability to service 6500 HUEs, there is no wastewater servicing capacity reason to decline PC85.

12. Given factors such as the now confirmed and soon to be under construction Warkworth to Te Hana motorway, which does not appear to have been taken into account in the council Spatial Plan or other assessments of demand, and in reliance on Mr Thompson's evidence regarding demand, I consider that demand will be significantly greater than what is stated in Mr Foy's evidence. I also note that the preparation of the Mangawhai Spatial Plan was some years back and that it is a non-statutory document that will be tested through the council's current District Plan review process.
13. Given the feasible and reasonably expected to be realised development capacity that will be delivered (being much less than Mr Foy assumes), combined with drivers such as the motorway that typically increase demand, I consider that better outcomes will be achieved by approving PC85.
14. The NPS UD requires that a well-functioning urban environment be delivered. To this end PC85 achieves this outcome, and as stated by Mr Clease at paragraph 3.32 of his rebuttal

*In summary, the PPC85 structure plan and associated zone mix, layout, and design guidance all provide confidence that it will be a locally successful 'fourth node' from an urban design perspective. The bigger question is whether a fourth node is needed at all in terms of capacity, and if it is needed whether or not it can be serviced. I turn to these matters next.*

15. Based on my comments above regarding capacity and wastewater servicing, and my assessment in my EIC about the compact and connected nature of PC85 in relation to other recent plan changes (paragraphs 12 and 81 – 88) I consider that PC85 will successfully achieve a well-functioning urban environment –
  - A variety of homes in a variety of living locations will be enabled.
  - A variety of site sizes are proposed to be delivered that respond appropriately to the site specific characteristics of the plan change area.
  - The PC85 site will be well connected with shared paths and other walkways including amenity walkways, amenity areas and reserves.
  - Will provide for local services and some employment.

- Because the PC85 site is close to the school and village and will be connected by a shared path I consider that the proposal will support a reduction in greenhouse gases and the proposal will be resilient to climate change.

16. Overall, my opinion is that approving PC85 better achieves the NPS UD and also better gives effect to the Northland Regional Policy Statement.

#### **NPS HPL – Clause 3.6 (5)**

17. My understanding that LUC 3 remains defined as HPL. NRC has not completed the mapping of HPL at this time.

18. To be mapped the land has to be predominantly LUC 1,2 or 3 and has to form a large and geographically cohesive area (3.4 (1)). In my opinion I consider it unlikely that the PC85 land area would be mapped as HPL on the Northland Regional Council maps.

19. The test for the spatial extent of zoning HPL as set out under 3.6 (5) is different to clause 3.6 (4) in that 3.6 (4) required an assessment of the practicable and feasible options for providing the required development capacity. This is not required under 3.6(5) which states

*ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.*

20. I have addressed the matter of well-functioning urban environment, and capacity above. In my opinion PC85 is required and will deliver a well-functioning urban environment. On the basis that the zone mix, layout and other features of the proposal (roading, walkways, ecological protections and so on) combine to produce a well-functioning urban environment, in my view the spatial extent of the proposal can be regarded as the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.

21. On the basis of the evidence of Mr Hunt, Mr Cathcart, Mr Thompson and my EIC approving PC85 also outweighs and costs associated with the loss of productive land – noting that this is no longer an assessment criterion now that clause 3.6(4) is not relevant.

### **Business Mixed Use Zoning – Black Swamp Limited**

22. I retain my opinion that the best zoning is to retain the Low Density Residential zone. In my opinion this will enable a better assessment of effects of any proposed extension or changes in the nature of the commercial activity to be assessed.

### **Keeping of Dogs**

23. I accept that banning dogs would likely mean less dogs in the area; however it would not mean no dogs in the area.

24. I have read the Summary Statement provided by Mr Delaney following his further site visit on Thursday 12 February 2026 and review of the Ball 2023 Masters thesis.

25. I agree with Mr Delaney's opinion and further consider that the Development Area provisions for the coastal walkway will enhance the existing habitat, provide an opportunity for greater public awareness and education and will provide a robust framework to manage ecological impacts in this location, now and into the future.

### **Development Area Provisions**

26. I have updated the Development Area provisions to reflect my professional opinion that:

- A right-hand turn bay is the appropriate transport upgrade for the Insley Street Black Swamp Road intersection.
- To ensure that earthworks and vegetation removal provisions align with the requirements of the NES Freshwater.
- That the delivery of the shared path is secured via any resource consent process – subdivision or land use and related consents.
- That there is consistency of terminology e.g regarding the shared path.
- That ecological outcomes with respect to the shared path over the causeway, as requested by the Director General of Conservation, will be delivered.
- I have also added wording to clarify that other areas are identified on NRC Hazard maps but not included within the proposed overlay because the potential hazard

effect can be avoided by employing standard and accepted engineering solutions that would have less than minor adverse effects on the environment.

- I have added in the Design Guide for greater clarity.
- I have updated the Structure Plan to differentiate between the existing and proposed shared path.

### **Conclusion**

27. The feasible and reasonably expected to be realised development capacity means that PC85 is needed to provide for future growth, especially if factors such as the Warkworth Te Hana motorway extension are taken into consideration.
28. There is capacity in the planned wastewater network to service PC85 and there has been no evidence provided to demonstrate that further wastewater upgrades and expansions could not or would not be provided. In fact the council has prepared a report assessing the options.
29. PC85 provides for a well-functioning urban environment and will achieve high quality urban design outcomes.
30. Approving PC85 better achieves the NPS UD and other relevant NPS as well as the RPS provisions. PC85 is also consistent with the relevant provisions of the Operative District Plan.
31. On the evidence provided, in my opinion wastewater servicing does not provide a basis to decline PPC85.

Burnette O'Connor

16 February 2026