

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Private Plan Change 85 to the Operative
District Plan

BETWEEN FOUNDRY GROUP LIMITED

PRO LAND MATTERS COMPANY
LIMITED

(ENV-2026-AKL-127)

BLACK SWAMP LIMITED

(ENV-2026-AKL-124)

Appellants

AND KAIPARA DISTRICT COUNCIL

Respondent

Court: Judge J A Smith (sitting alone pursuant to section 269 of the Act)

Date: 9 September 2026 (via Judicial Telephone Conference)

Appearances: J Brabant for Foundry Group Limited and Pro Land Matters
Company Limited (**Foundry Group**)
J Dawson for Black Swamp Limited (**Black Swamp**)
W Bangma for Kaipara District Council (**Kaipara**)
L Sutherland & E Komene for the Director-General of
Conservation (s 274 Party)
M Dunning for New Zealand Fairy Tern Charitable Trust,
Mangawhai Matters Incorporated and Tern Point Recreation &
Conservation Society Incorporated (s 274 Parties)
K Desmond for Himself



J Hooper for Herself
P Nicholas for Himself
A Marshall & M Ross for Riverside Holiday Park 2007 Limited
(**Riverside Holiday Park**)

MINUTE AND DIRECTIONS OF THE ENVIRONMENT COURT

(9 September 2026)

Introduction

[1] This judicial telephone conference was called to deal with an application by Mr W Bangma for the Kaipara District Council that the file be placed on hold until the issue of decisions on the Kaipara District Plan is made in April or May 2027.

[2] This application was opposed by Foundry Group and Black Swamp. The Court interpreted this as both an application for the hold and also a question of how it should appropriately deal with the appeals.

Background

[3] This is a private plan change for the Mangawhai East development area. This is an area to the south of the River at Mangawhai in or around the Black Swamp area.

[4] The appellants are seeking rezoning of the land to allow for residential development with some commercial development. The Plan Change was refused by the appointed commissioners and Mr Brabant tells us there are specific reasons given for this refusal but need not deal with in detail at this stage.

[5] At the same time, the Kaipara District Council is also undertaking a proposed plan, which is somewhat further behind in the process. The notified proposed plan showed the subject area remaining with rural zonings with no provision for residential or commercial development. A number of parties, including those represented by Mr Dunning, support that proposition.

[6] Mangawhai has a considerable history involving issues with the shortfall of infrastructure, particularly with wastewater and water and issues relating to mangroves, fairy tern and birdlife generally and the impacts of development.

[7] I am satisfied that if a decision on the Proposed Plan is made by the Council to allow for development, this is likely to lead to an appeal by affected parties including those represented by Mr Dunning and potentially the Director-General of Conservation given the history.

Mediation

[8] I proposed to the parties that the matter could be dealt with by referring the matter to mediation in the meantime given the complexity of the issues and the likelihood that any final report on mediation would not be available until close to the time in April or May 2027 when the decision of the Council on the proposed plan would be available.

[9] In the end, no party appeared to have a strong view to the contrary on this matter and the Court accordingly progressed discussion in relation to mediation.

[10] Looking at the history of this matter and the issues involved, the appeals are likely to take more than one mediation. Parties agree that the mediations may occupy more than one day, say up to three days, and that they would need to take place over several months.

[11] Mr Brabant tells the Court that his experts have commenced looking at issues in relation to development with specific proposals in relation to how wastewater might be dealt with. He accepts that other issues are of concern to parties, including wildlife issues, and these might be further addressed.

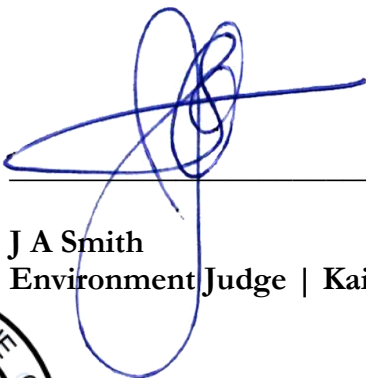
[12] It is unclear whether he would have this information available to circulate to the parties before the end of September 2026. It is therefore likely that the first mediation of this matter could not occur until October/ November 2026 with the possibility of a second mediation before Christmas and a final mediation in February 2027 if

necessary.

[13] Again, there was no strong view to the contrary by any party nor do any parties suggest that any particular commissioner may be more suitable to mediate this matter. I have therefore asked Commissioner Hardy if she would be available and confirmed that she would be available to deal with this matter through October to December 2026 and February 2027.

[14] This is also a rare case where I consider that multiple day mediations and multiple mediations should be authorised in advance. I authorise up to three days for each mediation and up to three mediations between October 2026 and February 2027 with a report due by **Friday, 26 February 2027**. I suggest that the mediator contact the parties to arrange a mediation and pre-exchange of documentation. I authorise Commissioner Hardy to make such directions as are necessary to progress the mediations through the period in question given the complexity of the issues involved.

[15] I direct that a copy of this minute is to be issued to all parties and Commissioner Hardy, who will contact the parties in due course either in person or through the mediation staff.



J A Smith
Environment Judge | Kaiwhakawā o te Kōti Taiao

