

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

REBUTTAL STATEMENT OF EVIDENCE OF MARK PIERRE DELANEY ON BEHALF OF

THE APPLICANTS

(Ecology)

09 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 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 rebuttal evidence responds to matters raised in expert evidence on behalf of submitters.

QUALIFICATIONS AND EXPERIENCE

4. I confirm I have the qualifications and experience set out at paragraphs 1-5 of my statement of evidence dated 16 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.

SCOPE OF EVIDENCE

6. This statement of rebuttal evidence has been prepared to respond to a number of matters raised in the statements of evidence of Ian Southey, on behalf of New Zealand Fairy Tern Charitable Trust dated 28 January 2026, and the evidence on behalf of Department of Conservation provided by Andrew James Townsend, , Dr. Antony Julian Beauchamp dated, Ayla Sarah Wils, and Jane Elliot MacLeod all dated 30 January 2026.
7. The topics covered in this rebuttal statement of evidence include the following:
 - a. Effects on wildlife.

- b. Effects of proposed walkways adjacent to identified Significant Natural Areas (SNAs).
- c. Northern proposed SNA.
- d. Dog controls.
- e. Insley Street causeway.

GENERAL PC85 EFFECTS ON WILDLIFE

- 8. Mr. Southey raises concerns that the potential effects on wildlife adjacent to the site have not been considered in the ecological assessments, particularly with respect to fairy tern/ tara iti and Australasian bittern. I disagree with this statement. A further assessment of ecological effects on areas beyond the PC85 area was provided in my Evidence in Chief. That assessment also included further assessment of the potential effects of PC85 on tara iti and Australasian bittern.
- 9. Mr. Southey states that a greater understanding of fish species, their abundance and habitat use, and the effects of damage to wetland habitats is required to understand the importance of fish to threatened bird species and the potential effects of PC85. No damage to wetland habitats is proposed as part of PC85, and none is expected to occur. Any future works within 10 m of wetlands or within streams would require resource consent, through which effects on fish fauna would be assessed and appropriately mitigated. Fish habitat within the PC85 area is expected to improve as a result of required riparian and wetland buffer planting and the removal of potential barriers to fish passage. Potential effects associated with stormwater and sediment discharges would also be assessed through the consenting process, with site-specific management measures implemented to ensure that development does not result in more than minor adverse ecological effects or a net loss of ecological value.
- 10. Mr. Southey states that the development of the site as proposed will destroy known feeding habitat for bittern. This concern appears to relate to the potential reclamation of farm drains during development. Artificial drainage channels are excluded from the relevant stream protection rules under the Northland Regional Council Proposed Regional Plan Operative in Part (2023) (**NRC PRP**) and the National Policy Statements for Freshwater Management (**NPS-FM**). Such drains are routinely maintained to

preserve drainage function, typically have low aquatic habitat diversity, limited riparian vegetation, and consequently low value as fish habitat and bittern feeding habitat. In contrast, the main areas of potential bittern habitat within the PC85 site, namely the proposed SNA wetland areas, are to be protected and enhanced. Permanent and intermittent streams and smaller wetlands are protected under regional and national policy and are expected to benefit from PC85 through riparian planting and improved fish passage and potentially legal protection at the time of subdivision.

11. Mr Southey raises concerns that PC85 will increase human activity within the Mangawhai Harbour, resulting in increased disturbance to tara iti. I consider these matters are addressed in my Evidence in Chief at paragraphs 72 to 91. In summary, the coastal environment adjoining the Site is protected by an existing 20 m coastal esplanade reserve, with further esplanade reserve requirements, wetland buffers, and enhancement planting applying at subdivision stage.
12. In particular, the PC85 Development Area provisions require a minimum 10-metre-wide native planting buffer along the western coastal edge, with a defined metalled walking and cycling track located landward of this buffer. This design, together with signage, dog-control requirements, and covenants restricting pet ownership, is intended to direct public movement away from the coastal edge, limit informal access, and reduce the potential for increased disturbance of coastal and estuarine habitats.
13. Potential increases in recreational use associated with the coastal walkway and the Insley Street shared use path have been specifically assessed. Any works along the coastal edge or within the coastal marine area (**CMA**) would require landowner approval (i.e. Kaipara District Council) and resource consent, enabling construction and operational effects to be assessed and mitigated through design, management measures, and statutory controls.
14. While these activities may contribute to some increase in human presence within the harbour, existing recreational use associated with the campground and informal coastal access means that human and dog activity is already established, particularly during the summer period which coincides with the tara iti breeding season. As a result, the change in the level of disturbance attributable to PC85 prior to mitigation is considered to be low to moderate.

15. The proposed coastal walkway is to be located landward of a planted coastal buffer, with a defined path and associated signage, which is intended to manage public movement, discourage informal access to the coastal edge, and provide ecological enhancement along the esplanade reserve. In this respect, the walkway and associated planting have the potential to both enhance coastal habitat values and mitigate the likelihood of human and dog disturbance in sensitive areas compared with existing informal access patterns.
16. Following implementation of proposed mitigation measures, including riparian and wetland buffer planting, erosion and sediment controls, stormwater management, and operational management of recreational activities, the residual effects on tara iti foraging and breeding are assessed as low. Dog control measures, which are a key component of managing potential disturbance effects, are discussed separately further below in this evidence.

EFFECTS OF PROPOSED WALKWAYS ADJACENT TO SNAS

17. Dr. Beauchamp states that in his experience bittern will allow people to approach them in vehicles but will immediately fly from people on foot. Hence, he states that any development would need to be visually buffered to retain bittern on site, meaning that raised structures including the top of the stop banks could not be used for a walkway beside wetlands. He also raises concerns that banded rails may use the stop bank or wetland margins for nesting sites and night roosting.
18. Mr. Townsend states that a walking track on the landward side of the northern SNA would have minimal impact on vegetation (paragraph 45), and Dr. Beauchamp indicates that a walkway in this alternative location would also have less impact on birds.
19. I agree that the alternative location for the walking track would be likely to have minimal impact on vegetation. However, I consider that the current indicative alignment may also result in minimal vegetation effects if the pathway is carefully designed to avoid and minimise vegetation removal, particularly if it incorporates the existing informal walkway within the CMA.
20. I also agree with Dr. Beauchamp that the alternative location is likely to have less impact on birds. However, a campground that allows dogs is located along the

proposed pathway route, and an existing informal walkway already extends through the coastal marine area along the coast from the campground to the paper road at the north-western corner of the Site. As a result, disturbance effects associated with human and dog activity are already present along much of the proposed coastal walkway alignment, particularly during the bird breeding season in summer.

21. Dr. Beauchamp states that his view is that for the southern SNA, that it is unlikely that secretive banded rails or fernbirds will be retained if the pathway is instigated as the disturbance levels will be too high, particularly given its small size and narrow shape.
22. Ms MacLeod notes that the walkways around the northern and southern SNAs and the coast do not appear to be a necessary part of the plan change from a connectivity point of view, and that given the potential for adverse ecological effects associated with them, that they should be removed from PC85.
23. As stated in my Evidence in Chief, any proposal to construct walkways in these locations is expected to require resource consent for vegetation removal, earthworks, or works within the coastal marine area or near wetlands, as well as landowner approval from the Kaipara District Council. These processes, together with the requirements of the Wildlife Act, provide appropriate mechanisms for assessing ecological effects and applying the effects management framework. The walkways are identified on the Structure Plan in locations where they can be delivered i.e land in the Applicants control or public land. If the ecological aspects outweigh the urban design and other aspects then alternatives could be investigated but the alternatives are reliant on the agreement of other land owners.

NORTHERN PROPOSED SNA

24. Mr. Townsend raises concerns that if repair of the stop bank between the northern SNA and the sea was to occur, that this could reduce the connectivity between them, resulting in the SNA area transitioning towards a swamp wetland type or rank pasture and loss of ecological values associated with the current saltmarsh.
25. Ms MacLeod concludes in her evidence that the proposed plan change is not likely to lead to adverse effects on the northern SNA via stop bank repair.

26. I am not aware of any plans to repair the stop bank in this location. Nonetheless, if a walkway were constructed along the stop bank, it would likely require resource consent and landowner approval. If stop bank repair were proposed as part of such works, the consenting process would provide the opportunity for ecological effects to be assessed and for the effects management framework to be applied.
27. Mr. Townsend states that he considers the northern SNA is currently under recognised because the proposed SNA is smaller than an existing conservation covenant under the Reserves Act 1977 and that he considers that the placement of the SNA boundaries has been undertaken by an assessment of satellite imagery alone and excludes buffer areas.
28. I disagree with Mr Townsend's assumption. I can confirm that the SNA extent corresponds with the extent of the natural inland wetland that meets the SNA criteria outlined in the National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB). This was mapped using the Ministry for the Environment's wetland delineation protocols. This involved assessing the vegetation present on the ground, and delineating the extent of wetland with a combination of hand-held GPS points recorded *in situ* and aerial imagery, as outlined in Viridis' *Mangawhai East Private Plan Change Ecological Impact Assessment – Northern Area*. Part of the existing covenanted area was excluded from the SNA as it was not natural inland wetland and did not meet the criteria to be considered an SNA.
29. Mr. Townsend raises concerns that that the SNA may replace the conservation covenant, which would reduce the buffer potential provided by the larger covenant area and a subsequent loss in ecological value
30. Ms MacLeod concludes in her evidence that the risk of the covenant being uplifted is minimal.
31. I am not aware of any proposals to remove the existing covenant, and it is my understanding that the buffer values currently protected by the covenant will be maintained.

DOG CONTROLS

32. Dr. Beauchamp and Ms. Wiles raise concerns about the effects of dogs on birds, including tara iti, within the Mangawhai Harbour. They note the lack of specific dog control rules within the middle sand flat areas of the harbour, meaning these areas are effectively off-leash by default, and that the nearest formal off-leash dog park is located approximately 4 km from the PC85 site. Dr. Beauchamp estimates, based on previous census data, that PC85 could result in an additional 0.4 dogs per occupied household. They conclude that, even with provisions aimed at keeping dogs contained on residential sites and on a leash elsewhere within the PC85 area, increased dog numbers and the potential for non-compliance with signage and bylaws could result in increased disturbance to birds. Accordingly, they, along with Ms. MacLeod, recommend that amendments be made to the PC85 provisions to exclude the keeping of dogs.
33. As stated in my Evidence in Chief, I am not opposed to the exclusion of dogs. While I am not concerned about dogs making direct contact with or physically harming tara iti, I agree that the presence of dogs has the potential to cause disturbance. If future residents are permitted to keep dogs, this is likely to increase the dog population around the Mangawhai Harbour. Given the current absence of specific dog control rules within the harbour, this may result in an increased frequency of disturbance events to tara iti while feeding or roosting, which in turn may adversely influence nesting success. An increase in disturbance can, and is likely to occur, with or without PC85, associated with general population increase in the Mangawhai area and the existing high use of the harbour and beach areas. In my opinion, PC 85, through the provisions offered provides opportunity to improve habitat at the coastal edge, limit access points to the harbour in this location, provide public education opportunities and limit walking and cycling access to a defined pathway, rather than the existing informal and undefined access. The site specific provisions requiring dogs to be controlled and contained will mitigate of an increase in impacts to ecology associated with PC85. In addition, I note Kaipara District Council have the option to introduce further or expanded controls on dogs in the CMA and public spaces.

INSLEY STREET CAUSEWAY

34. Dr. Beauchamp states that because of the greater impact of pedestrians crossing the Insley Street causeway on wading birds compared to cars, that a separated pedestrian/cycleway with a design features to reduce the visual impact of people and dogs on wading birds be added to the causeway before more than 50 dwellings are occupied or have Code of Compliance Certificates issued ready for occupation in the Development Area.
35. Ms MacLeod considers the 50 dwelling threshold to be fair given the level of development that could be established already in the absence of the plan change, but recommends wording changes so that the need for careful design in relation to the effects on avifauna is highlighted. I support the proposed wording changes by Ms. MacLeod.

Mark Pierre Delaney

09 February 2026