

BEFORE THE HEARING PANEL APPOINTED BY KAIPARA DISTRICT COUNCIL

Under the Resource Management Act 1991 (RMA)

In the matter of Private Plan Change 85 (Mangawhai East) to the Kaipara District Plan

SUPPLEMENTARY STATEMENT OF REBUTTAL EVIDENCE OF DEREK RICHARD FOY

Economics and Housing Capacity

23 January 2026

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1. INTRODUCTION

- 1.1 My full name is Derek Richard Foy.
- 1.2 I prepared a statement of evidence dated 1 December 2025 on behalf of Kaipara District Council (**Council**) in relation to the application by the Foundry Group Limited and Pro Land Matters Company (**Applicant**) for a private plan change to rezone land in Mangawhai East (**PPC85**). I refer to my qualifications and experience in my original statement of evidence and do not repeat them here.
- 1.3 Although this matter is not being heard by the Environment Court, I confirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and I agree to comply with it.
- 1.4 I am authorised to make this statement on behalf of the Council.

2. SCOPE OF EVIDENCE

- 2.1 Since I prepared my statement of evidence, the Government has amended the National Policy Statement for Highly Productive Land (**NPS-HPL**) through the National Policy Statement for Highly Productive Land Amendment 2025 (**the amendments**). I understand the amendments came into force on 15 January 2026.
- 2.2 My supplementary statement of evidence provides an update to my evidence in - chief in relation to the NPS-HPL as it relates to PPC85, specifically clauses 3.6(4)(a), 3.6(4)(b), 3.6(4)(c), and 3.6(5).
- 2.3 Except where expressly stated, the amendments to the NPS-HPL do not change my overall opinions or conclusions.
- 2.4 In addition, since I prepared my statement of evidence, the Government has also introduced the Resource Management (National Environmental Standards for Detached Minor Units) Regulations 2025 (**NES-DMRU**). These also came into force on 15 January 2025.

2.5 My supplementary evidence also addresses the effect the NES-DMRU may have on the conclusions reached in my evidence-in-chief regarding residential dwelling capacity in Mangawhai, and in particular, infill of residential dwellings.

3. SUMMARY OF AMENDMENTS TO THE NPS-HPL

3.1 The amendments refine the application of clause 3.6 of the NPS-HPL, which provides the pathway under the NPS-HPL to rezoning highly productive land to urban zonings, including for territorial authorities that are not Tier 1 or Tier 2 (i.e. are Tier 3) under the NPS-UD.

3.2 In particular, the amendments insert a new clause 3.6(6) which provides as follows: *“Clauses 3.6(1), 3.6(2), 3.6(3) and 3.6(4) do not apply to urban rezoning of LUC 3 land.”*

3.3 In summary, while the amendments do not change the definition of highly productive land or the wording of clauses 3.6(4) and 3.6(5), the amendments mean that the requirements in clause 3.6(4) and 3.6(5) that previously had to be met to re-zone LUC 3 land to an urban zoning no longer apply, and relate only to LUC 1 and LUC 2 land.

4. IMPLICATIONS FOR MY ORIGINAL EVIDENCE

4.1 My original evidence assessed PPC85 on the basis that parts of the PPC85 area proposed to be rezoned to urban were LUC 3 land, and therefore needed to be assessed, in detail, against clauses 3.6(4) and 3.6(5).

4.2 Having undertaken this assessment, I concluded that this rezoning was not required to provide for sufficient capacity for housing or business land, and the requirements of those clauses were not met. Mr Clease relied on this evidence to conclude that the requirements in clause 3.6(4) of the NPS-HPL were not met, and that the land should not be re-zoned under the NPS-HPL.

- 4.3 In light of the amendments, the assessment provided in my evidence-in-chief of those matters is no longer required.
- 4.4 For completeness, I note that if the NPS-HPL were to apply because soils were LUC 1 or LUC 2, the analysis and conclusions in my original evidence would remain unchanged for the reasons set out in sections 4 to 6 of that evidence, because clauses 3.6(4) and 3.6(5) are unchanged. The change arising from those two clauses is because of the definition of the soils they apply to, not how they apply.

5. SUMMARY OF THE NES-DMRU

- 5.1 As outlined in the supplementary evidence of Mr Clease:
 - (a) The NES-DMRU provides a nationally consistent framework for establishing minor residential units. The NES-DMRU applies to all Māori purpose, residential, rural, and mixed use zones, including rural lifestyle zones. As such it will apply across all of PPC85 apart from the small pocket of commercial zoning proposed adjacent to Black Swamp Road.
 - (b) The NES-DMRU permits one minor unit per site, with the unit required to be less than 70m², and detached and separated from the principal residential unit by at least 2m i.e. the NES does not provide for the creation of two units within the same building.

6. IMPLICATIONS OF THE NES-DMRU FOR MY ORIGINAL EVIDENCE

- 6.1 At paragraphs 4.3-4.9 of my evidence-in-chief I provided an assessment of the residential dwelling capacity of Mangawhai under the Operative Kaipara District Plan, including recently approved private plan changes.
- 6.2 As outlined above, the NES-DMRU applies to a range of zones, including all residential and mixed use zones, and enables detached minor residential units as a permitted activity.

- 6.3 Accordingly, in my view, the NES-DMRU is likely to result in an increase in the residential dwelling capacity in Mangawhai from as assessed in Figure 4.1 of my evidence-in-chief, and in particular my assessment of infill in the medium term.
- 6.4 The applicant may decide to address this matter in its supplementary evidence.
- 6.5 I will address this matter more fully as part of my rebuttal evidence responding to Mr Thompson's critique of my assessment of development capacity in Mangawhai.

7. CONCLUSION

- 7.1 I have reviewed my original statement of evidence in light of the amendments to the NPS-HPL.
- 7.2 The amendments mean that the requirements in clause 3.6(4) and 3.6(5) of the NPS-HPL that previously had to be met to re-zone LUC 3 land to an urban zoning no longer apply. Accordingly, there is no impediment, in terms of clauses 3.6(4) and 3.6(5) of the NPS-HPL to the land being re-zoned.
- 7.3 In relation to the NES-DMRU, in my view, this is likely to result in an increase in the residential dwelling capacity in Mangawhai from as assessed in Figure 4.1 of my evidence-in-chief, and in particular my assessment of infill in the medium term. I will address this further as part of my rebuttal evidence responding to Mr Thompson's critique of my assessment of development capacity in Mangawhai.

Derek Foy

23 January 2026