

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waikato District Plan

**STATEMENT OF EVIDENCE OF ANTHONY JAMES BLOMFIELD FOR
DILWORTH TRUST BOARD IN RELATION TO
HEARING 18 – RURAL ZONE**

8 SEPTEMBER 2020

1. INTRODUCTION

- 1.1 My name is Anthony James Blomfield. I am a planner and resource management consultant with Bentley & Co Limited, an independent planning consultancy based in Auckland. I have been with this company since 2012. I graduated from the University of Auckland with a Bachelor of Planning (Hons) qualification in 2011, and I am an Intermediate Member of the New Zealand Planning Institute.
- 1.2 I have provided advice and resource management services to the Dilworth Trust Board ("**Dilworth**") for eight years. During this time, I have prepared resource consent applications for new school facilities at their Junior Campus school in Auckland, assisted with the preparation of evidence for Dilworth's submissions on the Proposed Auckland Unitary Plan, and have advised Dilworth in respect of the Rural Campus facility in Mangatawhiri.
- 1.3 I also assisted Dilworth with the preparation of its submission on the Proposed Waikato District Plan ("**Proposed Plan**"), and I am the listed address for service.

Code of conduct

- 1.4 I confirm I have read the Code of Conduct for Expert Witnesses 2014 contained in the Environment Court Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. SCOPE OF EVIDENCE

- 2.1 Hearing 18 addresses the submissions and further submissions that have been made on the Rural Zone provisions of the Proposed Waikato District Plan ("**Proposed Plan**").

- 2.2 My evidence relates to Dilworth’s submission (#577), which relates to its school activities and facilities located at 500 Lyons Road, Mangatawhiri. The school is known as the “Rural Campus”.
- 2.3 Dilworth has two submission points that have been allocated to Hearing 18, which relate to:
- (a) the insertion of a new policy for the Rural Zone to provide for the operation of the Rural Campus (577.1); and
 - (b) the setback controls that are proposed to apply to ‘sensitive activities’ in relation to intensive farming activities (proposed Rule 22.3.7.2 P1(a)(vii)) (577.3).
- 2.4 The new policy that is proposed by Dilworth to provide for the operation of the Rural Campus within the Rural Zone is supported by a suite of ‘specific activity’ provisions that are contained within submission point 577.2. This submission point is at the heart of Dilworth’s submission, and has been allocated to Hearing 25 – Zoning extents. I will address submission point 577.2 in evidence for Hearing 25.
- 2.5 Specifically, my evidence will:
- (a) Provide a description of Dilworth and the Rural Campus;
 - (b) Address the objectives and policies of the Rural Zone, as they relate to educational facilities and the Rural Campus;
 - (c) Respond to the Council’s Section 42A Hearing Report (“**42A Report**”) for Hearing 18, as it relates to Dilworth’s submission (and other submissions) regarding the Rural Zone provisions for educational facilities; and
 - (d) Address the provisions for ‘intensive farming’ activities.
- 2.6 In preparing this evidence, I have had regard to:
- (a) Dilworth’s primary submission, and the primary and further submissions made by other parties;
 - (b) the section 32 reports, dated July 2018; and

- (c) the 42A Report prepared by Mr Jonathan Clease, dated 25 August 2020.

2.7 I have had regard to section 32 of the RMA, which requires an evaluation of the objectives and policies and rules of the Proposed Plan that are relevant to Dilworth's submission. I have also had regard to section 32AA of the RMA, which requires a further evaluation for any changes that have been proposed since the original evaluation report under section 32 of the RMA was completed.

3. STATUTORY FRAMEWORK

3.1 The provisions that are the subject of this hearing are district plan provisions. The purpose of a district plan is set out in section 72 of the RMA. It is to assist territorial authorities to carry out their functions in order to achieve the purpose of the RMA.

3.2 Section 75(1) of the RMA requires that a district plan must state:

- (a) the objectives for the district; and
- (b) the policies to implement the objectives; and
- (c) the rules (if any) to implement the policies.

3.3 Additionally, section 75(3) of the RMA requires that a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand coastal policy statement; and
- (ba) a national planning standard; and
- (c) any regional policy statement.

3.4 For the purposes of carrying out its functions under the RMA and achieving the objectives and policies of the plan, section 76(1) of the RMA enables a territorial authority to include rules in a district plan.

4. DILWORTH TRUST BOARD AND THE RURAL CAMPUS

4.1 The Rural Campus, located at 500 Lyons Road, Mangatawhiri, was purchased by Dilworth in 2009. Prior to its purchase, the site was

operated as a visitor accommodation and retreat activity (Hotel du Vin). Dilworth commenced operations in 2011 after obtaining a suite of resource consents in 2010 to operate an educational facility from the site.

4.2 The education services provided by Dilworth are summarised in its submission:¹

1.1 The Dilworth School provides education and accommodation for boys from disadvantaged backgrounds, and has provided this service to the community for over 100 years since it was founded in the late 1800's by James Dilworth. The Dilworth School was codified as a Charitable Trust under an Act of Parliament - Dilworth Trust Board Act 1946.

4.3 The nature of the Rural Campus is described in Dilworth's submission as follows:²

1.4 The Rural Campus is used as an educational and boarding facility that accommodates some 100 Year 9 students per annum, together with some 20 staff (and their families) who live permanently on the site. The students are taught the standard curriculum as well as outdoor education, and social and spiritual life skills, in a rural setting with access to a wide range of recreational activities that are not otherwise readily available in an 'urban' setting. The Rural Campus provides a unique and important facility for Dilworth, and greatly benefits the students.

1.5 The Rural Campus site comprises an area of some 14.8 hectares, and is delineated at the eastern boundary (and is bisected by) the Mangatawhiri Stream... and shares a boundary with 'rural' activity to the north, west and south which are occupied by dairy and dry stock farming activities. The Rural Campus site is occupied by a range of school buildings including boarding and staff accommodation facilities, and outdoor sports fields. The portion of the site to the south of Lyons Road is utilised as a wastewater infiltration field.

1.6 While the surrounding environment is of a rural character, the Rural Campus is a unique facility which is not 'rural' in nature or appearance. The unique characteristic of the site was established by the development of the former Hotel du Vin, which included a number of accommodation buildings and other facilities, together with vineyards. The site has been developed and utilised for non-rural activity since the 1990's.

1.7 The location of the Rural Campus facility benefits the local community, with the students regularly participating in community events, volunteering at local schools and organisations, undertaking fundraising activities and learning from activities in the rural environment.

¹ Dilworth Trust Board Submission, dated 9 October 2018.
² Ibid.

4.4 The Rural Campus occupies an area of some 14.8 hectares. As shown in the aerial photograph appended as **Attachment 1**, the Rural Campus comprises a significant range of buildings and facilities, including boarding facilities, staff accommodation facilities and dwellings, classrooms, administration buildings, a gymnasium/hall, tennis courts, and sports fields, which are serviced by an internal road and footpath network. Therefore, while the Rural Campus is located in a rural environment, the nature of the activities undertaken are not 'rural', and the appearance of the buildings, facilities and sports fields is markedly different to the 'typical' characteristics of rural environments.

4.5 The facilities together form a 'campus' environment, which is of a scale and intensity that is greater than most rural schools in the Waikato District.

5. NOTIFIED PROVISIONS OF THE RURAL ZONE

5.1 Dilworth's submission identifies that the Rural Zone provisions do not adequately recognise and provide for the continued use and development of the Rural Campus, and that there are aspects of the Rural Zone provisions which will conflict with the ongoing use and development of the Rural Campus as a core component of Dilworth's function.

5.2 Objective 5.1.1 sets the following 'strategic objective' for the rural environment, which has "primacy" over all other objectives for the Rural Zone:

5.1.1 Objective – The Rural Environment

- (a) Subdivision, use and development within the rural environment where:
 - (i) High class soils are protected for productive rural activities;
 - (ii) Productive rural activities, are supported, while maintaining or enhancing the rural environment;
 - (iii) Urban subdivision, use and development in the rural environment is avoided.

5.3 In relation to the protection of high class soils, the objectives and policies of section 5.2 support rural activities, and seek to minimise the

fragmentation of productive rural land by other activities such as lifestyle residential development.

5.4 In relation to ‘rural character and amenity’ (Section 5.3), Objective 5.3.1 for the Rural Zone is concerned with maintaining rural character and amenity and is implemented by a range of policies which generally recognise and provide for productive rural activities, and certain non-rural activities that are in keeping with the character and amenity of the rural environment.

5.5 Of particular relevance to the Rural Campus and the requirement to avoid urban subdivision, use and development, Policy 5.3.9 seeks to manage ‘non-rural activities’ (including “equestrian centres, horse training centres, forestry and rural industries”) to achieve a character, scale, intensity and location that is in keeping with rural character and amenity values, and to avoid buildings and structures dominating adjoining properties, reserves, the coast or waterbodies.

5.6 The Rural Campus contains a ‘cluster’ of buildings which range in scale, and collectively occupy a significant area of land, and which are supported by other facilities and open areas which provide for the recreational needs of the students. The form and intensity of development within the Rural Campus is, arguably, of an ‘urban’ nature and scale. The notified objectives and policies for the Rural Zone as they apply to the Rural Campus (and educational facilities generally) are therefore onerous and do not properly recognise or provide for (and will constrain) its ongoing use and development.

6. SUBMISSION POINT 577.1 – RECOGNITION OF THE RURAL CAMPUS ACTIVITY

6.1 In its submission (577.1), Dilworth has sought a new policy for the Rural Zone to specifically recognise and provide for the Rural Campus, as follows:

5.3.19 Policy – Specific Area – Dilworth School – Rural Campus

- (a) Recognise and protect the continued operation and ongoing development of the Dilworth School – Rural Campus.

- (b) Provide for the operation and development of education facilities and boarding and accommodation activities that are integral to the Dilworth School – Rural Campus, and which complement the surrounding rural environment.

6.2 This policy is sought to be implemented by a set of site-specific rules, in the format of a ‘specific activity’ (consistent with the approach taken in the Proposed Plan for Agricultural Research Centres, Huntly Power Station, and Whaanga Coastal Development Areas). I will address these provisions in evidence at Hearing 25, however in summary, Dilworth’s submission seeks a permitted activity status for educational facilities, student accommodation and staff accommodation at the Rural Campus site, subject to controls relating to building coverage, building setbacks, and earthworks.

6.3 The relief sought by Dilworth is intended to provide a flexible and efficient framework to managing development at the Rural Campus site, minimising the time and cost associated with onerous resource consent processes that would otherwise be required for any future development (of any scale) under the notified provisions of the Proposed Plan (or under Mr Clease’s recommended changes to the rules).

6.4 While the 42A Report acknowledges Dilworth’s submission point 577.1, identifying that Dilworth “seek that the existing Dilworth boarding school activities be provided for”,³ it does not go on to address the specifics of the relief sought by Dilworth in respect of its Rural Campus. Instead, the focus of the 42A Report is in response to the submissions of the Ministry of Education (submission 781).

Objective 5.1.1 and Policy 5.3.9

6.5 Specific to education facilities, the 42A Report addresses the relief sought by the Ministry of Education, which seeks an amendment to the Rural Zone rules to provide for educational facilities as a Restricted Discretionary activity.

6.6 In response to the submissions of the Ministry of Education (and other submitters), the 42A Report states that it is appropriate to recognise the need to support a wider range of activities at the ‘strategic objective’

³ Section 42A Report – Hearing 18: Rural Zone, prepared by Jonathan Clease, dated 25 August 2020, paragraph 437.

level at Objective 5.1.1.⁴ The following amendments are proposed to Objective 5.1.1 by Mr Clease (amendments in underline):

5.1.1 Objective – The Rural Environment

- (a) Subdivision, use and development within the rural environment is provided for where:
- (i) High class soils are protected for productive rural activities;
 - (ii) Productive rural activities, rural industry, network infrastructure, community activities, and extractive activities are supported, while maintaining or enhancing the rural environment;
 - (iii) Urban subdivision, use and development in the rural environment is avoided.

6.7 The 42A Report also acknowledges that there is a lack of clear policy direction within the subsequent policies for educational facilities. The 42A Report recommends that Policy 5.3.9 (which provides for ‘non-rural activities’) be deleted and replaced with a new policy which provides for ‘other anticipated activities in rural areas’, as follows:

5.3.9 Policy – other anticipated activities in rural areas

- (a) Enable activities that provide for the rural community’s social, cultural, and recreational needs, subject to such activities being of a scale, intensity, and location that are in keeping with rural character and amenity values and are consistent with managing urban growth through a consolidated urban form.
- (b) Activities subject to this policy include:
- (i) Community activities including child care, education, health, and spiritual activities;
 - (ii) Recreation activities that require a rural or extensive open space setting including equestrian and horse training centres, gun clubs and shooting ranges, golf courses, and walking and cycling trails;
 - (iii) Emergency Service facilities;
 - (iv) Conservation activities.

6.8 Without derogating from the site-specific relief that is sought by Dilworth for the Rural Campus, I agree with the intent of the recommended amendments to Objective 5.1.1 and Policy 5.3.9.

⁴ Ibid., Paragraph 72.

- 6.9 That said, I consider the use of the term “community activities” as a proxy (or an ‘umbrella’ term) for education facilities to be confusing. Community activities are a defined term in the notified Proposed Plan as specifically relating to the use of public land for individual or community health, welfare, care, safety, recreation, cultural, ceremonial, spiritual, or art and craft purposes. I understand that this definition is recommended to be replaced with the term ‘community facility’ which adopts the definition from the National Planning Standards for Definitions⁵ and is limited to activities associated with recreational, sporting, cultural, safety, health, welfare, or worship purposes. Therefore, an educational facility would not be defined as a “community activity” or “community facility”.
- 6.10 I therefore recommend the following amendments to this objective and policy (with amendments from the 42A Report in underline, and my suggested amendments included in ~~strikethrough~~ and underline):

5.1.1 Objective – The Rural Environment

- (a) Subdivision, use and development within the rural environment is provided for where:
- (i) High class soils are protected for productive rural activities;
 - (ii) Productive rural activities, rural industry, network infrastructure, community ~~activities and educational facilities~~, and extractive activities are supported, while maintaining or enhancing the rural environment;
 - (iii) Urban subdivision, use and development in the rural environment is avoided.

5.3.9 Policy – other anticipated activities in rural areas

- (b) Enable activities that provide for the rural community’s social, cultural, **educational** and recreational needs, subject to such activities being of a scale, intensity, and location that are in keeping with rural character and amenity values and are consistent with managing urban growth through a consolidated urban form.
- (c) Activities subject to this policy include:
- (i) Community ~~activities and educational facilities~~, including child care, education, health, and spiritual activities;

⁵ Section 42A Report – Hearing 5: Chapter 13 Definitions, prepared by Anita Copplestone and Megan Yardley, dated 5 November 2019, paragraph 909 and 918.

- (ii) Recreation activities that require a rural or extensive open space setting including equestrian and horse training centres, gun clubs and shooting ranges, golf courses, and walking and cycling trails;
- (iii) Emergency Service facilities;
- (iv) Conservation activities.

Specific Policy for the Rural Campus

- 6.11 As set out above, the Rural Campus comprises a range of built forms, and provides for the education and semi-permanent accommodation of some 100 (or more) students, and for staff and their families. The scale and nature of the activity is appreciably different to that of a typical rural school.
- 6.12 In my opinion, the intensity, form, character and nature of the activity and development within the Rural Campus, warrants specific recognition in the policies for the Rural Zone.
- 6.13 In my opinion, the policy that has been sought by Dilworth at paragraph 6.1 (and the approach of the Proposed Plan generally to site-specific matters) is the most appropriate way to recognise the particular characteristics and development of the Rural Campus activity and of implementing the objectives of the Rural Zone (which anticipate compatible 'non-rural' activities). The proposed policy will enable the provision of a rule framework that provides a certain degree of parity with other designated schools located within the Rural Zone, and will enable the ongoing efficient use and development of the Rural Campus.
- 6.14 Related to this, I note that the recommendations made by Mr Clease for the provisions for educational facilities is in response to the submission of the Ministry of Education. The majority of Ministry-operated schools will benefit from a designation (there are 32 designated schools in the Proposed Plan with an underlying Rural Zone). The designation status of these schools is such that the underlying zone provisions will have little relevance to future development, and any development will be subject to an Outline Plan of Works process pursuant to section 176A of the RMA. The time and cost associated with this process is significantly less than those of a resource consent process.

- 6.15 With reference to section 32AA of the RMA, I am of the opinion that the proposed policy is the most efficient and effective means of implementing Objective 5.1.1 and Objective 5.3.1, and will better enable the social and economic wellbeing of the students, staff and visitors of the Rural Campus and the wider community which benefits from the facility.

Activity status for education facilities

- 6.16 The 42A Report recommends that⁶ a Restricted Discretionary activity status is applied to primary and secondary schools (including Dilworth), and that a Discretionary activity status applied to other educational facilities such as tertiary education.
- 6.17 At paragraph 441 of the 42A Report, the recommended wording of the Restricted Discretionary rule for educational facilities is explicitly limited to “educational facilities that are state or state integrated primary and secondary schools” (which would not provide for Dilworth). However, the recommended provisions in Appendix 2 of the 42A Report removes this qualification and instead uses the term “education facilities that are primary or secondary schools” (which provides for Dilworth).
- 6.18 Without derogating from the specific activity status and rules that are sought by Dilworth for the Rural Campus (submission 577.2), I support the latter terminology, and in my opinion, it is not necessary or appropriate for the Restricted Discretionary activity status to be limited to state or state integrated schools.

7. SUBMISSION 577.3 – INTENSIVE FARMING

- 7.1 Dilworth’s submission identified a concern with the setback controls which applies a 300m setback requirement for ‘sensitive activities’ from the boundaries of sites which contain intensive farming activities (proposed Rule 22.3.7.2 P1(a)(vii)).
- 7.2 Dilworth opposes the setback control for sensitive activities as it applies to the Rural Campus (and supports Rule 22.1.3(1) RD1 (c)-(e) which

⁶ Section 42A Report – Hearing 18: Rural Zone, prepared by Jonathan Cleave, dated 25 August 2020, paragraph 437.

applies a Restricted Discretionary activity status to ‘intensive farming’ activities in the Rural Zone, subject to appropriate setback controls).

7.3 Dilworth has also sought site-specific provisions which include an exemption from the building setback rules under Rule 22.3.7 (submission point 577.2). This submission point has been allocated to Hearing 25 and will be addressed under separate evidence.

7.4 The reasons for Dilworth’s submission are, in summary:

- (a) The neighbouring land uses to the Rural Campus comprise dairy and dry stock farming activities, and are not currently occupied by intensive farming activities;
- (b) The neighbouring landholdings are significant in size, whereas the Rural Campus is constrained and has a maximum width of some 320m;
- (c) Should any intensive farming activities be located on a neighbouring site, regardless of the distance of that activity from the shared boundary with the Rural Campus, any future development of the Rural Campus would be subject to an onerous setback provision which would be impossible to comply with; and
- (d) The rules have a ‘double handling’ effect, requiring intensive farming activities to be setback from any site boundary, and subsequently requiring any sensitive activity to be setback from that same boundary by the same distance. The setback provisions are inefficient and onerously constrain the development opportunity of the Rural Campus site.

7.5 The 42A Report addresses the point from which the setback controls are to be measured. The 42A Report states (my emphasis in **bold**):

302. Mainland Poultry [833.7], A Gladding [489.16], J Macdonald [782.15], J Rowe [922.17], and the Poultry Industry Association [821.11] have all sought that clause (a)(vii) be amended so that the point of measurement be 300m from the building containing the intensive farming activity, rather than the site boundary. **I agree with the clarification sought by submitters.** The key outcome that the rule is seeking to achieve is a large separation

distance between the new sensitive land use and the generator of potential amenity effects. **Given that many intensive farming activities are located on reasonably large landholdings, with generous setbacks to site boundaries from the intensive farming activity, measuring the setback from the activity makes the rule more efficient and does not unduly penalise neighbouring site owners through forcing larger setbacks than necessary.** The amendment sought by submitters does potentially reduce development potential on the site on which the intensive farming operation is located, as it will limit the ability of the operation to expand towards the site boundary with an adjoining lot that could now contain a sensitive land use closer than 300m. That said, **the rule is designed primarily to recognise existing facilities rather than enable their expansion at the expense of the development options that would otherwise be enjoyed by adjoining landowners.**

303. I note that the recommended definition of intensive farming extends to intensively-farmed outdoor areas such as feed lot pens or intensive poultry runs. **It is therefore recommended that the point of measurement be from the boundary of any buildings or outdoor enclosures containing an intensive farming activity.**

7.6 I support the recommendation made by Mr Clease in this respect. The recommended amendment will add clarity to the purpose and application of the rule.

7.7 With regards to Appendix 2 of the 42A Report (which contains the recommended amendments to the Rural Zone provisions), I note that the recommended amendments to the setback controls for Rule 22.3.7.2 have erroneously not been updated to incorporate the recommendations of Mr Clease.

7.8 For completeness, I therefore recommend the following amendment to Rule 22.3.7.2 P1(a)(vii) to reflect the recommendation made by Mr Clease:

P1 (a) Any building for a sensitive land use must be set back a minimum of:

...

(vii) 300m from the ~~boundary of another site~~ nearest point of a building or an outdoor enclosure containing an intensive farming activity on another site; ...

Anthony James Blomfield

8 September 2020

Attachment 1

