

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan

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**STATEMENT OF EVIDENCE OF MARK NICHOLAS ARBUTHNOT FOR  
DILWORTH TRUST BOARD IN RELATION TO  
HEARING 25 – ZONE EXTENTS**

**17 FEBRUARY 2021**

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## EXECUTIVE SUMMARY

- A. This statement of evidence addresses the submission made by Dilworth Trust Board (“**Dilworth**”) in relation to ‘Hearing 25: Rezoning’ of the Proposed Waikato District Plan (“**Proposed Plan**”).
- B. In its primary submission (577.2), Dilworth sought the creation of “Specific Area” provisions for its school activities and facilities located at 500 Lyons Road, Mangatawhiri (known as the “**Rural Campus**”).
- C. The notified objectives and policies of the Proposed Plan do not support “educational facilities” in the Rural Zone and there are aspects of the provisions that conflict with the ongoing use and development of the Rural Campus. This issue was addressed by Council at ‘Hearing 18: Rural’, where the evidence of Mr Cleese acknowledged that it is appropriate to provide for a wider range of activities in the Rural Zone at a ‘strategic level’ and recommended various changes to the objectives and policies of the Proposed Plan to provide clearer policy direction for “educational facilities”.
- D. At Hearing 18, Council also agreed that it is appropriate to apply “Specific Area” provisions to the Rural Campus; however deferred consideration of the provisions until Hearing 25. Council also recommended a rule to provide for “maintenance, operation, and alterations” at the Rural Campus as a permitted activity, subject to a standard which requires alterations not to increase the net floor area. This rule will require even the most mundane development at the Rural Campus to obtain resource consent, resulting in an unnecessarily inefficient and onerous process, and is not agreed.
- E. Under the Proposed Plan, land subject to Minister of Education designations (state schools) will be managed by designations, rather than zone provisions. Most noticeably, Huntly College is located in the Rural Zone and is subject to Designation C15 (Education Purposes). The designation is not subject to any conditions, providing a flexible and efficient framework for the school to operate within and respond to population increases within the District.

- F. As Dilworth operates as an independent school, it does not benefit from a requiring authority status and cannot rely on a designation to develop its facilities to meet the needs of its students in same way that other Rural-zoned “educational facilities” can.
- G. In my opinion, independent schools such as the Rural Campus play an equally important role to the social, cultural and economic well-being of the community, and it is appropriate to ensure that they are afforded an enabling planning framework to provide for their ongoing efficient use and development.
- H. The disparity between the Proposed Plan framework applying to state schools and independent schools within the Rural Zone is such that I consider it good practice to include a “tailor-made” set of provisions for the Rural Campus. Given that the issue is confined to ensuring that an independent school within the Rural Zone is provided with an enabling framework in a similar way to state schools, I do not consider the use of “Specific Area” provisions will set a precedent that would require other (non-education) types of “out of zone” activities to be provided with their own site-specific provisions.
- I. Appended to my evidence as **Attachment 1** is the “Specific Area” provisions sought by Dilworth for the Rural Campus. Where I have identified changes as being necessary within this statement of evidence, these are shown in ~~strikethrough~~ and underline.
- J. The “Specific Activity” provisions for the Rural Campus are consistent with the approach that has been taken by the Proposed Plan for Agricultural Research Centres, Huntly Power Station, and Whaanga Coast Development Areas (all of which are located within the Rural Zone).
- K. In my opinion, the provision of a “Specific Activity” for the Rural Campus is consistent with the objectives and policies for the Rural Zone:
- (a) The subject land has not been available for productive rural activities since its development as a visitor accommodation and retreat facility in the 1990’s and will continue to be utilised as an “educational facility” into the future.

- (b) As a consequence of ‘Hearing 18’, community activities, including education, are supported within the Rural Zone where the rural environment is maintained or enhanced.
  - (c) Rules are proposed within the “Specific Area” provisions to ensure that activities are limited to those which support the Rural Campus and seek to ensure that the overall scale of development enabled is in keeping with the character and amenity values of the site.
  - (d) With the exception of building coverage and building setbacks to boundaries, the underlying rules of the Rural Zone will apply to the Rural Campus, meaning that issues pertaining to earthworks, reverse sensitivity, traffic generation, and parking will continue to be managed in accordance with the intended outcomes of the Proposed Plan.
  - (e) The “Specific Area” provisions for the Rural Campus will consolidate future development within the existing site boundaries.
- L. The proposed “Site Specific” provisions for the Rural Campus are also consistent with the outcomes that are intended by the objectives and policies of the Waikato Regional Policy Statement, inasmuch that they will provide for the ongoing operation and development of the Rural Campus in a manner that will contribute to the social, cultural and economic well-being of the community, while responding appropriately to the character of the surrounding environment.
- M. As the proposed “Specific Area” provisions relate to an established “educational facility” within the Rural Zone, they will not conflict with the “Applicable Future Proof Principles” for rural areas.
- N. I am of the opinion that the “Specific Area” provisions for the Rural Campus are the most appropriate way to achieve the purpose of the RMA, and in particular the social, cultural and economic well-being of the community.

## 1. INTRODUCTION

1.2 My full name is Mark Nicholas Arbuthnot. I am a Director at Bentley & Co. Limited (“**Bentley & Co.**”), an independent planning consultancy practice based in Auckland.

1.3 My qualifications and experience are set out within my statement of evidence dated 16 September 2019 (Hearing 1 – Chapter 1 Introduction).

### **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 25 addresses the submissions and further submissions that have been made on the zone extents of the Proposed Plan.

2.2 My evidence relates to Dilworth Trust Board’s (“**Dilworth**”) primary submission point (577.2) that has been allocated to Hearing 25 of the Proposed Plan and relates to the creation of “Specific Area” provisions for its school activities and facilities located at 500 Lyons Road, Mangatawhiri (known as the “**Rural Campus**”).

2.3 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;

- (c) the section 42A Report prepared by Ms Copplestone and Ms Yardley on behalf of Council for Hearing 5 – Definitions, dated 5 November 2019;
- (d) the minute and directions from hearing commissioners on the hearings for rezoning requests (excluding the Ohinewai area), dated 12 May 2020;
- (e) the section 42A Report prepared by Mr Clease on behalf of Council for Hearing 18 – Rural Zone, dated 25 August 2020.
- (f) the section 42A Report rebuttal evidence prepared by Mr Clease on behalf of Council for Hearing 18 – Rural Zone, dated 24 September 2020;
- (g) the statement of primary evidence prepared by Mr Blomfield on behalf of Dilworth for Hearing 18 – Rural Zone, dated 8 September 2020;
- (h) the summary statement of evidence prepared by Mr Blomfield on behalf of Dilworth for Hearing 18 – Rural Zone, dated 25 September 2020;
- (i) the section 42A Framework Report prepared by Dr Devey for Hearing 25 – Rezoning on behalf of Council, dated 19 January 2021; and
- (j) the Framework Report Peer Review prepared by Mr Hill, dated 26 January 2021.

2.4 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 (and address) 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 An overview of the Dilworth's education services at the Rural Campus was provided within the evidence of Mr Blomfield<sup>1</sup> on behalf of Dilworth for 'Hearing 18 – Rural'. I do not intend to repeat that evidence here, except to summarise the following key points:

- (a) Prior to its use as an "educational facility",<sup>2</sup> the Rural Campus was operated as a visitor accommodation and retreat activity (Hotel du Vin).

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<sup>1</sup> Paras. 4.1 – 4.5; Statement of Evidence of Anthony Blomfield for Dilworth Trust Board in relation to Hearing 18 – Rural Zone; 8 September 2020.

<sup>2</sup> "Educational facility" is defined by the National Planning Standard to mean "*land or buildings used for teaching or training by childcare services, schools, and tertiary education services, including any ancillary services*" and is recommended to be adopted within the definitions of the Proposed Plan by the s.42A report prepared by Ms Copplestone and Ms Yardley for 'Hearing 5 – Definitions' (at section 3.68).



- (b) The Rural Campus accommodates some 100 students per annum, together with some 20 staff (and their families) who live permanently on the site.
- (c) The Rural Campus is not 'rural' in nature or appearance, with the site having been developed and used for non-rural activities, since the 1990's.
- (d) The Rural Campus currently 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.
- (e) The facilities 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 The evidence of Mr Blomfield<sup>3</sup> for 'Hearing 18' identified that the notified provisions for the Rural Zone do not adequately recognise or provide for the continued use and development of the Rural Campus, and that there are aspects of the provisions that conflict with the ongoing use and development of the Rural Campus as a core component of Dilworth's function.
- 5.2 I agree with the evidence of Mr Blomfield, and summarise the key points as follows:
  - (a) Objective 5.1.1 of the Proposed Plan seeks to avoid 'urban' forms of subdivision, use and development in the Rural Zone.
  - (b) The objectives and policies of section 5.2 support rural activities and seek to minimise the fragmentation of rural land by other activities.

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<sup>3</sup> Paras. 5.1 – 5.6; Statement of Evidence of Anthony Blomfield for Dilworth Trust Board in relation to Hearing 18 – Rural Zone; 8 September 2020.

- (c) Objective 5.3.1 seeks to maintain 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.
  - (d) 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.
- 5.3 As a result, the objectives and policies of the Proposed Plan as notified does not support “educational facilities” in the Rural Zone such as the Rural Campus.

## **6. SUBMISSION POINT 577.2 – “SPECIFIC AREA” PROVISIONS FOR THE RURAL CAMPUS**

- 6.1 The submission of Dilworth (577.2) has sought “Specific Area” provisions for the Rural Campus. The reasons stated were as follows:
- 4.6 ...the lack of any specific recognition of the existing educational activity is of concern to Dilworth, in that any expansion of the capacity of the Rural Campus (in terms of the number of students accommodated on site, or any new building) will require a full Discretionary activity resource consent.
  - 4.7 The proposed provisions of the Rural Zone will unreasonably constrain the future use and development of the Rural Campus as a recognised community asset to contribute to the social and educational needs of the students and to provide for the welfare of the students and staff.
  - 4.8 The consents obtained by Dilworth, and the operation of the facility since consent was obtained, have proven that the nature, scale and intensity of the facility is appropriate in its context, relative to the characteristics of the site and surrounding environment. It is appropriate and consistent with good planning practice to acknowledge this, and for the Waikato District Plan to specifically recognise and provide for the continued operation and future intensification of the activity, as opposed to requiring Dilworth to rely on existing use rights or a resource consent process to re-confirm the same matters...

6.2 The rebuttal evidence of Mr Clease<sup>4</sup> on behalf of Council agreed that it is appropriate to apply “Specific Area” provisions to the Rural Campus (and to the Ngaakau Tapatahi Trust healthcare facility):

13. The submitters and I are in agreement that such existing facilities need to be appropriately provided for in terms of the District Plan rule framework. The treatment of existing activities that do not fit easily within a rural zone framework was discussed in broad terms in paragraphs 54-59 of the s42A report. In short, the tools available are either rezoning (to a zone that permits the activity), scheduling, overlays/ precincts or some other form of specific area identification within a rural zone, site-specific rules, or reliance on the generic zone provisions and existing use rights or existing resource consents. The determination of which tool is the most appropriate will vary between facilities, and will likewise be influenced by how the District Plan is structured, for instance whether scheduling is available as a tool across zone chapters or not.
14. Personally, I consider scheduling to be a useful tool for addressing site-specific existing activities that are not generally anticipated (as permitted) within the zone. Scheduling typically involves the identification of the site in a schedule or list, a brief set of permitted activities, and where necessary any site-specific built form rules to differentiate from the generic zone provisions. If activities are proposed on the site that are not permitted in the schedule, then the rules simply default to those that would otherwise apply to the underlying zoning.
15. Both of the submitter’s properties would suit scheduling, as would several other sites referred to in the s42A report such as existing retirement villages. The decision as to whether or not to include scheduling as a tool is however one that needs to be taken across zones, as similar out of zone activities are likely to occur within Residential and Village zones.

6.3 However, the rebuttal evidence of Mr Clease<sup>5</sup> went on to advise that in the alternative of utilising scheduling to address site-specific existing activities, the following rule should be included within the Rural Zone “to better provide for these established activities”:

P20	Maintenance, operation, and alterations to: (a) <a href="#">Dilworth School (legal description)</a> ; (b) <a href="#">Tamahere Hospital (legal description)</a> ; <a href="#">Note: additions to these facilities are subject to Rule 22.1.3 RD3</a>	(a) <a href="#">The alterations do not increase net floor area</a>
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6.4 The recommended rule is limited to “maintenance, operation, and alterations”, and is subject to a standard which requires alterations not to increase the net floor area. Any development that goes beyond the

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<sup>4</sup> Paras. 12 – 19; Section 42A Report Rebuttal Evidence; Hearing 18: Rural Zone – Landuse; Jonathon Clease; 24 September 2020.

<sup>5</sup> Para. 16; Section 42A Report Rebuttal Evidence; Hearing 18: Rural Zone – Landuse; Jonathon Clease; 24 September 2020.

constrained parameters of the permitted activity would fall to be considered either as a discretionary or a restricted discretionary activity.

6.5 As discussed within the summary statement of evidence prepared by Mr Blomfield<sup>6</sup> for ‘Hearing – 18’:

3.3 In my opinion, the permitted activity rule that has been recommended by Mr Cleese is unreasonably limited, and will constrain the efficient and appropriate use and development of the Rural Campus. Under the recommended rule, no further development could occur on the Rural Campus site without requiring a resource consent. This would implicate small-scale but essential activities such as constructing a small toilet block, or a caretaker’s shed. In my opinion, this is an inefficient use of resources, and would generate unreasonable costs to Dilworth (and the Council).

6.6 I agree with the evidence of Mr Blomfield and note that the rule does not make any provision for the Rural Campus beyond that which would otherwise be protected under s.10 of the RMA. In my opinion, the recommended rule will require even the most mundane development at the Rural Campus to obtain resource consent, resulting in an unnecessarily inefficient and onerous process. I therefore consider that the rule does not properly acknowledge the importance of “educational facilities” to the social, cultural and economic well-being of the community.

## **7. PROPOSED PLAN FRAMEWORK FOR OTHER RURAL-ZONED SCHOOLS**

7.1 As Dilworth operates as an independent school, it does not benefit from a requiring authority status and cannot rely on a designation to develop its facilities to meet the needs of its students in same way that other Rural-zoned “educational facilities” can.

7.2 Under the Proposed Plan, land subject to Minister of Education designations (state schools) will be managed by designations, rather than zone provisions. Most noticeably, Huntly College is located in the Rural Zone and is subject to Designation C15 (Education Purposes). The designation is not subject to any conditions, providing a flexible and

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<sup>6</sup> Para. 3.3; Summary Statement of Evidence of Anthony James Blomfield for Dilworth Trust Board in relation to Hearing 18 – Rural Zone; 25 September 2020.

efficient framework for the school to operate within and respond to population increases within the District.

- 7.3 Other, smaller, Rural-zoned “educational facilities” include the primary schools at Maramarua,<sup>7</sup> Ohinewai,<sup>8</sup> Ruawaro,<sup>9</sup> Te Wharekura o Rakaumangamanga<sup>10</sup> and associated playing fields,<sup>11</sup> Orini,<sup>12</sup> Pukemiro,<sup>13</sup> Whitikahu,<sup>14</sup> Horsham Downs,<sup>15</sup> Gordonton,<sup>16</sup> Te Uku,<sup>17</sup> Puketaha,<sup>18</sup> Rotokauri,<sup>19</sup> Newstead,<sup>20</sup> Matangi,<sup>21</sup> Waitetuna,<sup>22</sup> Ngāti Haua,<sup>23</sup> Te Mata,<sup>24</sup> Waikaretu,<sup>25</sup> Harrisville,<sup>26</sup> Mercer,<sup>27</sup> Mangatawhiri,<sup>28</sup> Mangatangi,<sup>29</sup> Te Kohanga,<sup>30</sup> and Pukekawa,<sup>31</sup> and are similarly subject to designations with no conditions.
- 7.4 The Proposed Plan is enabling of state schools to intensify the development and use of their sites and facilities to respond to growth within the District. In my opinion, independent schools such as the Rural Campus play an equally important role to the social, cultural and economic well-being of the community, and it is appropriate to ensure that they are afforded an enabling planning framework to provide for their ongoing efficient use and development.
- 7.5 The disparity between the Proposed Plan framework applying to state schools and independent schools within the Rural Zone is such that I consider it good practice to include a “tailor-made” set of provisions for

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7	Designation C1.
8	Designation C4.
9	Designation C10.
10	Designation C12.
11	Designation C13.
12	Designation C18.
13	Designation C21.
14	Designation C29.
15	Designation C30.
16	Designation C31.
17	Designation C33.
18	Designation C35.
19	Designation C36.
20	Designation C37.
21	Designation C39.
22	Designation C42.
23	Designation C43.
24	Designation C44.
25	Designation C45.
26	Designation C47.
27	Designation C50.
28	Designation C52.
29	Designation C53.
30	Designation C54.
31	Designation C56.

the Rural Campus. Given that the issue is confined to ensuring that an independent school within the Rural Zone is provided with an enabling framework in a similar way to state schools, I do not consider the use of “Specific Area” provisions will set a precedent that would require other (non-education) types of “out of zone” activities to be provided with their own site-specific provisions.

## 8. “SPECIFIC AREA” PROVISIONS FOR THE RURAL CAMPUS

8.1 Appended to my evidence as **Attachment 1** is the “Specific Area” provisions sought by Dilworth for the Rural Campus. Where I have identified changes as being necessary within this statement of evidence, these are shown in ~~strikethrough~~ and underline.

### Permitted activities

8.2 The following permitted activities are proposed by Dilworth to apply to the Rural Campus “Specific Area”:

Activities		Activity-specific conditions
P1	Education facility	Nil
P2	Student accommodation	Nil
P3	Staff accommodation	Nil

8.3 I agree that these permitted activities are necessary to provide for the ongoing operation and development of the Rural Campus (namely, education, boarding, and staff accommodation). However, I consider it necessary to clarify that “student accommodation” and “staff accommodation” are required to be ancillary to the “educational facility”, as follows:

Activities		Activity-specific conditions
P1	Education <u>al</u> facilit <u>iesy</u>	Nil
P2	Student accommodation	<del>Nil</del> <u>that is ancillary to the educational facilities</u>
P3	Staff accommodation	<del>Nil</del> <u>that is ancillary to the educational facilities</u>

### Application of rules

8.4 The following rules are proposed to apply to the permitted activities within the Rural Campus:

- (a) Rule 22.2 Land Use – Effects, except:
  - (i) 22.2.3.1 Earthworks – General (proposed Rule 22.9.6 will apply instead).

- (b) Rule 22.3 Land Use – Building, except:
  - (i) Rule 22.3.1 Number of dwellings within a lot;
  - (ii) Rule 22.3.2 Minor dwelling;
  - (iii) Rule 22.3.6 Building coverage (proposed Rule 22.9.4 will apply instead); and
  - (iv) Rule 22.3.7 Building setbacks (proposed Rule 22.9.5 will apply instead).
- (c) Rule 14.12 Transportation, except:
  - (i) Rule 14.12.1(a) P2; and
  - (ii) Rule 14.12.1(a) P4.
- (d) Rules 22.9.4 to 22.9.6 (inclusive).

8.5 The underlying Rural Zone provisions apply to all other types of activities on the site.

8.6 The following analysis is provided in relation to the proposed rule framework for the Rural Campus “Specific Area”.

#### *Earthworks*

8.7 The Dilworth submission identified that the notified Rural Zone earthworks provisions are narrowly focussed on rural activities and building platforms for residential activities, and do not adequately provide for other forms of activities such as those undertaken at the Rural Campus.

8.8 In response to submissions, the rebuttal evidence of Mr Clease<sup>32</sup> recommended a range of changes to Rule 22.2.3.1 Earthworks – General. These changes sufficiently address the submission point of Dilworth and I do not consider it necessary to have a “standalone” earthworks rule within the “Specific Area” provisions for the Rural Campus. I have therefore deleted proposed Rule 22.9.6 from the

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<sup>32</sup> Para. 291; Section 42A Report; Hearing 18: Rural Zone – Landuse; Jonathon Clease; 25 August 2020.

“Specific Area” provisions that are appended to my evidence as **Attachment 1**.

*Dwellings and Minor Dwellings*

8.9 “Educational facilities”, “student accommodation” and “staff accommodation” within the Rural Campus are proposed to be excluded from Rule 22.3.1 (Number of dwellings within a lot) or Rule 22.3.2 (Minor dwelling). The reason for this exclusion is set out within the submission of Dilworth as follows:

The Rural Campus comprises a range of boarding facilities and permanent staff accommodation buildings. The extent of accommodation facilities is inherently related to the school roll and staff requirements, and it is therefore inefficient to constrain the number of dwellings within the facility to one ‘dwelling’ or one ‘minor dwelling’.

8.10 I agree with the submission of Dilworth and do not consider it necessary to place a constraint on the extent of student and staff accommodation, where such accommodation is ancillary to the primary “educational facility” on the site. I therefore support the exclusion from Rule 22.3.1 and Rule 22.3.2 as proposed by Dilworth.

*Building coverage*

8.11 The “Specific Area” provisions for the Rural Campus seek to exclude Rule 22.3.6 (Building coverage) from applying to “educational facilities”, “student accommodation” and “staff accommodation”. The reason provided by Dilworth for the exclusion is as follows:

Rule 22.3.6 seeks to constrain building coverage within a site to the larger of 500m<sup>2</sup> or 2% of the site area, which equates to some 3,050m<sup>2</sup> for the Rural Campus site. The existing buildings within the Rural Campus exceed a combined area of 8,500m<sup>2</sup>. The building coverage control is inappropriate relative to the nature and characteristics of the activity, and will not provide for the suitable development of the activity in a manner that is compatible with the surrounding rural environment.

8.12 The evidence of Mr Clease<sup>33</sup> has recommended that the building coverage standard for the Rural Zone are increased to 4% of the site area for sites less than 10ha and 5,000m<sup>2</sup> for sites greater than 10ha. The rationale for the change is that:

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<sup>33</sup> Para. 649; Section 42A Report; Hearing 18: Rural Zone – Landuse; Jonathon Clease; 25 August 2020.



For sites larger than 10ha it is recommended that total building coverage be 5,000m<sup>2</sup> across the site. This provides for large farming, intensive farming, or rural industry structures, ensures that they are located on sites of sufficient size that their visual bulk can be accommodated, but also enables the siting of very large buildings or building complexes to be assessed on a case-by-case basis.

- 8.13 Dilworth has proposed that the total building coverage for the Rural Campus must not exceed 10% of the site area, as follows:

**22.9.4 Building coverage**

P1	(a) The total building coverage must not exceed 10% of the site area
RD1	(a) Any activity that does not comply with Rule 22.9.4 P1. (b) Council’s discretion is restricted to the following matters: (i) the effects on rural character; (ii) any special or unusual characteristic of the site which is relevant to the condition; and (iii) the characteristics of the development.

- 8.14 While I agree with the Dilworth submission, I consider that the nature of the rural environment is such that it is appropriate for infringements to this standard to be considered as a discretionary activity (as opposed to a restricted discretionary activity as sought). I have therefore amended the proposed “Specific Area” provisions as follows:

**22.9.4 Building coverage**

P1	(a) The total building coverage must not exceed 10% of the site area
<del>RD1</del>	(a) Any activity that does not comply with Rule 22.9.4 P1. <del>(b) Council’s discretion is restricted to the following matters: (i) the effects on rural character; (ii) any special or unusual characteristic of the site which is relevant to the condition; and (iii) the characteristics of the development.</del>

*Building setbacks*

- 8.15 The submission of Dilworth has sought to exclude the Rural Campus from the building setback provisions of Rule 22.3.7 and replace it with a 7m setback from any site boundary. The reasons for the relief sought is set out within Dilworth’s submission as follows:

Dilworth are concerned that the building setback rules do not appropriately reflect the existing (and optimal future) layout of development within the Rural Campus site, which comprises multiple buildings within 25m of side boundaries, including one building which is located some 12m from a side boundary... The relationship of buildings to the boundaries of the site is an accepted element of the Rural Campus, and such a form and layout of development is appropriate relative to the established neighbouring activities. In this respect, the original resource consent that was granted for the Rural Campus approved a site layout which included a series of buildings within 6m of the western site boundary...

In addition to the general setback from boundaries control, Dilworth are significantly concerned at the required setbacks from boundaries of a site which contains an 'intensive farming' activity. Rule 22.3.7.2 P1(a)(vii) of the Proposed Plan requires any building for a 'sensitive land use' (which includes education facilities and residential activities) to be setback from any boundary of a site which contains such an activity by 300m. The Rural Campus site has a maximum width of some 320m, and the geometry of the site is such that there is very little available land that is at least 300m from a side boundary.

The neighbouring properties to the Rural Campus have a significant site area (>100ha) and are occupied by dairy and dry stock farming activities. Should the neighbouring properties be developed for intensive farming activities... Rule 22.1.3(1) RD1(c)-(e) requires such activities to be setback from any site boundary by a minimum of 300m...

...Dilworth is concerned with the 'double-handling' effect of this rule, and with the significant constraints that this rule imposes on the development of the Rural Campus site should any neighbouring property be developed for intensive farming activities in the future...

8.16 Of direct relevance to Dilworth's submission, the evidence of Mr Clease<sup>34</sup> has recommended that the following 'key' building setback rules apply to the Rural Zone:

- (a) Habitable buildings located on a Record of Title 1.6ha or more must be set back a minimum of 12m from the road boundary, 22m from the centre line of an indicative road, and 25m from every boundary other than a road boundary (Rule 22.3.7.1 P3).
- (b) Non-habitable buildings located on a Record of Title 1.6ha or more must be set back a minimum of 12m from the road boundary, 22m from the centre line of an indicative road, and 12m from every boundary other than a road boundary (Rule 22.3.7.1 P4).
- (c) Intensive farming activities and outdoor enclosure areas are required to be set 300m from any site boundary (Rule 22.1.3 RD1).
- (d) Sensitive land uses (which by definition, includes "educational facilities") are required to be set 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity (Rule 22.3.7.2 P1).

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<sup>34</sup>

Section 42A Report – Hearing 18: Rural Zone; Jonathon Clease; 25 August 2020.

- (e) Buildings are required to be set 32m from the bank of any river with an average width of 3m or more (other than the Waikato River and Waipa River) (Rule 22.3.7.5 P1).
- 8.17 Given that intensive farming activities are now proposed by Council to be required to be set back 300m from any site boundary, and having regard to the fact that the relationship of the Rural Campus buildings to its boundaries is an established element of the rural environment at this location, I do not consider it necessary to exclude Rule 22.3.7.2 P1 from the “Specific Area” provisions of the Rural Campus.
- 8.18 Similarly, having regard to the location of the Mangatawhiri Stream relative to the existing development and site boundaries, I do not consider it necessary to exclude the Rural Campus from Rule 22.3.7.5 (Building setback – water bodies).
- 8.19 However, having regard to the fact that the closest habitable and non-habitable buildings are located 12 metres from the site boundary, I consider this distance to be a more appropriate site-specific building setback than the 7 metres sought in Dilworth’s submission, and the setbacks recommended within the evidence of Mr Clease at ‘Hearing 18’.
- 8.20 As a result, I have made the following changes to the “Specific Area” provisions for the Rural Campus:

**22.9.1 Application of rules**

- (a) The rules that apply to a permitted activity set out in Rule 22.9.2 within the Dilworth School – Rural Campus Specific Area as identified on the planning maps are as follows:

...

- (ii) Rule 22.3 Land Use – Building, except:

...

- D. Rule 22.3.7.1 Building setbacks – All boundaries does not apply and Rule 22.9.5 applies instead;

...

- 8.21 For completeness, I have also amended the matters of discretion for Rule 22.9.5 RD1 to ensure consistency with the equivalent rule for the Rural Zone, as follows:

### 22.9.5 Building setbacks

P1	(a) Any building must be set back a minimum of <del>7m</del> <u>12m</u> from any site boundary
RD1	(a) A building that does not comply with Rule 22.9.5 P1. (b) Council’s discretion is restricted to the following matters: (i) amenity values; (ii) <u>transport network safety and efficiency;</u> (iii) reverse sensitivity; <del>effects on neighbouring properties.</del> (iv) <u>where the road boundary is with an unformed paper road the likelihood of the road being formed or readily utilised by the public.</u>

#### *Transport*

8.22 Dilworth has sought that the on-site parking and loading requirements of Rule 14.12.1 P2 and the traffic generation requirements of Rule 14.12.1 P4 are excluded from applying to the Rural Campus on the basis that they are not particularly relevant to Dilworth’s activities.

8.23 While I understand the issue that has been raised, the submission of Dilworth acknowledges that it can achieve compliance with the rules and I do not consider it necessary to exclude them from applying to the “Specific Area” provisions for the Rural Campus. Corresponding changes have been made to the provisions set out within **Attachment 1** to this statement of evidence.

#### *Restricted discretionary activities*

8.24 Given that the purpose of the “Specific Area” provisions is to provide for the operation and development of the Rural Campus (which is proposed to be provided for as a permitted activity), I do not consider it necessary to seek a restricted discretionary activity status for “activities not otherwise provided for”. To this end, I have deleted proposed Rule 22.9.3 – Restricted Discretionary Activities from the Specific Area provisions for the Rural Campus.

## **9. CONSISTENCY WITH HIGHER ORDER POLICY DOCUMENTS AND STRATEGIES**

9.1 The following analysis is provided with reference to the “Rezoning Assessment Framework” contained within Appendix 1 of the s.42A Framework Report.

### Relevant Objectives and Policies of the Proposed Waikato District Plan

9.2 While Appendix 2 the s.42A Framework Report does not specifically address “Specific Area” provisions, section 5 of my evidence identifies the notified objectives and policies of the Proposed Plan that are directly relevant to the Rural Campus and concludes that there is no policy support for “educational facilities” within the Rural Zone (despite the presence of numerous schools within the Zone).

9.3 That said, the objectives and policies of the Rural Zone have been subject to a hearing, and Council’s position on the planning framework as it applies to “educational facilities” has changed. The s.42A Report prepared by Mr Clease<sup>35</sup> on behalf of Council acknowledged that it is appropriate to provide for a wider range of activities in the Rural Zone at a ‘strategic level’ and recommended the following amended Objective 5.1.1:

#### **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 infrastructures, 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.

9.4 Mr Clease<sup>36</sup> also acknowledged that there is a lack of clear policy direction for “educational facilities” in the Rural Zone, and recommended the following amended Policy 5.3.9:

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<sup>35</sup> Para. 72; Section 42A Report – Hearing 18: Rural Zone; Jonathon Clease; 25 August 2020.

<sup>36</sup> Para. 131; Section 42A Report – Hearing 18: Rural Zone; Jonathon Clease; 25 August 2020.

### 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 childcare, 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.

9.5 As identified in the evidence of Mr Blomfield<sup>37</sup> on behalf of Dilworth for 'Hearing 18 – Rural', the use of the term "community activities" in Objective 5.1.1(a)(ii) as a proxy for "educational facilities" is confusing and should be amended to expressly provide for "educational facilities" as follows:

#### 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 infrastructures, 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.

9.6 Mr Blomfield's evidence<sup>38</sup> also proposed the following new policy for the Rural Zone to specifically recognise and provide for the Rural Campus:

#### 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.

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<sup>37</sup> Para. 6.9; Statement of Evidence of Anthony Blomfield for Dilworth Trust Board in relation to Hearing 18 – Rural Zone; 8 September 2020.

<sup>38</sup> Para. 6.1; Ibid.

- (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.

9.7 In my opinion, the Rural Campus is not of such significance so as to require the Proposed Plan to “recognise and protect” its continued operation and ongoing development. However, I consider that it is necessary to provide a policy link between the Rural Zone and the “Specific Area” provisions for the Rural Campus. Therefore, I consider that criterion (a) of proposed Policy 5.3.19 can be deleted, 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.~~

- (~~a~~) 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.

9.8 The above policies are intended to be implemented in the format of a “Specific Activity” for the Rural Campus, consistent with the approach taken by the Proposed Plan for Agricultural Research Centres, Huntly Power Station, and Whaanga Coast Development Areas (all of which are located within the Rural Zone).

9.9 In my opinion, the provision of a “Specific Activity” for the Rural Campus is consistent with the above objective and policies for the following reasons:

- (a) The subject land has not been available for productive rural activities since its development as a visitor accommodation and retreat facility in the 1990’s and will continue to be utilised as an “educational facility” into the future.
- (b) As a consequence of ‘Hearing 18’, community activities, including education, are supported within the Rural Zone where the rural environment is maintained or enhanced.
- (c) Rules are proposed within the “Specific Area” provisions to ensure that activities are limited to those which support the Rural Campus and seek to ensure that the overall scale of

development enabled is in keeping with the character and amenity values of the site.

- (d) With the exception of building coverage and building setbacks to boundaries, the underlying rules of the Rural Zone will apply to the Rural Campus, meaning that issues pertaining to earthworks, reverse sensitivity, traffic generation, and parking will continue to be managed in accordance with the intended outcomes of the Proposed Plan.
- (e) The “Specific Area” provisions for the Rural Campus will consolidate future development within the existing site boundaries.

#### Waikato Regional Policy Statement

- 9.10 The Waikato Regional Policy Statement (“**WRPS**”) does not contain any specific policy direction in respect of the provision of “educational facilities” within the Region. That said, the ‘key’ policies that I consider to be directly relevant to the “Specific Area” provisions for the Rural Campus are set out below.
- 9.11 Objective 3.1 of the WRPS seeks to manage natural and physical resources in a way that recognises, amongst other things, the needs of current and future generations and the relationships between environmental, social, economic and cultural wellbeing.
- 9.12 Related to this, Objective 3.2 recognises and provides for the role of sustainable resource use and development and its benefits in enabling people and communities to provide for their economic, social and cultural wellbeing.
- 9.13 Development of the built environment (which includes rural areas) is required by Objective 3.12 to occur in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by (amongst other things) preserving and protecting natural character from inappropriate subdivision, use and development, and minimising land use conflicts, including minimising the potential for reverse sensitivity.



9.14 Specific to the built environment, these objectives are to be achieved through a range of policies, including:

- (a) Policy 6.1, which requires subdivision, use and development of the built environment to occur in a planned co-ordinated manner which:
  - (i) has regard to the principles in Section 6A;
  - (ii) recognises and addresses potential cumulative effects of subdivision, use and development;
  - (iii) is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and
  - (iv) has regard to the existing built environment.
- (b) Policy 6.14, which requires (amongst other things) new urban<sup>39</sup> development to occur within the Urban Limits indicated on Map 6.2, and new residential (including rural-residential) development to be managed in accordance with the timing and population for growth areas in Table 6-1.
- (c) Policy 6.17, which seeks to manage rural-residential development<sup>40</sup> in the Future Proof area.

9.15 I am of the opinion that the proposed “Site Specific” provisions for the Rural Campus are consistent with the outcomes that are intended by these objectives and policies. For the reasons discussed section 7 of this statement of evidence, providing for the ongoing operation and development of the Rural Campus will contribute to the social, cultural and economic well-being of the community in a manner that will respond appropriately to the character of the surrounding environment, and the existing built environment on the site.

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<sup>39</sup> “Urban” is defined by the WRPS as meaning *“a concentration of residential, commercial and/or industrial activities, having the nature of a city, town, suburb or a village which predominantly non-agricultural or non-rural in nature”*.

<sup>40</sup> “Rural-residential development” is defined by the WRPS as meaning *“residential development in rural areas which is predominantly for residential activity and is not ancillary to a rural or agricultural use”*.

- 9.16 Further, I am of the opinion that the ancillary accommodation associated with the Rural Campus is not the type of “urban” or residential/rural-residential development that Policies 6.14 and 6.17 of the WRPS are concerned with. As such, I do not consider there to be a conflict between the “Specific Area” provisions of the Rural Campus and these policies.
- 9.17 For completeness, as the proposed “Specific Area” provisions relate to an established “educational facility” within the Rural Zone, they do not conflict with the development principles contained within Section 6A of the WRPS insomuch that:
- (a) they do not relate to the creation of a new urban area;
  - (b) the site is provided with its own water supply and wastewater infrastructure;
  - (c) the activity minimises the need for private motor vehicle use through its operation as a boarding school;
  - (d) the activity is an established part of the rural environment at this location.

Future Proof Strategy (November 2017)

- 9.18 As the Rural Campus is not located within an identified Growth Area, the Future Proof Strategy (November 2017) (“**Future Proof**”) is of limited assistance to the consideration of the proposed “Specific Area” provisions. While section 7.5 of Future Proof requires Councils to take a responsive approach to development, the proposed provisions for the Rural Campus are focussed on recognising and providing for an existing “educational facility”, as opposed to a fundamental change from the Future Proof Settlement Pattern *per se*.
- 9.19 The “Applicable Future Proof Principles” for rural areas are identified by Future Proof to:<sup>41</sup>
- (a) Encourage development to locate adjacent to existing urban settlements and nodes in both the Waikato and Waipa Districts

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<sup>41</sup> Section 11.3; Future Proof Strategy (November 2017).

and that rural-residential development occurs in a sustainable way to ensure it will not compromise the Future Proof settlement pattern or create demand for the provision of urban services.

- (b) Maintain the separation of urban areas by defined and open space and effective rural zoning.
- (c) Recognise and provide for the growth of urban areas, towns and villages within agreed urban limits.
- (d) Protect versatile and quality farmland for productive purposes through the provision of limited rural lifestyle development around existing towns and villages and encouraging a more compact urban footprint.

9.20 Future Proof goes on to recognise<sup>42</sup> the importance of rural areas to pastoral rural working environments (and to the economy) and identifies the protection of land for food production as being an important sub-regional issue given that high-class soils are being lost to urban and rural residential development. It also recognises that rural residential living is best located in and around existing towns, villages and rural-residential nodes, and should not result in fragmentation of high-class soils.

9.21 For the reasons that have been discussed within the preceding analysis, I am of the opinion that the proposed “Specific Area” provisions for the Rural Campus will not conflict with the “Applicable Future Proof Principles” for rural areas.

## **10. SECTION 32AA RMA ANALYSIS**

10.1 With reference to section 32AA of the RMA, I am of the opinion that:

- (a) The inclusion of “Specific Area” provisions for the Rural Campus are the most appropriate way to achieve the purpose of the RMA, and in particular the social, cultural and economic well-being of the community.

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<sup>42</sup> Section 11.3; Future Proof Strategy (November 2017).

- (b) The “Specific Area” provisions are considered to be the most appropriate way to provide for the ongoing operation and development of the Rural Campus. Specifically:
- (i) As an independent school, Dilworth are not a requiring authority and are unable to rely on a designation to provide for the ongoing operation and development of the Rural Campus.
  - (ii) The alternative option proposed by Council is to provide for “maintenance, operation, and alterations” to the Rural Campus where the alterations do not increase the net floor area of the activity. Such an approach is not considered reasonable or practicable, or efficient or effective, as it does not make any provision for the Rural Campus beyond that which would otherwise be protected under s.10 of the RMA, and will require even the most mundane development at the Rural Campus to obtain resource consent, resulting in an unnecessarily inefficient and onerous process. I am therefore of the opinion that the rule does not properly acknowledge the importance of “educational facilities” to the social, cultural and economic well-being of the community.
  - (iii) “Educational facilities” do not fit easily within the Rural Zone framework and the provision of “Specific Area” provisions for the Rural Campus is considered to be the most efficient and effective way to address the resource management issues for the site.
- (c) The “Specific Area” provisions for the Rural Campus will have positive effects on the economic, social and cultural well-being of the community, and will provide opportunities for economic growth and employment. As the provisions do not seek to substantially depart from the underlying Rural Zone provisions that address reverse sensitivity effects, they are not

anticipated to reduce the economic growth and employment of the rural sector.

- (d) There is sufficient information about the subject matter of the “Specific Area” provisions.
- (e) The “Specific Area” provisions will not impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies.

**Mark Nicholas Arbuthnot**

**17 February 2021**

## Attachment 1: Proposed Specific Area – Dilworth School – Rural Campus

Amendments proposed within evidence are shown in ~~strikethrough~~ and underline

### 5.3 Rural Character and Amenity

#### 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~~a) Provide for the operation and development of educational facilities and boarding and accommodation activities that are integral to the Dilworth School – Rural Campus, and which complement the surrounding rural environment.

### 22.9 Specific Area – Dilworth School – Rural Campus

#### 22.9.1 Application of rules

- (a) The rules that apply to a permitted activity set out in Rule 22.9.2 within the Dilworth School – Rural Campus Specific Area as identified on the planning maps are as follows:
- (i) Rule 22.2 Land Use – Effects, ~~except:~~
    - ~~A. 22.2.3.1 Earthworks – General and Rule 22.9.6 applies instead;~~
  - (ii) Rule 22.3 Land Use – Building, except:
    - A. Rule 22.3.1 Number of dwellings within a lot;
    - B. Rule 22.3.2 Minor dwelling;
    - C. Rule 22.3.6 Building coverage does not apply and Rule 22.9.4 applies instead;
    - D. Rule 22.3.7.1 Building setbacks – All boundaries does not apply and Rule 22.9.5 applies instead;
  - (iii) ~~Rule 14.12 Transportation, except:~~
    - ~~A. Rule 14.12.1(a) P2; and~~
    - ~~B. Rule 14.12.1(a) P4.~~
- (b) The rules that apply to any other activity that is not provided in Rule 22.9.2 are those that apply to the Rural Zone as follows:
- (i) Rule 22.1 Land Use – Activities
  - (ii) Rule 22.2 Land Use – Effects
  - (iii) Rule 22.3 Land Use – Building; and
  - (iv) Rule 22.4 Subdivision.

#### 22.9.2 Permitted Activities – Dilworth School Rural Campus

- (a) The following activities are permitted activities if they meet all the:
- (i) Activity-specific conditions in Rule 22.9.2;
  - (ii) Land Use – Effects rules in Rule 22.2 (~~unless excluded by Rule 22.9.1(a) above~~);
  - (iii) Land Use – Building rules in Rule 22.3 (unless excluded by Rule 22.9.1(a) above); and
  - (ii) Rules 22.9.4 to 22.9.6 (inclusive)

Activities		Activity-specific conditions
P1	Educational facilities	Nil
P2	Student accommodation	<del>Nil that is ancillary to the educational facilities</del>
P3	Staff accommodation	<del>Nil that is ancillary to the educational facilities</del>

## Attachment 1: Proposed Specific Area – Dilworth School – Rural Campus

Amendments proposed within evidence are shown in ~~strikethrough~~ and underline

### ~~22.9.3 Restricted Discretionary Activities~~

~~(a) The following activities are restricted discretionary activities:~~

<b>Activities</b>		<b>Matters of discretion</b>
RD1	<del>Any other activity not listed in Rule 22.9.2 (a) P1 to P3 (inclusive), or listed in Rule 22.1.2 and 22.1.3.</del>	In addition to any matters identified in the specific rule, Council's discretion is restricted to the following matters: <del>(a) the effects of the infringement of the condition;</del> <del>(b) any special or unusual characteristics of the site which is relevant to the condition; and</del> <del>(c) the characteristics of the development.</del>

### 22.9.4 Building coverage

P1	(a) The total building coverage must not exceed 10% of the site area
<del>RD1</del>	<del>(a) Any activity that does not comply with Rule 22.9.4 P1.                      (b) Council's discretion is restricted to the following matters:                      (i) the effects on rural character;                      (ii) any special or unusual characteristic of the site which is relevant to the condition; and                      (iii) the characteristics of the development.</del>

### 22.9.5 Building setbacks

P1	(a) Any building must be set back a minimum of <del>7m</del> <u>12m</u> from any site boundary
RD1	(a) A building that does not comply with Rule 22.9.5 P1. (b) Council's discretion is restricted to the following matters: (i) amenity values; (ii) <u>transport network safety and efficiency</u> ; (iii) reverse sensitivity; <del>effects on neighbouring properties.</del> (iv) <u>where the road boundary is with an unformed paper road the likelihood of the road being formed or readily utilised by the public.</u>

### ~~22.9.6 Earthworks – General~~

<del>P1</del>	<del>(a) Earthworks must meet all of the following conditions:                      (i) Do not exceed a volume of more than 1000m<sup>3</sup> and an area of more than 2000m<sup>2</sup> over any single consecutive 12 month period;                      (ii) The total depth of any excavation or filling does not exceed 3m above or below ground level with a maximum slope of 1:2 (1 vertical to 2 horizontal);                      (iii) Earthworks are setback 1.5m from all boundaries, except for earthworks for the purpose of erosion control works for remediation and stabilisation of the banks of streams, rivers and water bodies;                      (iv) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;                      (v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;                      (vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</del>
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**Attachment 1: Proposed Specific Area – Dilworth School – Rural Campus**

Amendments proposed within evidence are shown in ~~strikethrough~~ and underline

RD1	<p><del>(a) Earthworks that do not comply with Rule 22.9.6 P1.</del></p> <p><del>(b) Council's discretion is restricted to the following matters:</del></p> <ul style="list-style-type: none"><li><del>(i) amenity values and landscape effects;</del></li><li><del>(ii) volume, extent and depth of earthworks;</del></li><li><del>(iii) nature of fill material;</del></li><li><del>(iv) contamination of fill material or cleanfill;</del></li><li><del>(v) location of the earthworks to waterways, significant indigenous vegetation and habitat;</del></li><li><del>(vi) compaction of the fill material;</del></li><li><del>(vii) volume and depth of fill material;</del></li><li><del>(viii) geotechnical stability;</del></li><li><del>(ix) flood risk, including natural water flows and established drainage paths; and</del></li><li><del>(x) land instability, erosion and sedimentation.</del></li></ul>
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