

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

**3 MAY 2021**

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## **1. INTRODUCTION**

1.1 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.

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

### **Code of conduct**

1.3 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.

### **Scope of evidence**

1.4 My rebuttal evidence will address the following:

- (a) The Section 42A Report, “Hearing 25: Zone Extents Rest of District – Addendum” prepared by Catherine Boulton on behalf of Council, dated 23 April 2021.

## **2. SECTION 42A REPORT, “REST OF DISTRICT ADDENDUM” – MS CATHERINE BOULTON**

### **Dilworth Trust Board**

2.1 The section 42A Addendum Report agrees that:

- (a) education facilities and 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;<sup>1</sup>

- (b) the relief sought by Dilworth would give effect to Objectives 3.1, 3.2 and 3.12 of the WRPS, however specific consideration needs to be given to the activities and built form frameworks of the Proposed Plan;<sup>2</sup>
- (c) the Proposed Plan as notified does not make specific provision for Dilworth’s Rural Campus;<sup>3</sup> and
- (d) scheduling and site-specific provisions are similar approaches that could be used to recognise Dilworth’s Rural Campus and to provide for maintenance and development of the submission site.<sup>4</sup>

2.2 Notwithstanding the above, the section 42A Addendum Report (at paragraph 65) considers it appropriate that provision should only be made for “maintenance, operation, and alterations” as a permitted activity, and that any further increase in the net floor area at the Rural Campus should require resource consent as a restricted discretionary activity.

2.3 My primary statement of evidence sets out in detail why I do not consider a restricted discretionary activity status for additional development at the Rural Campus to be appropriate. I do not intend to repeat that analysis here, except to confirm my opinion that:

- (a) the rule does not make any provision for the Rural Campus beyond that which would otherwise be protected under s.10 of the RMA; and
- (b) the rule will require even the most mundane development at the Rural Campus (for example, toilet block extensions or

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<sup>1</sup> Para. 58; Section 42A Addendum Report – “Rest of District”.

<sup>2</sup> Ibid.

<sup>3</sup> Para. 63; Ibid.

<sup>4</sup> Para. 64; Ibid.

equipment sheds) to obtain resource consent, resulting in an unnecessarily inefficient and onerous process.

- 2.4 The section 42A Addendum Report has not had regard to the requirements of Policy 5.3.9 (as recommended by Council), which seeks to *“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 managing urban growth through a consolidated urban form”*, and specifically includes education activities within its ambit.
- 2.5 In my opinion, requiring additional development at the Rural Campus to obtain resource consent as a restricted discretionary activity does not “enable” the activity to provide for the social, cultural, and recreational needs of the community. As set out within my primary statement of evidence:
- (a) the rule does not properly acknowledge the importance of “educational facilities” to the social, cultural and economic well-being of the community;
  - (b) 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 through the use of designations which are not subject to any conditions; and
  - (c) independent schools such as the Dilworth 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.
- 2.6 To the extent that the relief sought by Dilworth is “in keeping with managing urban growth through a consolidated urban form”, while the section 42A Addendum Report agrees that education facilities and 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, it states that (at

paragraph 67) the 10% maximum site area coverage that has been sought “...is too much given the extent of development that is already on the site”. In support of this position, the section 42A Addendum Report states: (emphasis added)

61. **Given the size of the site and the potential for significant expansion, Mr Clease did not want to see amendments made to the site coverage provisions** and that the combination of activity and built form rules will enable expansion applications to be considered as a restricted discretionary activity in terms of both effects on rural character and amenity and on the extent of the activity and its alignment with urban growth outcomes.

2.7 I disagree with the section 42A Addendum Report in this regard. If Council were of the opinion that the 5,000m<sup>2</sup> building coverage standard should apply to Rural-zoned education facilities, I would have expected the standard to be applied consistently across the board and included as a condition to the designations. However, these designations are unencumbered by such a constraint, and the Proposed Plan remains enabling of state schools to intensify the development and use of their sites and facilities to respond to growth within the District (most noticeably, Huntly College is located in the Rural Zone and is subject to a designation that does not include any conditions).

2.8 I therefore remain of the opinion that it is good practice to include a “tailor-made” set of provisions for the Rural Campus. A 10% maximum site coverage standard is appropriate having regard to:

- (a) the nature of the existing development that has been established on the site, which, prior to its use as a “educational facility”, was operated as a visitor accommodation and retreat activity (Hotel du Vin) and does not display the same character as large farming, intensive farming, or rural industry activities;
- (b) the ‘campus’ environment that has been created at the Rural Campus (comprising a range of buildings and facilities, including boarding facilities, staff accommodation facilities and dwellings, classrooms, administration buildings, a gymnasium,

tennis courts, and sports fields, which are serviced by an internal road and footpath network);

- (c) the manner in which state schools are able to intensify the development and use of their sites and facilities under their designations to respond to growth within the Rural Zone without constraint; and
- (d) the fact that the “Specific Area” provisions for the Rural Campus will consolidate future development within the existing site boundaries, as opposed to enabling other Rural-zoned activities to achieve a greater built form than currently provided for under the Proposed Plan.

2.9 For all of the above reasons, I remain of the opinion that the inclusion of “Specific Area” provisions for the Dilworth 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.

**Mark Nicholas Arbuthnot**

**3 May 2021**