

BEFORE THE NEW PLYMOUTH DISTRICT COUNCIL
INDEPENDENT HEARINGS COMMISSIONER

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

of a Resource Consent
Application for a discretionary
subdivision at 170 Ackworth
Road, Lepperton.

(Council NO. SUB19/47283)

STATEMENT OF EVIDENCE of Richard Alexander Bain

Landscape Architect

4 September 2020

INTRODUCTION

Qualifications and Experience

1. My name is Richard Alexander Bain. I hold an honours degree in Landscape Architecture from Lincoln University (1992), and I am a registered member of the New Zealand Institute of Landscape Architects (NZILA).
2. I have been working for over 27 years in New Plymouth as a self-employed Landscape Architect, specialising in site design and visual assessment.
3. I confirm that I have read the Code of Conduct for expert witnesses contained in the 2014 Environment Court Practice Note and that I agree to comply with it. I confirm I have considered all the material facts that I am aware of that might alter or detract from the opinions I express. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Role

4. Ms Butterworth, (a submitter who lives at 198 Ackworth Road), engaged me to prepare a Landscape and Visual Impact Assessment (LVIA) 29 May 2020. A copy of this LVIA is attached to my evidence.

Scope of Evidence

5. This evidence covers the following:
 - Brief Description of the Proposal;
 - Site Context, Character and Amenity;
 - Assessment of Effects – Character and Amenity;
 - Proposed Mitigation;
 - Comments on issues raised in Planning Officer's Report and Applicant's Landscape Architect Statement of Evidence.

PROPOSAL

6. The application is to subdivide Lot 1 DP 414901 at 170 Ackworth Road, Lepperton, into two lots. Lot 1 will have an area of 4.27ha, and Lot 2 will have an area of 4130m². A full description of the proposal is contained within the Application/AEE, and s42A report.

7. The main aspect of the proposal that has potential landscape and visual effects are:

- land fragmentation as a consequence of creating two lots;
- a new dwelling and associated infrastructure on Lot 2;
- loss of rural spaciousness from activities on Lot 2.

Therefore, my statement of evidence focuses on landscape and visual effects resulting from the creation of Lot 2.

8. In preparing my evidence I have relied on the following information:

- The Application and Assessment of Environmental Effects prepared by Jufferman's Surveyors Limited; 18 April 2019.
- The Planning Officer's Section 42a Report dated 21 August 2020.
- The Council's Landscape Memo prepared by Natural Capital (Ms Griffith).
- Submission of Ms Butterworth of 198 Ackworth Road.
- Information and evidence from the Applicant's landscape expert (Ms Dravitzki).
- I have visited the site and Ms Butterworth's property.

SITE CONTEXT, CHARACTER AND VISUAL AMENITY

9. The site is located in a Rural Environment Area in the Operative New Plymouth District Plan.

10. The broader landscape is characterised by open, generally larger lot pastoral land use typically used for dry stock as the topography is less suited to dairy farming. There are also a number of patches of native bush in gullies.

11. Within the immediate local area, Ackworth Road has undergone significant transition to lifestyle properties. This is evidenced by small lot sizes and proliferation of dwellings. One consequence of this is that its previously expansive elevated open views towards the sea and mountain have become reduced and dissected.
12. Overall, what was previously open landscape is becoming increasingly enclosed - typical in peri-urban areas. Ackworth Road appears to be popular for such development, as the road straddles a fairly steep ridge that affords spectacular elevated views.
13. The western side of Ackworth Road, including the subdivision site, has potential for elevated views towards the sea and is favourable for sun. It is within this context that the subdivision is proposed.
14. A group of mature pine trees dominate an area in the middle of the subject site. These trees form a backdrop to the flat part of the property adjacent to Lot 2. I note and agree with Ms Griffith's Landscape Memo (page 5) where she expresses concern that boundary between Lot 1 and 2 appears arbitrary and does not respect landform, landscape features, or land use.
15. Overall, the area does not preclude subdivision on contextual grounds. The number of small lots forms part of the areas' rural character, and increased enclosure can be an ongoing process throughout the district as farmland becomes less open, primarily through increased native revegetation and shelter planting.
16. When I prepared my LVIA in May, the road boundary contained a mature barberry hedge. This has since been removed and replanted with a Pittosporum hedge. Given that the hedge has been removed, in my opinion a wider and mixed species planting

would create a more robust roadside screen.

ASSESSMENT OF LANDSCAPE EFFECTS

17. The Application states that;

spatial character created by the proposed subdivision is consistent with others forming part of the surrounding environment in which smaller rural lifestyle lots have been established, usually fronting Ackworth Road, with the larger lot accommodating the farm and its associated dwelling.

18. I agree, that within the wider Ackworth Road environment, the spatial character of the proposed subdivision is consistent with others in the area. Effects on rural production are low, and modifications to topography from activities such as earthworks are likely to be minimal where the land is flat. However, despite this changing landscape, character effects of the proposal on neighbouring properties, and in particular 198 Ackworth Road are in my opinion significant. I note that Ms Griffith in her Memo considers that the AEE does not, in her opinion, address the potential sensitivity of the views from 198 Ackworth Road.

19. In my view, character effects for 198 Ackworth Road will be highly noticeable, as their open rural context, whereby there is a dominance of open space to built form, will change to an enclosed urban context with a dwelling and associated infrastructure.

ASSESSMENT OF VISUAL EFFECTS

20. Given the written approvals provided for all neighbouring properties, except for 198 Ackworth Road, my evidence focuses on potential effects on this property.

21. With regard to 198 Ackworth Road, the application states;

Although any future building platform will be visible from the occupants of 198 Ackworth Road, being one site removed to the south; as this property is also a rural

lifestyle lot of only 2787m² it is not used for any meaningful rural production and as such the proposal will not generate any adverse reverse sensitivity effects toward these persons. In addition, the occupants of this property will still maintain a 'rural outlook' due to the expanse of the large lot to the west that extends north to south and has an area of 23.8680ha, being the balance lot of the parent title thereby maintaining a largely unbuilt and open outlook.

23. I have visited 198 Ackworth Road and viewed the proposal site from its outside amenity areas, ground floor entrance and living areas, and top floor bedroom/living area. Annotated photographs from these locations can be found within my LVIA. I note that the landscape expert for the applicant has not had access to the submitter's property, therefore may not be aware that the upstairs bedroom is an open plan area that includes a living space.
24. From these amenity areas, views to the west are available but are peripheral to the dwelling's main orientation. There are no views south from the dwelling. The views and outlook from this property are overtly oriented north/north west towards proposed Lot 2, which is within its foreground view. There are also distant views, including 'through' the pines in the middle of the subjects site. The existing view of the open paddock, and long distance view are all part of the amenity values experienced by the occupiers of 198 Ackworth Road. Therefore, any landscape change and consequential amenity effects will be highly noticeable.
25. The main outside amenity area, entranceway and downstairs living area, all have a north-westerly orientation that provides a high level of rural amenity for the occupier. Any new dwelling located within this view would disrupt this rural outlook and reduce the occupier's amenity. In my opinion, pleasantness and coherence ('amenity' as defined in the RMA) would be compromised to the point that the rural experience will be subjugated.
26. From upstairs, there are elevated views over proposed Lot 2 from windows on the

north-eastern and eastern facades. Photographs from these viewpoints are shown within the LVIA attached to this evidence. Development on Lot 2 will be highly visible and reduce rural openness and outlook. This could be partially mitigated if future building on lot 2 were moved east and design controls applied.

27. Overall, 198 Ackworth is likely to experience significant adverse amenity effects from the creation of Lot 2 and its potential future development. The primary amenity experience from the dwelling and outside area of 198 Ackworth Road is that of a pleasant open, uncluttered rural outlook. Because this visual amenity is primarily toward the northwest, if this portion of Lot 2 can remain open and pastoral in nature, then adverse effects could be avoided. To avoid this adverse effect, it is recommended that this area contain no buildings. On the Layout Plan prepared as part of my LVIA, I show a viewshaft splay that defines the extent of the area that I consider should remain free of buildings. Ms Griffith has a similar viewshaft splay in her Landscape Memo, although narrower than mine. Ms Dravitzki likewise has a splay in her evidence, which is narrower again and directed west of the pines. I consider that Ms Dravitski's viewshaft misses that there is a distant coastal view through the trees that also contributes to the overall amenity enjoyed at 198 Ackworth Road. The viewshaft that Ms Griffith and I have provided is a more accurate representation.

28. The applicant's landscape expert (Ms Dravitzki) states in her statement of evidence that there is a spatial buffer between the two properties with a possibility of a large degree of retained openness, achieved with approximately 43m minimum distance between the dwelling at 198 Ackworth Road and the likely future dwelling of Proposed Lot 2. I agree that there will be 43m of separation, but given the nature and quality of the visual amenity experienced from the submitter's property, adverse effects will occur. Distance can mitigate effects, but in this case, orientation is of far greater relevance.

29. Given the nature and orientation of the view over Lot 2, the distance between dwellings will not reduce effects to a degree that they would not affect the quality and character of the outlook. While permitted activity such as sheds and vegetation could occur, these are speculative. I do not agree with Ms Dravitzki's assessment that the possible retention of the viewshafts illustrated on Figure 3 of her evidence maintains rural character, or improves visual amenity for 198 Ackworth Road by way of certainty and predictability of neighbouring activities. In my opinion the proposed development on Lot 2 will permanently change the nature of the outlook for the submitter from rural to urban.
30. Paragraph 33 of Ms Dravitzki's evidence outlines residual amenity effects such as light overspill and noise, contending that these can be mitigated, and that in any case they are less or equivalent to effects from rural operations such as tractors, quad bikes and animals. In my opinion residual amenity effects from rural activity are different from urban effects - it's not the scale of effect that is at issue, but rather the type. Noises consistent with rural production activities are generally compatible with 'rural character'.

MITIGATION

31. I do not agree that effects on 198 Ackworth Road are avoided by the proposed positioning of Lot 2, by way of enabling a longer stretch of Ackworth Road to be maintained as continuous hedging, and that locating the lot elsewhere would create greater effects. The proximity of a future new dwelling will make it visible.
32. I agree that the landform on Lot 2 lends itself to the creation of a lot, and I agree that this avoids potential changes to landform. However, I do not consider that this avoids a landscape character effect, whereby flat open pasture changes to a rural-residential development.

33. Proposed mitigation measures as stated in Ms Dravitzki's evidence include;

- Planting of a pittosporum hedge along the roadside to be maintained at a height of 3.5-4m.
- The location of Proposed Lot 2 avoiding fragmentation of the landscape.
- The location of the building platform setback from the road and in proximity to 198 Ackworth Road.
- Rural materials such as post and wire fencing and hedging to be used to define the boundary.
- Rural materials to be used for the driveway with no use of pillars or block wall entranceways or plain white concrete.
- Only one entry point is permitted onto the road per allotment.
- The driveway is to be located more than 30m from the south boundary of Proposed Lot 2 to avoid cluttering that area with three access ways in a row.
- Retention of the boundary hedge along the length of Proposed Lot 2. This has been superseded by the removal and replanting of the hedge with Pittosporum and renewal of the boundary fence with a post and wire fence.
- Limit of one habitable dwelling.
- Colour controls of the dwelling to LRV <35%.
- A single storey building height limit of 6m for the dwelling and 4m for any other service buildings.
- Directive light hoods on any outdoor lighting located to the south of any dwelling or building.
- Colour controls to LRV <35% on any additional buildings.
- Ornamental planting at the south of the building platform to soften views towards the future dwelling from 198 Ackworth Road.

34. The majority of these proposed measures do not mitigate effects that I consider will be experienced by the occupants of 198 Ackworth Road. The proposed measures are generic in nature, and while I agree that they represent appropriate measures to

reduce effects in the broader rural environment (such as recessive colours), they will have little impact on reducing effects on 198 Ackworth Road. Ms Dravitzki states that the benefits of setback from the road for mitigating the visual effect of public viewpoints and increased amenity for the likely future dwelling, outweighs the potential adverse effect on 198 Ackworth Road. In my opinion, a weighting exercise between public and private viewpoints is not the issue. My understanding is that the Resource Management Act requires a consideration of all potential adverse effects and this would include considering whether the potential effects on the amenity and rural character enjoyed at 198 Ackworth Road, have been effectively avoided or mitigated.

35. In my opinion, appropriate mitigation needs to be centred around specific site design that enables the rural outlook for 198 Ackworth Road, while allowing for building to occur on Lot 2. To this end, I refer to the 'Layout Plan', appended separately to this evidence (this Plan is also attached to my LVIA). Ms Griffith, as part of her 17 August 2020 Memo, also prepared a site layout diagram. There are considerable similarities between these two plans, notably, that any future dwelling be located closer to Ackworth Road and that the 'viewshaft' from 198 Ackworth Road be kept free of buildings. Ms Dravitzki has also prepared a Mitigation Plan. Figure 3 of her evidence shows a submitter's view corridor that is considerably narrower than that shown on my plan or Ms Griffith's.

36. In my opinion, the mitigation measures proposed by the applicant should include layout provisions akin to those prepared by myself or Ms Griffith - supported by a number of mitigation measures. Ms Griffith provides a list of measures in her Memo dated 17 August 2020. Taking Ms Griffith's and Ms Dravitzki's mitigation measures into consideration, those in the Planner's report, as well as those I recommend in my LVIA, in my opinion the following mitigation measures would be necessary to address character and visual effects, should consent be granted.

- The location of buildings, position of planting, and 'no build' areas on Lot 2 to be as per the Bluemarble Layout Plan (attached).
- No buildings (habitable or non-habitable) should be located within the viewshaft shown on the Bluemarble Layout Plan.
- Only one habitable dwelling should be allowed on each Lot.
- Any future dwelling should be limited to a maximum height of 5.5 metres above existing ground level.
- A 5m wide mixed species planting should be established and maintained at no less than 3m high along the road boundary of lot 2.
- Planting (including plant removals) as shown on the Bluemarble Layout Plan should be established along the southern boundary of Lot 2.
- Any buildings (habitable and non-habitable) on Lot 2 should have colour controls put in place on the walls and roofs ensuring that the colours of the dwellings are below 37% reflectance value.
- Any other building on the allotment to be integrated with the dwelling design and be of the same design as the dwelling.
- Watertanks should be screened from view or coloured black.
- Fencing of all boundaries should consist of either post and rail or wire, post and batten fencing only.
- No close boarded fencing shall be permitted on Lot 2, and all fencing shall retain 50% permeability (e.g. post and rail or post and wire fencing).
- Driveways and entranceway materials are to be rural in character e.g. metal, chip-seal, dark coloured concrete.
- The driveway into Lot 2 shall be located to weave, or return in such a way that direct, straight views from Ackworth Road into garaging or other residential elements of the site are avoided.
- Only one entry point (other than a Type F) is permitted onto the road per allotment.

- Point sources of light should not be visible from outside the site. To this end all exterior lighting should all cast down or 'hooded'.
- Screen planting should be located along the eastern portion of the southern boundary as shown on the Layout Plan. This planting should consist of evergreen species planted at sufficiently close spacing to ensure continuous screening to a minimum height of four metres after seven years.
- The existing conifer shelterbelt on the southern boundary of Lot 2 should be reducing by 8 plants as shown on the Bluemarble Layout Plan (in order to still retain a sense of openness following establishment of a dwelling).

37. If these measures were adopted, in my opinion the proposal could occur with acceptable effects on the broader environment and the occupants of 198 Ackworth Road.

RESPONSE TO OFFICER'S REPORT

39. I have read the Council Planner's Report, and make the following further comments.

40. I agree with Council Planner's assessment in paragraph 59 that *the establishment of Lot 2, with a complying habitable [sic] building on the site, (30m from the road boundary and 15m from the side boundary) will impact the submitters rural northerly outlook which is currently one of low density built form.*

In my opinion the low density built form within the northerly outlook can be achieved if the building on Lot 2 is moved east, closer to Ackworth Road.

41. I agree with the Council Planner's differentiation between permitted activities (such as a shed) and those resulting effects following creation of proposed Lot 2. Likewise, as discussed earlier in my evidence, the Council Planner and her landscape expert do not consider the proposed mitigation strategy from the Applicant to be effective. In my opinion the additional mitigation measures proposed by Ms Dravitzki in her

Statement of Evidence do not go far enough in addressing the matters raised in the s42A report.

42. Proposed consent conditions are listed under Appendix 3 of the planner's report. In general, I agree with these measures, but note that there is no reference to building location, as illustrated in Ms Griffith's memo. In my view, the location of buildings is fundamental to the acceptability of the proposal.

SUMMARY & CONCLUSIONS

44. I note the similarity in my assessment and recommendations to those expressed by Ms Griffith in her Memo.
45. In conclusion, I consider that the proposal will create significant adverse character and amenity effects on the submitter's property.

A handwritten signature in blue ink that reads "Richard Bain". The signature is written in a cursive, flowing style.

Richard Bain 4 September 2020