

**BEFORE THE INDEPENDENT HEARINGS PANEL**  
**THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)**

**UNDER** the Resource Management Act 1991 (“**RMA**”)

**IN THE MATTER OF** hearing submissions and further submissions on the  
Proposed Waikato District Plan (Stage 1) Hearing 2  
**Topic 2: Plan Structure and All of Plan**

**BY** **TATA VALLEY LIMITED**  
Submitter

---

**STATEMENT OF PRIMARY EVIDENCE OF CHRISTOPHER JAMES SCRAFTON**  
**ON BEHALF OF TATA VALLEY LTD**

**PLANNING**

**Dated: 23 September 2019**

---

**BUDDLEFINDLAY**  
NEW ZEALAND LAWYERS  
Barristers and Solicitors  
Auckland

Solicitor Acting: **Vanessa Evitt / Mathew Gribben**  
Email: [vanessa.evitt@buddlefindlay.com](mailto:vanessa.evitt@buddlefindlay.com) / [mathew.gribben@buddlefindlay.com](mailto:mathew.gribben@buddlefindlay.com)  
Tel 64-9-358 2555 Fax 64-9-358 2055 PO Box 1433 DX CP24024 Auckland 1140

## 1. EXECUTIVE SUMMARY

1.1 In this statement of evidence, I provide a summary of the amendments sought by TaTa Valley Limited (**TVL**) in relation to the Proposed Waikato District Plan (**PWDP**) Hearing 2: Plan Structure and All of Plan and my response to the relevant recommendations in the Section 42A Report.

1.2 The key points from this statement of evidence are:

- (a) There is a pressing need to review the Waikato District Plan (**WDP**) and particularly the WDP: Franklin Section (**WDP: FS**) which is over 20 years old and unlikely to adequately give effect to the Waikato Regional Policy Statement (**RPS**) (including the Vision and Strategy for the Waikato River).
- (b) I do not consider the PWDP process should be put on hold to implement the National Planning Standards (although I consider that there is opportunity to partially implement the Standards), the Waikato District Blueprint or Future Proof Phase 2. Schedule 1 of the Resource Management Act 1991 (**RMA**) provides a process for updating a District Plan (as a Plan Change or Variation) if necessary in the future.
- (c) I agree that the PWDP is required to give effect to the Vision and Strategy for the Waikato River in accordance with section 13(4) of the Waikato Tainui Raupatu Claims (Waikato River) Settlement Act 2010. I do not consider the approach taken by the Reporting Officer to assess the adequacy of how the PWDP has given effect to the Vision and Strategy to be sufficient to enable me to reach the same conclusion that the PWDP has adequately given effect to the Vision and Strategy.
- (d) I do not consider it appropriate at this stage to align the PWDP with Proposed Plan Change 1 (**PC1**) to the Waikato Regional Plan given the level of uncertainty in relation to PC1 and the outcomes of the hearings. I agree with the Section 42A Report that the setback rules in PC1 relate to the regional council's functions and those are, generally, separate and distinct from the functions of the district council.
- (e) I consider the structure of the PWDP should be amended to have objectives and policies of the zone in the same chapter as the

zone rules, that “activity specific conditions” should be replaced with “activity specific standards” and that the activity status for those activities with a single infringement of the permitted activity conditions be either controlled or restricted discretionary (at present many of these activities default to discretionary activities).

(f) In my opinion, there should be a zone purpose/anticipated outcomes included at the start of each zone chapter.

1.3 I have prepared a separate statement of evidence relating to requests to delay Stage 1 of the PWDP to align with the Natural Hazards Stage 2 of the PWDP.

## 2. INTRODUCTION

2.1 My name is Christopher James Scrafton. I am a Technical Director – Planning in the consultancy firm of Beca. I have over 18 years' experience in town planning.

2.2 I hold the qualifications of a Bachelor of Arts in Geography from the University of Hull (1999), and a Postgraduate Certificate and a Masters in Town Planning from the South Bank University, London (2002 and 2005 respectively). I am a full member of the New Zealand Planning Institute and I am an accredited Commissioner under the Ministry for the Environment and Local Government New Zealand "Making Good Decisions" 2006 Programme.

2.3 My previous experience of particular relevance includes:

- (a) Lead Planner in the development of the Major Recreation Zone and 17 related Precincts and supporting section 32AA Reports for the Auckland Unitary Plan (**AUP**);
- (b) Lead Planner in the development of the noise, vibration and lighting chapters of the AUP;
- (c) Lead Planner in the development of Plan Change 21 (and the supporting Section 32 Report) to the Waikato District Plan: Franklin Section (**WDP:FS**);
- (d) Lead Planner in the development of the Pokeno Structure Plan which informed Plan Change 24 to the WDP:FS;

- (e) Co-author of Plan Change 24 (and the supporting section 32 Report) to the WDP:FS;
- (f) Lead Planner for numerous chapters for the reviews of the Hamilton City District Plan, the Southland District Plan and the Southland Regional Policy Statement;
- (g) Lead Planner for the preparation of a suite of resource consent applications on behalf of TVL for the development of a tourist resort at their site in Pokeno;
- (h) Expert Planning Witness for Watercare Services Limited for PC 1 to the Waikato Regional Plan.

2.4 I have been engaged by TVL to prepare and present this planning evidence to the Hearings Panel in relation to TVL's submission and further submission points of relevance included in the section 42A Report for Hearing 2: Plan Structure and All of Plan. TVL is submitter number 574 and further submitter number 1340.

2.5 In preparing this evidence I have reviewed the section 42A Report and Appendices relating to Hearing 2 of the PWDP and Further Submissions that are relevant to TVL and the section 42A Report (see Attachment A for the list of Further Submissions).

2.6 I understand that Legal Counsel for TVL (Buddle Findlay) will be providing a further explanation of TVL's submission and related consent application packages in their opening legal submissions to the Hearings Panel on 1 October 2019. Those opening submissions are due to be submitted after this statement of evidence but will be presented to the Hearings Panel prior to Hearing 2 and as such, I do not provide that context in this statement of evidence.

2.7 In addition, Ms Fisher provided a summary of TVL's interests and submission in her statement of evidence in relation to Hearing 1: Introduction and as such, I do not repeat this detail here.

2.8 This statement of evidence addresses:

- (a) The implementation of National Planning Standards (**NPS**);<sup>1</sup>

- (b) Accommodating the Waikato District Blueprint and Future Proof Stage 2 into the PWDP;
- (c) Giving effect to the Waikato River Vision and Strategy and Alignment with Waikato Regional Plan (**WRP**) Proposed Plan Change 1 (**PC1**); and
- (d) Other TVL submission and further submission points relating to plan structure and content.

2.9 **Attachment A** to this statement of evidence contains two tables:

- (a) A table setting out the Reporting Officer's recommendations in relation to the TVL submission and further submissions on TVL's submission points (summarised from Appendix 1 of the Section 42A Report); and
- (b) A table setting out the Reporting Officer's recommendations in relation to the TVL further submission (summarised from Appendix 1 of the Section 42A Report).

2.10 I have prepared a separate statement of evidence relating to requests to delay Stage 1 of the PWDP to align with the Natural Hazards Stage 2 of the PWDP.

### 3. **CODE OF CONDUCT**

3.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

### 4. **IMPLEMENTATION OF NATIONAL PLANNING STANDARDS**

4.1 A number of submitters<sup>2</sup> have requested that the review of the Waikato District Plan be delayed and the PWDP be placed on hold to allow further work to be undertaken to align with the National Planning Standards (**the Standards**).

---

<sup>2</sup> Property Council New Zealand (198.1) and FS1340.33 and Aztech Buildings (281.1) and FS1340.36.

- 4.2 TVL has opposed this relief through further submission as, in its view, this would result in a significant increase in the time required to undertake the review of the District Plan which would, in turn, have significant cost and environmental implications.
- 4.3 The Reporting Officers note that:
- (a) *As the Standards were notified after the PWDP, WDC is not required to make the required amendments to the PWDP now but that these amendments must be made by 5 April 2024.*<sup>3</sup>
  - (b) *The complexity of re-arranging the PWDP to align with the Standards should not be under-estimated, and in my view is better left until the PWDP is substantially operative in order that the work required can be undertaken without the constraints and implications of s42A reporting deadlines and hearing timetables.*<sup>4</sup>
- 4.4 I agree with the Reporting Officer that amendments to align the PWDP with the Standards are not required until 2024 and that to undertake the exercise of aligning the PWDP with the Standards will be challenging and would add an additional layer of complexity to what is already an extensive plan review process. I also agree with TVL that delaying or deferring the PWDP to allow for the work to align it with the Standards will be costly, in terms of both time and resources. Significant time and cost for both the Council and community has been invested in the current review process.
- 4.5 In addition, I note that:
- (a) It is likely to take a significant amount of time before the PWDP is primarily operative and the requirement to align the WDP and/or the PWDP with the Standards is required by 2024, ie less than 5 years from now. In my view, it is likely that the current review process and the deadline to notify the amendments required by the Standards will either overlap or come close to overlapping.
  - (b) The cost associated with aligning the PWDP with the Standards will generally<sup>5</sup> only be delayed as opposed to being avoided by not undertaking this exercise through this plan review process.

---

<sup>3</sup> Paragraph 32, Section 42A Report – Hearing 2.

<sup>4</sup> Paragraph 34, Section 42A Report – Hearing 1.

<sup>5</sup> There could be efficiencies of undertaking this through either one or two first schedule RMA processes.

- (c) Notwithstanding the first two points above, in my view, there is currently a high degree of flux in the requirements for plan development resulting from the recent and anticipated release of a number of National Policy Statements (**NPSs**)<sup>6</sup> and other central government policy documents.<sup>7</sup> As such, further plan reviews or variations in the near future are likely to be required with or without the requirements of the Standards.
- (d) The WDP:FS is nearly 20 years old<sup>8</sup> and is largely the same District Plan that applied to the former Franklin District Council prior to the Auckland Council amalgamation in 2010. In my view:
- (i) There are numerous examples of outdated policy direction<sup>9</sup> and poor plan practice<sup>10</sup> within the WDP:FS;
  - (ii) Whilst the WDP:FS was developed under the regional policy statement for the former Auckland Regional Council, the regional policy statement that now applies is the Waikato Regional Policy Statement (**RPS**) which became operative in 2016. That is some 16 years after the WDP:FS became operative. It is likely that the WDP:FS does not adequately give effect to the current RPS.
  - (iii) There have been numerous NPSs released since the WDP:FS became operative<sup>11</sup>. It is likely that the WDP:FS does not adequately give effect to those NPSs.
  - (iv) The Vision and Strategy for the Waikato River (Vision and Strategy) was published in 2010 and as per section 13 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the WDP is required to give effect to the Vision and Strategy. In my view, it is likely that the WDP does not currently adequately give effect to the Vision and Strategy.

---

<sup>6</sup> For example, Government are currently consulting on a proposed National Policy Statement for Urban Development.

<sup>7</sup> Such as the National Planning Standards.

<sup>8</sup> Franklin District Plan was deemed operative in the year 2000.

<sup>9</sup> For example, greater restriction on activities where they require liquor licensing.

<sup>10</sup> For example there are no noise or lighting standards for the rural zone or business zone.

<sup>11</sup> For example the National Planning Standard for Urban Development Capacity.

- (e) Having regard to the above, I consider that a review of the WDP and particularly the WDP:FS is if anything overdue.
- 4.6 In considering the matters set out above, I reach the conclusion that whilst less than an ideal situation, the need to review the WDP is pressing and it is difficult to identify an optimum time in the near future to undertake a review process as the higher order policy and statutory framework is and is likely to continue to be in a state of flux. As such, I consider that the best option is to continue with the PWDP and not put the review on hold to implement the Standards.
- 4.7 I also agree with the Reporting Officer, that the opportunity exists through the review process to look to partially implement the Standards by identifying “easy wins”.<sup>12</sup> I understand a potential “easy win” to be the cross referencing recommended by the Reporting Officer<sup>13</sup>. Other recommended “easy wins” are not readily evident, as no proposed track changes have been supplied with the Section 42A Report. In my view, there are likely to be significantly more opportunities for partial implementation of the Standards through this review process.
- 4.8 I understand that the majority of the Standards relate to plan structure, eg where provisions are to be located, naming and numbering conventions and symbology used on mapping. In my view, recommending amendments to address these requirements of the standards through the review process is feasible and would significantly reduce the scope of any future review or variation process.
- 4.9 From my involvement in the AUP process, I note that the Panel significantly restructured the Proposed Auckland Unitary Plan (**PAUP**) in their recommendations to Auckland Council. This included grouping objectives and policies with the respective rules as these were split in the notified PAUP, similar to the PWDP.
- 4.10 I do agree with the Reporting Officer that amending the PWDP to implement the Standards in full, could lead to some confusion for the remainder of the hearing process<sup>14</sup>. However, I do not consider this

---

<sup>12</sup> Paragraph 35, Section 42A Report - Hearing 2.

<sup>13</sup> Paragraph 121, Section 42A Report - Hearing 2.

<sup>14</sup> Paragraph 118, Section 42A Report - Hearing 2.



insurmountable, as a table appended to the relevant Section 42A Report could identify where provisions have been relocated to.

## **5. INTEGRATION OF WAIKATO DISTRICT BLUEPRINT INTO THE PWDP**

- 5.1 A number of submitters<sup>15</sup> have requested that the PWDP process be put on hold until such time as the outcomes of the blueprinting exercise can be accommodated into the district plan, including the development of structure plans.
- 5.2 TVL has opposed this relief through further submission as, in its view, this would result in inefficiencies and will lead to poor economic, environmental and social outcomes for the District which will also delay addressing pressing environmental issues that currently need to be managed.
- 5.3 I understand the “status” and purpose of the Blueprint is to inform the Long-Term Plan, Annual Plan, and District Plan<sup>16</sup>. I understand it was prepared under the Local Government Act 2002. The Blueprint was released in June 2019 while the PWDP was notified in July 2018. As such, it is unlikely that the PWDP intentionally implements the Blueprint.
- 5.4 I note that:
- (a) The Blueprint is not a statement, plan or standard that the PWDP must give effect to in accordance with section 75(3) of the RMA; but
  - (b) As the Blueprint was prepared under the Local Government Act 2002 it could be a management plan or strategy prepared under another act in terms of section 74(2)(b). On that basis a territorial authority must have regard to when preparing a district plan; and
  - (c) It can be a relevant “other” matter to consider by WDC when processing resource consent applications in accordance with section 104(1)(c) of the RMA.

---

<sup>15</sup> Waikato Tainui (286.25) and Federated Farmers of New Zealand (680.1) Property Council New Zealand (198.1).

<sup>16</sup> Page 5, Waikato Blueprint.

- 5.5 Given there is no requirement for the PWDP to give effect to the Blueprint and for reasons set out above in section 5 of this statement, I consider that the review of the PWDP should not be put on hold to allow for the opportunity to implement the Blueprint through this review process.
- 5.6 However, the Blueprint can, and should in appropriate circumstances, inform the preparation of the PWDP and be used to assess the merits of relief sought by submitters. In my view, the opportunity to achieve this exists through this review process in a similar vein to achieving the “easy wins” identified by the Reporting Officer in the context of the Standards. Ms Fisher's evidence for Topic 1 outlines how the Blueprint supports changes sought by TVL to the Introduction.

## **6. INTEGRATION OF FUTURE PROOF STAGE 2 INTO THE PWDP**

- 6.1 A number of submissions<sup>17</sup> seeks the deferral of the hearing of the submissions on the PWDP until such time as stage 2 of the Future Proof Strategy and RPS have been completed.
- 6.2 TVL has opposed this relief through further submission<sup>18</sup> as, in its view, this would result in inefficiencies and will lead to poor economic, environmental and social outcomes for the District which will also delay addressing pressing environmental issues that currently need to be managed.
- 6.3 I agree with the Reporting Officer that the Future Proof Phase 2 update will be embedded in the RPS in due course and some of the district plan may require a further RMA Schedule 1 process in the future in order for that amended RPS to be given effect to.<sup>19</sup> As per the FutureProof website<sup>20</sup>, the Phase 2 update is currently underway. The aim of this update is to address the requirements of the National Policy Statement on Urban Development Capacity, and the Government's Urban Growth Agenda. It is anticipated that the Phase 2 update will be completed in 2020. I understand the Hamilton-Auckland Corridor Plan is also part of that Phase 2.

---

<sup>17</sup> J Francis (376.4), Aztech Buildings (281.1).

<sup>18</sup> Against Aztech Buildings (281.1) 6.

<sup>19</sup> Paragraph 55, Section 42A Report – Hearing 2.

<sup>20</sup> <http://www.futureproof.org.nz/about-us/history/>

6.4 In my view, to put the review process on hold to allow for the completion of the Future Proof Phase 2 update and then a review of the RPS would be inappropriate for the reasons set out above in section 5 of this statement. As such, I do not consider that the review of the PWDP should be put on hold to allow for the opportunity to give effect to Future Proof Phase 2 through this review process.

## **7. GIVING EFFECT TO THE VISION AND STRATEGY FOR THE WAIKATO RIVER AND THE WAIKATO-TAINUI ENVIRONMENTAL PLAN**

7.1 A number of submissions<sup>21</sup> seek to amend the PWDP to give effect to the Vision and Strategy for the Waikato River and the Waikato-Tainui Environmental Plan.

7.2 With regards to the Waikato-Tainui Environmental Plan, I note that:

- (a) The Waikato-Tainui Environmental Plan is not a statement, plan or standard that the PWDP must give effect to in accordance with section 75(3) of the RMA. However, I understand that the Waikato-Tainui Environmental Plan is a relevant planning document recognised by an iwi authority and lodged with a territorial authority. As such, WDC must have regard to the Waikato-Tainui Environmental Plan through the PWDP process, under section 74(2A) of the RMA.
- (b) The Waikato-Tainui Environmental Plan can be a relevant “other” matter to consider by WDC when processing resource consent applications in accordance with section 104(1)(c) of the RMA.

7.3 As such, I do not consider that the PWDP is required to give effect to the Waikato-Tainui Environmental Plan. Instead the substance of that plan can be assessed against the full range of other tests and considerations in the RMA.

7.4 With regard to the Vision and Strategy, I agree with the submitters that the PWDP is required to give effect to the Vision and Strategy in accordance with section 13(4) of the Waikato Tainui Raupatu Claims (Waikato River) Settlement Act and since it is now embedded in the

---

<sup>21</sup> Waikato Tainui (286.27), Waikato River Authority (642.6) Turangawaewae Trust Board (984.11).

RPS. From my experience as an expert planning witness involved in PC 1,<sup>22</sup> I understand how it can be complex to give effect to the Vision and Strategy through a lower order RMA plan.

7.5 The Reporting Officer has undertaken an assessment of the objectives of the Vision and Strategy at Appendix 3 of the Section 42A Report and provided commentary as to the adequacy of the PWDP in giving effect to these objectives.

7.6 I do not consider that the approach taken by the Reporting Officer to assessing the adequacy of how the PWDP has given effect to the Vision and Strategy to be sufficient to enable me to reach the same conclusion that the PWDP has adequately given effect to the Vision and Strategy for the following reasons:

- (a) The Reporting Officer has not identified specific provisions of the PWDP that are recommended for the purpose of giving effect to the Vision and Strategy;
- (b) The Reporting Officers analysis has only focussed on the objectives of the Vision and Strategy (which are to be pursued) and has not considered the Vision or the Strategies;
- (c) It is early in the hearing process and the need to give effect to the Vision and Strategy will be ongoing consideration throughout the entire hearing process. Only once all the hearings are complete and evidence heard will the Panel be able make a definitive assessment on the issue.

7.7 I expect the interpretation and application of the Vision and Strategy will be arise in a number of situations and so I will leave any further discussion to a specific situation when the relevant provisions and context can be looked at.

## **8. ALIGNING WITH PROPOSED PLAN CHANGE 1 TO THE WAIKATO REGIONAL PLAN**

8.1 A number of submissions<sup>23</sup> seek to amend the PWDP to provide earthwork setbacks from waterways consistent with the PC1 WRP.

---

<sup>22</sup> Which has partially been undertaken with the intent to give effect to the Vision and Strategy.

<sup>23</sup> Waikato Tainui (286.27), Waikato River Authority (642.6) Turangawaewae Trust Board (984.11).

- 8.2 TVL have opposed this relief through further submissions as it considers the relief is unnecessary given PC1 is not yet operative.
- 8.3 I agree with the view put forward by TVL and note that the hearings for PC1 concluded on 19 September 2019 and no indication has been given by the Hearings Panel through the hearings process regarding their recommendations. I am aware that a number of aspects of PC1 are highly contested and so the outcome of the hearings is uncertain. I do not consider it appropriate to align the PWDP with PC1 when there is such uncertainty.
- 8.4 I agree with the Reporting Officer that the setback rules in PC1 relate to the regional council's functions and those are, generally, separate and distinct from the functions of the district council. As a matter of planning principle each rule should relate to its intended purpose and function. In addition to the above, I also consider that duplication of controls between regional and district plans should be avoided where possible as it generally result in duplication and associated inconsistency of controls and unnecessary layers of regulation.

## **9. SUBMISSION TO AVOID DEVELOPMENT IN AREAS IMPORTANT FOR CULTURE AND RECREATION**

- 9.1 Auckland Waikato Fish and Game Council<sup>24</sup> seek amendments to the PWDP to ensure that development occurs away from areas valued for their amenity characteristics which are important for culture and recreation. This would be through provisions which would restrict development near these areas.
- 9.2 TVL opposed this relief stating that it is overly restrictive.
- 9.3 The Reporting Officer notes<sup>25</sup> that there are provisions in the PWDP which already address the submission point<sup>26</sup>, generally in relation to overlays and supporting provisions for Outstanding Natural Features and Landscapes, Significant Amenity Landscapes and Significant Natural Areas, as well as rural subdivision.

---

<sup>24</sup> Auckland Waikato Fish and Game Council (433.76).

<sup>25</sup> Paragraph 260, Section 42A Report – Hearing 2.

<sup>26</sup> Refer to para 254 for a list of key provisions that give effect to the relief sought by submission 433.76.

9.4 I have read the provisions that the Reporting Officer has identified and note:

- (a) TVL has requested amendments to Chapter 3.2 and 3.4 in relation to Significant Natural Areas (and rules) and Significant Amenity Landscapes (and rules) as notified, including the removal of the SAL on its property<sup>27</sup>;
- (b) On this basis whilst I do not support all of the quoted provisions within the Section 42A Report, I acknowledge the general intent of these overlays and the values they are seeking to protect. In my opinion protecting and managing areas containing significant waterways, lakes, indigenous vegetation, valued landscapes and features and rural subdivision will also assist in maintaining amenity values of rural areas for recreation purposes (amongst others).

9.5 I acknowledge that the maintenance and enhancement of amenity values is Part 2 matter and recreation falls within the broad ambit of section 5, but I do not consider there is any need to have an additional set of regulation in the PWDP to manage potential impacts on recreation and culture.

9.6 For these reasons I support the Reporting Officer's recommendation that the relief sought be rejected.

## **10. STRUCTURE OF THE PWDP**

10.1 TVL sought extensive relief<sup>28</sup> relating to simplifying the PWDP and integrating good plan drafting practice into the PWDP, for example:

- (a) Have the objectives and policies of the zone in the same chapter as the zone rules;<sup>29</sup>
- (b) Replace "activity specific conditions" with "activity specific standards" as the term "condition" is unclear; and

---

<sup>27</sup> Refer to TVL submission points 574.6, 574.10, 574.11, 574.13.

<sup>28</sup> Submission 574.2.

<sup>29</sup> Submission 81.13 seeks similar relief.

- (c) Amend the activity status for those activities with a single infringement of the permitted activity conditions (at present many of these activities default to discretionary activities).

10.2 I noted that the Reporting Officer discusses the submission in relation to the first point (a)<sup>30</sup> and point (b) above<sup>31</sup> but does not discuss the third point (c) above in the Section 42A Report. I address each of these points separately below:

- (a) *Have the objectives and policies of the zone in the same chapter as the zone rules:* The Reporting Officer notes<sup>32</sup> that the Standards require issues, objectives, policies and rules to be included in one chapter for specific zones or district wide matters. However, he considers this should be implemented after the PWDP is operative because it would be inefficient, challenging and confusing to do so now<sup>33</sup>. For the reasons outlined in section 5 of this Statement, I disagree with Reporting Officer and consider implementing this requirement of the Standards would constitute an “easy win” noting that this task was successfully undertaken by the AUP Panel in their deliberations.
- (b) *Replace “activity specific conditions” with “activity specific standards” as the term “condition” is unclear:* The Reporting Officer recommends this change be made and I agree with reasons given in his report and in the original TVL submission. The term condition is traditionally associated with resource consents as opposed to plan provisions and standard is more appropriate term for plans.
- (c) *Amend the activity status for those activities with a single infringement of the permitted activity conditions:* The PWDP frequently defaults activities that cannot meet (even one of) the permitted conditions to discretionary and in my opinion this is not good practice plan drafting. Section 77A(2) of the RMA provides for several classes of activity statuses to be used in plans from permitted to prohibited. It is my understanding that councils generally use the ‘controlled’ and ‘restricted discretionary’ activity

---

<sup>30</sup> Paragraphs 114 and 117, Section 42A Report: Hearing 2.

<sup>31</sup> Paragraph 142-144, Section 42A Report: Hearing 2.

<sup>32</sup> Paragraph 117, Section 42A Report: Hearing 2.

<sup>33</sup> Paragraph 118, Section 42A Report: Hearing 2.

status in instances where permitted standards or terms have been infringed and:

- (i) The effect(s) that are likely to be experienced from such infringements can be easily identified;
- (ii) The risk of 'missing' a relevant effect (and therefore being unable to assess a controlled or restricted discretionary consent application in relation to that effect) is low;
- (iii) The identified effect(s) are relatively limited and are not all encompassing (which defeats the purpose of using the controlled or restricted discretionary method). Following this the effect(s) can be converted into matters where their control is limited (for controlled activities) or where discretion is restricted (for restricted discretionary activities) for the purposes of the assessment of the resource consent application.

10.3 I therefore support the requested amendment in relation to activity status and in subsequent hearings will, where relevant, outline potential changes to the rules to implement this amendment.

## 11. **AMENDMENT TO CHAPTER NUMBERS**

11.1 TVL seeks to amend the Chapter numbers for both Appendices and Schedules as a consequential amendment as a result of the insertion of the new Chapter 29 Resort Zone.<sup>34</sup>

11.2 The Reporting Officer notes that the hearing relating to the insertion of Chapter 29 will be occurring at a later date. Should the insertion of the Resort Zone Chapter be approved consequential renumbering of chapters will be required to be consistent with the numbering format of the PWDP (para 190). I agree that this change is likely to be a consequential amendment and as such support the conclusion of the Reporting Officer.

---

<sup>34</sup> Submission 574.17.



## 12. ADDING ZONE PURPOSE

- 12.1 Waikato Regional Council<sup>35</sup> seeks the amendment of each zone chapter to provide details on the purpose and anticipated outcomes of the corresponding zone or subzone.
- 12.2 TVL provided a further submission in support of this submission as the provision of satisfactory introduction material at the beginning of zone chapters provides details on the purpose and anticipated outcomes of zones/sub zones which is helpful for a plan user. Notwithstanding this, in my view the purpose of a zone should be clearly identifiable by the themes of the objectives and policies of the zone.
- 12.3 The Reporting Officer notes:
- (a) The Standards do not require this information to be contained at the start of each zone chapter;
  - (b) When the Standards are applied to the PWDP many of the zone chapters will be amended/updated to align with the Standards zones. It is the officer's understanding that this will negate the need for a 'zone purpose'<sup>36</sup>.
- 12.4 I disagree with the Reporting Officer for the following reasons:
- (a) While the Standards do not require a zone purpose it does not preclude such introductory text being included. The Standards set out the zone names and general zone description for use by each district council.<sup>37</sup> I consider that adding district specific commentary to these general descriptions will add useful context;
  - (b) The Standards state the provision types and titles for district plans (amongst other matters)<sup>38</sup>. This list includes "*principal reasons (if stated)*" and "*anticipated environmental results (if stated)*". In my view, providing for the relief sought will assist users in interpreting and understanding the PWDP in the Waikato District context.

---

<sup>35</sup> Submission 81.2.

<sup>36</sup> Paragraph 220, Section 42A Report: Hearing 2.

<sup>37</sup> Refer Table 13 of the Standards.

<sup>38</sup> Refer Section 10 of the Standards.

12.5 Having regard to the above I consider that submission point 81.2 and FS1340.4 should be accepted.

### **13. CLARIFICATION FOR PERMITTED BUILDINGS**

13.1 Waikato District Council<sup>39</sup> seeks amendments to the PWDP to clarify that a building associated with a permitted activity is also a permitted activity if it complies with all the relevant land use building conditions for that zone. TVL supported this submission insofar that this amendment to the PWDP will make it clear to plan users if a resource consent will be required or not and aid users in the interpretation of the PWDP.

13.2 The Reporting Officer notes<sup>40</sup> that amendments can be made to the proposed plan without using the process set out in Schedule 1 of the RMA if an alteration is of minor effect (or to correct minor errors)<sup>41</sup>, and in relation to the change sought, this relief will not result in any more than a minor effect and can be done as a consequential amendment. Notwithstanding this the Reporting Officer also recommends that this submission be accepted in the instance that the Hearings Panel does not consider it a clause 16(2) matter.

13.3 I agree with the Reporting Officer that this clarification should be provided for in the PWDP. In addition, I disagree with the Reporting Officer that such a change could be enabled through section 16 of the RMA. As such, I consider that the relief sought should be accepted.

**Christopher James Scafton**

23 September 2019

---

<sup>39</sup> Submission 697.324.

<sup>40</sup> Paragraph 153, Section 42A Report – Hearing 2.

<sup>41</sup> In accordance with Clause 16(2) of Schedule 1 of the RMA.

## Attachment A – Recommendations of the s42A Report

Table 1 – Summary of the Recommendations of the s42A Report in relation to TVL's submission points (and further submissions on these submission points)

Sub point	Summary (taken from s42A Report)	s42a Recommendation
<b>TaTa Valley Limited 574.1</b>	Amend the Proposed District Plan in order to: Represent the most appropriate means of achieving the purpose of the Resource Management Act 1991; Give effect to the Waikato Regional Policy Statement; and Meet the requirements of the Resource Management Act 1991 including but not limited to section 32. AND Any consequential amendments and other relief to give effect to the matters raised in the submission.	Reject
<b>New Zealand Health Food Park FS1301.43</b>	Support submission 574.1	Reject
<b>Charlie Harris FS1303.43</b>	Support submission 574.1	Reject
<b>TaTa Valley Limited 574.2</b>	Amend the PWDP to simplify it and to represent good plan drafting practice, including (but not limited to) the following examples: - Have the objectives and policies of the zone in the same chapter as the zone rules to enable "cascade" principles; - Replace "activity specific conditions" with "activity specific standards" for permitted, controlled and restricted discretionary activities; - A single infringement of a permitted activity "condition" be classified as a controlled or restricted discretionary activity rather than a discretionary activity; AND Any consequential amendments and other relief to give effect to the matters raised in the submission.	Accept
<b>New Zealand Health Food Park FS1301.44</b>	Support submission 574.2	Accept
<b>Charlie Harris FS1303.44</b>	Support submission 574.2	Accept
<b>TaTa Valley Limited 574.17</b>	Amend the PWDP as follows; - Chapter 29 30: Appendices; AND - Chapter 30 31: Schedules AND All references to these chapters within the PWDP as required. AND Any consequential amendments and other relief to give effect to the matters raised in the submission.	Accept in part
<b>New Zealand Health Food Park S1301.59</b>	Support submission 574.17	Accept
<b>Charlie Harris FS1303.59</b>	Support submission 574.17	Accept

Table 2 – Summary of the Recommendations of the s42A Report in relation to TVL's further submission points<sup>42</sup>

Sub point	Summary	s42a Recommendation to FS
<b>FS1340.4</b>	Support submission 81.2 (Waikato Regional Council)	Reject
<b>FS1340.5</b>	Support submission 81.12 (Waikato Regional Council)	Accept
<b>FS1340.6</b>	Support submission 81.13 (Waikato Regional Council)	Reject
<b>FS1340.33</b>	Oppose submission 198.1 (Property Council New Zealand)	Accept

<sup>42</sup> Note the s42A Report does not include all relevant further submission points of TVL. Some have been inadvertently omitted and as such this list is not exhaustive.

<b>FS1340.36</b>	Oppose submission 281.1 (Aztech Buildings)	Accept
<b>FS1340.39</b>	Oppose submission 286.25 (Waikato Tainui)	Accept
<b>FS1340.40</b>	Oppose submission 286.27 (Waikato Tainui)	Accept
<b>FS1340.74</b>	Oppose submission 433.76 (Auckland Waikato Fish and Game Council)	Accept
<b>FS1340.105</b>	Oppose submission 680.1 (Federated Farmers of New Zealand)	Accept
<b>FS1340.121</b>	Support submission 697.324 (Waikato District Council)	Accept
<b>FS1340.194</b>	Oppose submission 984.11 (Turangawaewae Trust Board)	Accept