

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

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

IN THE MATTER OF A submission and further submission by TaTa Valley
Ltd on the Proposed Waikato District Plan
Topic 21b - Landscapes

BY **TATA VALLEY LTD**
Submitter

**STATEMENT OF PRIMARY EVIDENCE OF ADAM WILLIAM CHARLES JELLIE
ON BEHALF OF TATA VALLEY LTD**

Planning

Dated: 20 August 2020

BUDDLE FINDLAY
NEW ZEALAND LAWYERS
Barristers and Solicitors
Auckland

Solicitor Acting: **Vanessa Evitt / Mathew Gribben**
Email: vanessa.evitt@buddlefindlay.com / 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 My full name is Adam William Charles Jellie. I am a Senior Planner in the firm of Beca Ltd. This evidence is presented on behalf of TaTa Valley Ltd (**TVL**).
- 1.2 In this statement of evidence, I comment on the planning provisions for the Significant Amenity Landscape (**SAL**) overlay included in the Proposed Waikato District Plan (**PWDP**).
- 1.3 The key points from my statement of evidence are:
- (a) The policies related to SALs are broad and it is unclear whether the provisions relate solely to activities occurring within a SAL or adjacent to a SAL. I have recommended some refinements to Policy 3.4.3 in Section 7 of this Statement to address this;
 - (b) I support the reduction of the SAL at 242 Bluff Road and understand it matches the expert opinion of Mr Rob Pryor about the extent of the SAL, which was included in TVL's original submission. Based on the relevant landscape evidence the extent of the SAL within the notified PWDP did not meet the SAL landscape assessment criteria (as contained within the proposed new SAL Schedule and Attributes) criteria¹.
 - (c) I support the inclusion of a Schedule for identified SALs which sets out the landscape assessment criteria and attributes. However, I do not consider that the Schedule clearly sets out what the attributes are. I have recommended a minor amendment in Section 9 to address this.

2. INTRODUCTION

- 2.1 My full name is Adam William Charles Jellie. I am a Senior Planner in the firm of Beca Ltd. I have over 10 years' experience in planning.
- 2.2 I hold a Bachelor of Planning (honours) from the University of Auckland. I am a full member of the New Zealand Planning Institute.

¹ Biophysical, Sensory and Associative as set out proposed SAL Schedule and Attributes appended to the Section 42A Report for Hearing 21B: Landscapes, prepared by: Jane Macartney, 6 August 2020.

2.3 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 to Hearing 21b: Landscapes of the PWDP. TVL is submitter number 574 and further submitter number 1340.

2.4 In preparing this evidence I have reviewed the s42A Report and Appendices relating to Hearing 21b: Landscapes and further submissions that are relevant to TVL.

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. SCOPE OF EVIDENCE

4.1 My evidence will cover the following topics:

- (a) The objective and policies that apply to SALs and in particular, Policy 3.4.3;
- (b) The mapped extent of the SAL on the TVL site; and
- (c) The recommended Schedule and Attributes.

5. TATA VALLEY LIMITED'S INTERESTS

5.1 The statement of evidence prepared for TVL for Hearing 1 by Ailsa Jean Fisher and opening legal submissions for TVL set out a summary of the TVL interests and the intent of the submission. For conciseness, I do not repeat this detail here.

6. SUBMISSIONS AND FURTHER SUBMISSIONS

6.1 TVL lodged a comprehensive original submission and a suite of further submissions. Appendix A to this statement of evidence contains a table

which outlines TVL's detailed response to the s42A Reporting Officer's recommendation.

- 6.2 In summary, TVL is supportive of the recommendations of the section 42A Reporting Officer in most cases. It's original submission sought deletion of the SAL overlay entirely, but it is no longer pursuing that relief given the recommendations of the Reporting Officer.

7. OBJECTIVE AND POLICES

- 7.1 The section 42A Report Officer has not recommended any changes to Objective 3.4.1 in response to submissions. I agree with the Reporting Officer that the drafting of Objective 3.4.1 should be retained as notified.

- 7.2 The section 42A Reporting Officer has recommended the following amendment to Policy 3.4.3(a):

Maintain and enhance the attributes of identified Significant Amenity Landscapes, during subdivision, land use and development, in particular by...

- 7.3 I agree with this amendment, as in my opinion it provides a clear link to the attributes which outline the qualities and characteristics for which identified SALs are valued. These attributes are proposed to be set out in a Schedule, as recommended by the s42A Reporting Officer. I discuss the details of the Schedule below.
- 7.4 However, in my opinion there remains some uncertainty as to whether the SAL provisions may be applied to only development inside a SAL or to also to development adjacent to an identified SAL. In my opinion the attributes of a SAL will be appropriately maintained and enhanced through only regulating activities within each SAL. Those are the activities that have the most potential to adversely affect the attributes of a SAL and should be the focus of the policy framework and related provisions. The provisions should be targeted to those activities that have the greatest likelihood of adversely impacting the attributes of a SAL.
- 7.5 This approach matches the rules relating to SALs which only regulate earthworks and buildings within SALs. Amendments to the policies to clarify the application of the SAL policy framework will align the policies

better with the rules and ensure an appropriate cascade from the policies through to the rules designed to implement that policy direction.

7.6 It is good planning practice to make the provisions as clear as possible to provide certainty to land owners and decision makers. In addition, the uncertainty in the existing provisions could impact on the ability of a landowner, such as TVL, to develop land outside of a SAL and potentially add unnecessary cost with regard to obtaining resource consents.

7.7 Given this, I consider that some amendments should be made to clarify the intent of Policy 3.4.3 and limit its application to development within a SAL. Therefore, I recommend the following amendments to Policy 3.4.3:

3.4.3 Policy – Maintaining ~~and~~or enhancing Significant Amenity Landscapes

(a) Maintain ~~and~~or enhance the attributes of identified Significant Amenity Landscapes, during subdivision, land use and development within those landscapes, ~~in-particular~~ by:

(i) requiring buildings and structures to be integrated into the Significant Amenity Landscape to manage ~~minimise any~~ visual impacts on the attributes; ...

7.8 I have recommended an amendment to replace “and” with “or”. This is to make Policy 3.4.3 consistent with Objective 3.4.1, noting that this policy must implement the objective.

7.9 To ensure the policy is targeted to the mapped SAL areas, I’ve recommended the addition of “within those landscapes” to make it clear that this policy applies to subdivision, land use and development within a SAL.

7.10 I have also recommended that “minimise any” be amended to “manage” and specific reference to the attributes be included in clause (i). As currently drafted, I consider the policy is overly restrictive by requiring any visual impact to be minimised.

8. THE EXTENT OF THE MAPPED SIGNIFICANT AMENITY LANDSCAPES

- 8.1 TVL submitted on the extent of the mapped SAL within the notified PWDP on its site at 242 Bluff Road in submission 574.6. The submission contained a brief expert report by Rob Pryor of LA4 Landscapes. His expert opinion was that:

The flats within the site do not illustrate the natural formative processes of the Waikato River course throughout the district and have been highly altered with drains modifying their natural patterns. Being degraded, they do not provide a moderate level of aesthetic coherence².

- 8.2 A technical review prepared by Boffa Miskell to support the section 42A report has recommended that the extent of the SAL be reduced to retain parts of the river plains as part of the river corridor.
- 8.3 The technical review noted that the mapped area of the SAL as notified, extended into the upper modified gully arms at 242 Bluff Road, which has lower sensory values and relationships to the River. Given this, the s42A Reporting Officer has recommended that the extent of the SAL at 242 Bluff Road be reduced. This reduction appears to be consistent with Mr Pryor's expert report contained within TVL's original submission.
- 8.4 I concur with this review and note from my site visit that a stand of kahikateas are within the river margin, which form the boundary of the amended SAL.
- 8.5 For the reasons set out above and the reasons outlined by the s42A Reporting Officer, I agree with the recommendation to modify the SAL at 242 Bluff Road and agree with the new extent as shown in Attachment 8 to the s42A Report³.

² Page 42, Submission 574

³ Page 16, Attachment 8, Section 42A Report for Hearing 21B: Landscapes, prepared by: Jane Macartney, 6 August 2020

9. SCHEDULE OF VALUES AND ATTRIBUTES FOR SIGNIFICANT AMENITY LANDSCAPES

- 9.1 Submissions 826.31⁴ and 574.11⁵ sought the inclusion of a Schedule that reflects the outcomes of the Waikato District Landscape Study (WDLS), noting in particular which attributes and features mean an area of land should be identified as a SAL.
- 9.2 Five other submitters supported submissions 826.31⁶.
- 9.3 In response to these submissions, the s42A Reporting Officer has recommended that a Schedule, setting out the attributes for each identified SAL be included in the PWDP.⁷
- 9.4 I agree with the Reporting Officers recommendation that a Schedule is needed within the PWDP to assist plan users and decision makers to identify what are the relevant attributes and values that should be maintained. As I noted above it is good planning practice to make provisions as clear as possible. I also understand that the identification of attributes and values for landscape features is consistent with a number of recent planning documents such as the Auckland Unitary Plan and the Bay of Plenty Regional Coastal Environment Plan.
- 9.5 However, I consider that the recommended Schedule does not provide enough specificity on the attributes to enable a clear and robust assessment against the relevant objective and policies. For example, I consider the attributes are those listed under the “evaluation” heading in the Schedule. If my interpretation of this is correct, then an attribute heading in the table will resolve this uncertainty.

Adam William Charles Jellie

20 August 2020

⁴ Havelock Village Limited

⁵ TaTa Valley Limited

⁶ Yashili Dairy Company Limited (FS1086.31), Pokeno Nutritional Park Limited (FS1186.31), New Zealand Health Food Park Limited (FS1301.31), Charlie Harris (FS1303.31), and Genesis Energy Limited (FS1345.113).

⁷ Paragraph 543 of the s42A Report: Hearing 21b.

**Appendix A – Summary of submissions and further submissions as requested by
TaTa Valley Limited**

Submission / Further submission point	Decision requested	Recommendation of s42A reporting officer	Location of recommendation in s42A report	TVL response
574.6	Oppose the SAL at the subject site	Accept in part	15.1 & 16.1	Agree
574.11	Oppose and request include a schedule of attributes of the SAL	Accept in part	15.1 & 16.1	Agree in part
574.12	Amend policy 3.4.4(a) to elaborate on ways in which the relationship of Maaori with SALs can be provided for	Reject	5.2	Agree
FS1340.102	Oppose	Accept in part	13.1	Agree
FS1340.37	Oppose	Accept in part	13.1	Agree
FS1340.38	Oppose	Accept	14.1	Agree
FS1340.66	Oppose	Accept	5.3	Agree
FS1340.71	Support	Reject	7.1	Disagree
FS1340.96	Support	Accept	9.1	Agree
FS1340.143	Oppose	Accept	5.1	Agree
FS1340.23	Oppose	Reject	5.2	Agree
FS1340.196	Oppose	Accept	14.1	Agree
FS1340.196	Oppose	Accept	14.1	Agree
FS1340.119	Support	Reject	7.1	Agree
FS1340.84	Support	Accept in part	15.1 & 16.1	Agree in part
FS1340.184	Support	Accept in part	15.1 & 16.1	Agree
FS1340.178	Support	Accept	9.1	Agree