

**Before an Independent Hearings Panel**

**The Proposed Waikato District Plan (Stage 1)**

**IN THE MATTER OF** the Resource Management Act 1991 (**RMA**)

**IN THE MATTER OF** hearing submissions and further submissions on the Proposed  
Waikato District Plan (Stage 1):  
**Topic 25 – Zone Extents**

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**REBUTTAL EVIDENCE OF CHRIS SCRAFTON  
ON BEHALF OF TATA VALLEY LIMITED  
(PLANNING)**

**3 May 2021**

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## 1. SUMMARY OF REBUTTAL EVIDENCE

- 1.1 Overall, there is a high level of alignment between my position on the proposed TaTa Valley Limited (**TVL**) rezoning and the Reporting Officer. This rebuttal statement responds to a handful of outstanding matters raised in the Section 42A (**s42A**) report. It also responds to planning evidence filed by Ms Foley for Waikato Regional Council (**WRC**) with respect to the proposed TVL rezoning.
- 1.2 I retain the opinion (set out in my primary evidence) that the TVR Zone is the most effective and efficient method to achieve the objectives. Retaining the Rural Zone and seeking resource consents in regard to infringements under the proposed Waikato District Plan (**PWDP**) Rural Zone rules will not effectively nor efficiently enable TVL's vision for the TaTa Valley Resort (the **Resort**). Furthermore, in my view amending the Rural Zone to make the development 'fit' would reduce the effectiveness and integrity of the Rural Zone.
- 1.3 In my opinion a special purpose zone allows for a site specific policy framework, which appropriately responds to the site's context and signals the intentions and future development of the site for the community, TVL and Council.

## 2. INTRODUCTION

- 2.1 This rebuttal statement responds to:
- (a) Matters raised in the s42A report; and
  - (b) Planning evidence filed by Ms Foley for WRC.
- 2.2 I also provide a further update on tangata whenua consultation that has occurred following the submission of my primary evidence on 19 February 2021.
- 2.3 **Appendix 1** of this rebuttal evidence contains a full revised set of provisions for the proposed TaTa Valley Resort (**TVR**) Zone in track changes, based on the recommendations of the s42A Reporting Officer with my suggested amendments that are discussed in this evidence.
- 2.4 I confirm that I have the qualifications and expertise previously set out in paragraph 2.2 of my primary evidence.
- 2.5 I repeat the confirmation given in my primary evidence that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014.

### 3. RESPONSE TO SECTION 42A REPORT

3.1 I note that there is a high degree of alignment between the Reporting Officer and my primary statement of evidence on the merits of the TVL rezoning proposal. For the most part, I agree with the conclusions of the Reporting Officer, including:

- (a) The identification of relevant planning documents and assessment of relevant policies with regard to the re-zoning proposal;<sup>1</sup> and
- (b) The assessment of environmental effects of the proposal.<sup>2</sup>

3.2 However, there are some areas where the Reporting Officer has sought further comment or where I consider further clarification is required. There are some instances where the Reporting Officer has suggested additional provisions that with respect, I do not consider strictly necessary or appropriate. In this regard, I address the following key matters in this evidence:

- (a) The effectiveness and efficiency of the proposed TVR Zone in particular in comparison to the alternative of authorising the development through resource consents under the Rural Zone;<sup>3</sup>
- (b) Recommended amendments to objectives, policies and provisions<sup>4</sup> including:
  - (i) Addition of an additional objective directing the maintenance of surrounding rural character and amenity;
  - (ii) Recognition of rural commercial activities within the policies;
  - (iii) Direction to protect areas of natural value including the Waikato River within the policies;
  - (iv) Direction to include matters of discretion about the effects on cultural values;
  - (v) Direction to avoid subdivision within the policies;<sup>5</sup> and
  - (vi) Various minor amendments to rules to clarify their application.

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<sup>1</sup> Section 3, Section 42A Report, TaTa Valley Resort Zone.

<sup>2</sup> Section 4.2.24, Section 42A Report, TaTa Valley Resort Zone.

<sup>3</sup> Section 4.3, Section 42A Report: Tata Valley Resort Zone.

<sup>4</sup> Appendix 2, Section 42A Report: Tata Valley Resort Zone.

<sup>5</sup> Paragraph 131, Section 42A Report: Tata Valley Resort Zone.

- (c) Whether the Concept Plan should identify natural inland wetlands (as defined by the NPS / NES).<sup>6</sup>
- (d) Whether areas identified by Dr Martin as areas of significant indigenous biodiversity should be mapped as Significant Natural Areas (**SNAs**).<sup>7</sup>

### **Effectiveness and efficiency of the proposed TVR Zone**

- 3.3 Whilst agreeing that the TVR Zone is the most effective and efficient way to achieve the objectives of the site, Mr Wyeth considers that this conclusion is ‘finely balanced’ and that the key remaining question for the evaluation of TVL's rezoning request is whether the special purpose zoning is strictly necessary or could alternatively be achieved via the PWDP Rural Zoning<sup>8</sup>.
- 3.4 I agree with Mr Wyeth's conclusion that the TVR Zone is the most appropriate means to achieve the objectives of the site. However, in summary I do not consider that this conclusion is finely balanced, but instead clearly weighed in favour of the TVR Zone (as opposed to retaining the Rural Zone and seeking resource consents in regard to infringements under the Rural Zone rules):
- (a) The Rural Zone (as notified and as per the recommended amendments from Hearing 18) does not contemplate or enable TVL's vision for the Resort. This means (a number of) resource consents will be required to enable the development and any subsequent phases. Neither does the policy framework effectively provide for such development or signal a clear intent to the community as to the Site's intended use. This creates uncertainty (and risk to the landowner) about whether the development can or will proceed;
  - (b) A special purpose zone allows for a site specific policy framework, which appropriately responds to the site's context and signals the intentions and future development of the site for the community, TVL and Council. It also enables the efficient future operation of the Site; and
  - (c) Amending the Rural Zone to make the development ‘fit’ would reduce the effectiveness and integrity of the Rural Zone.

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<sup>6</sup> Paragraph 66(b), Section 42A Report: Tata Valley Resort Zone.

<sup>7</sup> Paragraph 87, Section 42A Report: Tata Valley Resort Zone.

<sup>8</sup> Paragraph 151, Section 42A Report: Tata Valley Resort Zone.

*The Resort will not be efficiently enabled via the Proposed Waikato District Plan Rural Zone*

- 3.5 I acknowledge that the Reporting Officer for Hearing 18 has recommended a number of amendments to the Rural Zone which, if accepted by the Panel, could go some way towards better enabling the Resort within the Rural Zone.<sup>9</sup>
- 3.6 A complicating factor in relying on these amendments is that the Rural Zone provisions (as amended by the s42A report for Hearing 18) are recommendations only and there is no certainty they will be accepted by the Panel as part of the decision making. However, I have assumed for the purposes of my rebuttal that the Hearing 18 version of the Rural Zone provisions are the latest set of provisions to consider. In summary, even if those recommended Rural Zone provisions are adopted I do not consider they will be appropriate for the Tata Valley Report. I have set out my reasoning as follows.
- 3.7 Considering these recommended changes, I note that consent would be required for (amongst others) a discretionary activity for building coverage exceeding 5,000m,<sup>2</sup> rural-commercial activities and for visitor accommodation exceeding 5 people.<sup>10</sup> With this in mind, I agree that it would be possible (but likely challenging) to seek the required resource consents through the PWDP Rural Zone and Rural provisions. However, I do not consider that this would be the most effective or efficient approach given:
- (a) The vision for the TVL site is not well aligned with the objectives and policies of the Rural Zone (as amended by the s42A Report), which would make applying for consents challenging and increase the risk of applications being declined under the PWDP. Key examples of this misalignment in my view include:
- (i) Objective 5.3.1<sup>11</sup> requires rural character and amenity to be maintained. While I note that the vision for the site is to (amongst other things) promote rural tourism, industry and related activities, in my opinion given the scale of development and nature of activities proposed in parts of the site (specifically the Hotel Precinct), the development is unlikely to be considered as 'maintaining' on-site rural character and amenity in all

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<sup>9</sup> Changes include:

- New objective and policies that provide for 'rural commercial activities', to be restricted discretionary activities outside an urban expansion area.
- Visitor Accommodation for over 5 people to be a discretionary activity.
- Temporary events (up to 6 per year) to be a permitted activity (otherwise a discretionary activity).
- Building coverage to not exceed 5,000m<sup>2</sup> as a permitted activity (otherwise a discretionary activity).

<sup>10</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020.

<sup>11</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020.

areas, particularly when considering how rural character and amenity is described in policy 5.3.2 below.

- (ii) Policy 5.3.2(a) of the Rural Zone<sup>12</sup> identifies characteristics of the District's rural environment; this includes activities of market gardens, intensive horticulture, dairy farming and equine activities, extensive sheep and beef farming, exotic forestry, and native bush areas. In my view a number of proposed Resort activities do not clearly align with these 'characteristics' although in my view it will still comprise a mix of commonly acknowledged rural based activities e.g. the farm park.
- (iii) Objective 5.1.1(a)(iii)<sup>13</sup> provides for rural commercial activities (amongst others) whilst maintaining or enhancing the rural environment. Whilst the Reporting Officer suggests that the amendments are more enabling of rural commercial activities which better provide for the activities proposed at the Resort<sup>14</sup>, I consider it inappropriate for the Rural Zone to support activities such as those proposed as part of the Resort throughout the full extent of the Rural Zone. In my view, applying rural commercial activities in this way (as part of the Rural Zone) risks diluting the functionality of the Rural Zone (which I discuss later in this rebuttal evidence).
- (iv) Objective 5.1.1(a)(iv)<sup>15</sup> seeks to avoid activities that have no functional need to locate in the Rural Zone. In my view, there is a functional need for the resort to be located within a rural *environment* or locale (given its reliance on the rural environment), but not the Rural Zone (as contained within the PWDP), as the characteristics of the development are distinct and not applicable on a rural-wide basis.
- (v) Policy 5.3.10<sup>16</sup> provides for temporary events to occur as long as permitted noise limits for the zone are not exceeded. The proposed "special noise events" would be inconsistent with this policy given the definition of a special noise event is one where the noise limits of the TVR Zone are exceeded, and a certain number of special noise events are provided for as a permitted activity.

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<sup>12</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020.

<sup>13</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020.

<sup>14</sup> Paragraph 60, s42A Report, Hearing 25: Zone Extents (TaTa Valley Resort).

<sup>15</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020.

<sup>16</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020.

- (b) Policy 5.3.17<sup>17</sup> provides for buildings and structures in the rural environment “*as necessary components of farming and rural-related activities*” and seeks to manage the size of such buildings and structures to maintain rural character, amenity, and landscape values. As noted previously, whilst some parts of the Resort are rural-related, others are less so (e.g. Hotel) and would therefore struggle to meet the necessity requirement of this policy. Again, the policy seeks to maintain rural character and amenity and I refer to my comments on policy 5.3.2 above in this regard.
- (c) Whilst some ‘rural tourism’ activities are provided for in the Rural zone (falling under the definition of ‘rural commercial’), these are typically only provided for up to a certain size and scale. The types of activities sought on the TVR site are unique and would typically exceed what is provided for in the Rural provisions. This could result in two adverse outcomes; firstly, that TVL’s consent applications are declined regularly (following potentially lengthy and costly consenting processes) as they exceed the Rural Zone provisions, or that TVL’s applications are regularly approved and a precedent is set in terms of a scale of development deemed acceptable throughout the Rural Zone that was not anticipated by the provisions.
- (d) I understand the development of the Resort will be undertaken in stages. As such, progression of development of the Resort under the Rural Zone would be subject to ongoing resource consent applications such as for the activities mentioned in paragraph 3.7 above as well as any necessary operational and maintenance activities. This places a greater level of cost (i.e. to prepare resource consent applications, associated technical assessments and processing costs), and greater level of uncertainty for the developer of outcomes of the consent process.
- (e) The TVR Zone provides greater flexibility to TVL in the future development of the Site, since TVL will not be restricted to the scope of the resource consents, is not required to give effect the resource consent within a certain period of time and allows TVL to amend aspects of the proposal in the future. This will be essential to the efficient ongoing operation and maintenance of the Resort facility and provide for certainty of investment.

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<sup>17</sup> Refer to Appendix 2 of Rebuttal Evidence Hearing 18: Rural Zone – Land use, 24/9/2020

*Enabling the TaTa Valley Resort via the PWDP Rural Zone – effect on the integrity of PWDP Rural Zone*

- 3.8 Putting aside the more fine-grained analysis of whether the PWDP provides an appropriate consenting framework for the proposed development and ongoing operation of the Resort, in my opinion, the Rural Zone (as amended by the s42A report) does not provide an appropriate policy platform for the development contemplated for the Site. Neither does the Rural Zone provide appropriate certainty or visibility to the community or TVL with regard to how the site is proposed to be developed. In my view, for the Rural Zone to be appropriate for the Resort, additional amendments would be required to the Rural Zone<sup>18</sup>. This would potentially risk enabling activities similar in function or scale to the Resort throughout the Rural Zone which in my view, would be an inappropriate outcome.
- 3.9 A fairly wide range of activities, from small-scale farming to large industrial complexes, are already provided for in the Rural Zone, in my view, adding further enabling provisions to the Rural Zone to provide for the Resort and associated tourist activities would risk broadening the scope of Rural Zone activities and potential effects, create uncertainty on outcomes for the broader zone and would be unwieldy for plan users. Mr Wyeth makes this point in his report<sup>19</sup>, where he notes that determining whether TVR proposals are consistent with the already broad Rural Zone objectives and policies could be a confusing task for both Council planners and TVL.

*Consent route is viable due to current applications*

- 3.10 Mr Wyeth considers that it is possible to manage the anticipated Resort activities through the PWDP Rural Zone and Rural provisions and that this is evident by the fact that TVL are already in the process of obtaining relevant resource consents to develop the Resort<sup>20</sup> under the operative Waikato District Plan – Franklin Section (**OWDP**).
- 3.11 I do not consider that the fact that TVL has applied for resource consents under the OWDP should be confused with the feasibility of attaining resource consents for the development of the Resort under the PWDP Rural Zone and Rural provisions, particularly given no decision on the lodged resource consents has yet been made and so there is there no certainty that the required resource consents will be approved under the Operative District and regional plans.

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<sup>18</sup> For example, providing for (a level of) permitted rural commercial activities and increasing permitted site coverage

<sup>19</sup> Paragraph 124(c), s42A Report, Hearing 25: Zone Extents (TaTa Valley)

<sup>20</sup> Paragraph 68, Section 42A Report: Tata Valley Resort Zone

### *Conclusion on appropriateness of site specific zoning*

- 3.12 Considering the evidence set out above as well as the matters discussed in my primary evidence (including s32AA Report), I maintain the view that the TVR Zone is a more effective and efficient approach to achieving the objectives for the Resort and the Act.
- 3.13 The development of the TVR Zone provisions has been informed by a number of technical assessments and expert recommendations. This work has enabled the provisions to be refined and specific to the proposed development, instead of relying on broader Rural Zone provisions which need to be sufficiently broad to reflect the nature of the Rural Zone and as such cannot be as nuanced. In my opinion using the Rural Zone provisions, even with the recommended amendments in place, does not provide the same level of efficiency and effectiveness that is enabled by the holistic and integrated approach proposed as part of the TVR Zone.
- 3.14 Whilst the special purpose (TVR) zone provisions still trigger resource consent requirements for certain activities, the objectives, policies and rules have been crafted specifically for the Zone in an integrated manner and will ensure a targeted effects management regime that has been developed for the activities contemplated for the Zone taking into account site constraints. This provides clear expectations as to the type of development that is considered appropriate, improves clarity in respect to the resource consent process and ensures appropriate effects management. Finally, I consider that the TVR Zone provides certainty for the submitter, community and WDC in terms of activities proposed for the site.
- 3.15 I also record for completeness that both the Reporting Officer<sup>21</sup> and I agree that the special purpose zone is the most appropriate method having regard to the requirements of the National Planning Standards 2019.

### **Recommended amendments to objectives, policies and provisions**

- 3.16 Mr Wyeth has suggested a number of amendments to the wording of objectives, policies and standards which I respond to below. To summarise, these amendments are:
- (a) Addition of an additional objective directing the maintenance of rural character and amenity;
  - (b) Recognition of rural commercial activities within the policies;

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<sup>21</sup> Paragraph 69, s42A Report, Hearing 25: Zone Extents (TaTa Valley).

- (c) Direction to protect areas of natural value including the Waikato River within the policies;
- (d) Direction to avoid subdivision within the policies;
- (e) Various minor amendments to rules.

*Maintenance of rural character and amenity*

- 3.17 Mr Wyeth notes that the proposed objectives and policies are overly focused on enabling the development of the Site and have insufficient focus on managing adverse visual and landscape effects from the development and the operation of the Site<sup>22</sup>. He recommends adding an additional objective and amending Policy 4 to address this. In my view, the TVR zone policy framework strikes an appropriate balance between enabling development and effects management.
- 3.18 However, I agree with Mr Wyeth that further recognition of rural character and amenity could be acknowledged within the objectives and policies. Having regard to the recommendations of the Reporting Officer for the Rural Zone provisions (specifically proposed Policy 5.3.2), I do not agree with the additions proposed by Mr Wyeth as I consider that Policy 5.3.2 as proposed adopts too narrow a definition of the rural environment and that this policy would influence the interpretation of rural character and amenity within the TVR Zone, so I have suggested some alternative text. In making this recommendation, I also note that Mr Pryor has commented on this matter in his primary evidence (paragraphs 9.2 and 9.9) and concludes the provisions (including those seeking to manage adverse effects on the amenity and character values of the surrounding rural environment) are appropriate.
- 3.19 To address this, I recommend amendments to Objective 29.1(O2) as follows as opposed to an entirely new Objective 29.1(O3):
- 29.1(O2)** *The TaTa Valley Resort is developed and operated while avoiding, remedying or mitigating adverse effects on the environment as far as practicable including on the character and amenity of the surrounding rural environment*
- 3.20 In my view, it is unnecessary to have a separate objective with respect to the surrounding rural environment when this part of the broader environment on which all effects should be managed.
- 3.21 I also propose amending corresponding Policy 4 as follows:

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<sup>22</sup> Paragraph 95, Section 42A Report: Tata Valley Resort Zone.

**29.2 (P4)** *Manage the adverse effects of the establishment and operation of the TaTa Valley Resort ~~by te:~~*

- a. ~~Protecting and restoreing the having regard to the~~ *values of the Waikato River*
- b. ~~Maintain Having regard to the and the~~ *amenity and character values of the surrounding rural environment*
- c. ~~Ensure-Providing for the safe and efficient operation and functioning of the surrounding traffic network~~
- d. ~~Recogniseing and provideing for cultural values~~

*Rural commercial activities*

3.22 Mr Wyeth recommends amending Policy 1 to provide for “rural tourism as a rural commercial activity including recreation activities”. I do not support this recommended change. While the TVR site is located within a rural environment, not all tourism activities anticipated on the site will fall neatly under the definition of a ‘rural commercial activity’. I consider ‘rural tourism’ a sufficiently specific phrase which provides some guidance around the nature of tourism activities that are anticipated and allows for a range of activities to occur on site. Other plan provisions, such as those relating to noise, lighting and traffic, will provide additional guidance around the management of these activities to manage effects on the surrounding rural environment.

*Protection of natural values including the Waikato River*

3.23 I agree with Mr Wyeth’s proposed amendments to Policy 29.2(P4)(a) which strengthen alignment with the Waikato Regional Policy Statement<sup>23</sup> and Te Ture Whaimana – Vision and Strategy for the Waikato River.<sup>24</sup>

3.24 However, I disagree with proposed amendments to Policy 29.2(P3)(c) as I consider that, given the TVR Zone has adopted the district wide approach to management of SNAs and Maaori Sites of Significance, it is more appropriate that the district wide objectives and policies apply.

*Avoidance of subdivision is inappropriate*

3.25 Mr Wyeth notes that the proposed TVR Zone provisions do not include any rules or associated provisions relating to subdivision, and that he understands that there is no intent to subdivide the Site and the two parcels are intended to be managed in an integrated manner in accordance with the proposed Concept Plan.<sup>25</sup> As such, Mr Wyeth recommends addition to Policy 29.2(P3)(d) to avoid subdivision within the Zone.

<sup>23</sup> For example, Objective 3.1, 3.9, 3.16 and 3.21 of the Waikato Regional Policy Statement.

<sup>24</sup> For example, Objectives (a), (b), (e), (i) of the Vision and Strategy for the Waikato River.

<sup>25</sup> Paragraph 131, Section 42A Report: Tata Valley Resort Zone.

- 3.26 I also understand that there is no intent to subdivide within the Zone at this stage, however, I do not consider that this will necessarily always be the case nor that any subdivision would need to be avoided in all circumstances. In my view subdivision should be provided for where it is demonstrated that it is consistent with the surrounding rural environment and the efficient operation of the Resort.
- 3.27 By way of example, one of the underlying parcels subject to the rezoning submission is proposed to have split zoning with the adjacent “Havelock Village” proposal (which seeks to change the land use zone from Rural to Residential). It is likely in the future that subdivision of the parcel will be desired to enable either a Rural lot or series of Countryside Living lots (dependant on the decision of the Panel regarding that rezoning proposal). Whilst this scenario would not involve subdividing within the TVR Zone, it would involve subdividing the underlying parcel, which is partially zoned TVR Zone, and in my view having an “avoid” subdivision policy in this scenario would create unnecessary complexity and uncertainty. This is because in my opinion such a directive policy would indicate that subdivision is essentially prohibited, which I do not consider appropriate in this context and without adequate resource management based justification.
- 3.28 I consider that subdivision consistent with that anticipated in the surrounding rural environment would be appropriate whereas a denser more urban form of subdivision would not. As such, I recommend the deletion of this proposed policy amendment and the addition of provisions which adopt the Rural Zone subdivision standards (with the addition of a TVR Zone specific criterion being *the extent that subdivision is consistent with the efficient operation of the Tata Valley Resort*) and this is shown in the updated provision set in **Appendix 1**.

*Other proposed amendments to provisions*

- 3.29 Mr Wyeth has recommended an additional clause to Rule 29.5.14 (special noise events) to limit capacity to 500 people. In my view, this amendment is not necessary because special events are also bound by Rule 29.4.24 with respect to temporary activities (where the 500 capacity limit is set) and therefore including the capacity limit in Rule 29.5.14 would be repetitive and unnecessary.
- 3.30 Mr Wyeth also proposes additions to Rule 29.6.21 to provide more clarity around what is required for a Temporary Traffic Management Plan (**TTMP**). I agree with the proposed amendment as this will provide guidance with respect to the contents of the TTMP. Mr Hills also agrees with this amendment. The suggested amendments are included in **Appendix 1**.

### **Identification of natural wetlands in the concept plan and identification of areas as SNAs**

3.31 Mr Wyeth recommends the identification of natural inland wetlands in the Concept Plan, as defined by the NPS/NES<sup>26</sup>. I do not consider this to be necessary or appropriate.

With respect to this matter:

- (a) I note that District Councils are not required to identify and map these areas within the District Plan; such a requirement to map these wetlands falls with Regional Councils to implement<sup>27</sup> as does the overseeing and application of the NES itself. In addition, the NES applies irrespective of any mapping (i.e. wetlands that meet the definition of 'natural wetland' are regulated under the NES regardless if they are mapped or not). As such, I do not agree with the recommendation to identify natural inland wetlands on the Concept Plan.
- (b) In addition, I also note that, MfE has just released draft guidance designed to provide clarification on the definition of 'natural wetlands' and 'natural inland wetlands'. MfE is seeking public feedback until May 2021. The nature of the wetlands in question may also change over time and it is more appropriate to assess the area at the time that approvals for development are being sought.

3.32 Mr Wyeth also recommends that areas identified by Dr Martin as areas of significant indigenous biodiversity should be mapped as SNAs in the Concept Plan<sup>28</sup>. In relation to this point, I note that the TVR Zone Concept Plan includes mapped areas of significant indigenous biodiversity. I set out my position on this in the s32AA report appended to my original evidence, but in short I consider it appropriate to apply the PWDP approach to SNAs, so that the areas of significant indigenous biodiversity onsite are managed in line with how SNAs are proposed to be managed across the district.

### **Effects on cultural values**

3.33 Mr Wyeth recommends that the TVR Zone should include a new matter of discretion about effects on cultural values<sup>29</sup> in respect to Activity A32 – activities within a māori site of significance. I agree with Mr Wyeth's suggestion noting the original set of TVR provisions included a similar matter of discretion in regard to buildings in proximity to

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<sup>26</sup> Paragraph 66(b), Section 42A Report: Tata Valley Resort Zone.

<sup>27</sup> Policy 3.23 of the National Policy Statement: Freshwater Management 2020.

<sup>28</sup> Paragraph 87, Section 42A Report: Tata Valley Resort Zone.

<sup>29</sup> Paragraph 135, Section 42A Report: Tata Valley Resort Zone.

water bodies<sup>30</sup>. The provisions have now been amended to include this matter of discretion for activities within a māori site of significance as follows:

**29.6.23 Any activity within a Māori site of significance**

**a. The extent of any cultural effects of undertaking the activity within the Māori site of significance and the adequacy of proposed measures to manage these effects.**

**4. EVIDENCE OF MS FOLEY FOR WAIKATO REGIONAL COUNCIL**

- 4.1 Ms Foley opposes the proposed rezoning and seeks to wait for the outcomes of the resource consent process to determine if a zone change is necessary<sup>31</sup>.
- 4.2 As noted in my primary evidence, TVL have lodged a number of resource consents with both WRC and WDC to enable the development of the Resort and processing of these consents is ongoing with section 92 requests made and largely responded to<sup>32</sup>. In addition, some redesign of the proposed development is also ongoing to respond to recent statutory changes such as the National Environmental Standard for Freshwater 2020 (**NES:F**) coming into effect. Under the OWDP, resource consent is required for a non-complying activity to authorise the proposed development.
- 4.3 As I described above, no decision on the lodged resource consents has yet been made and nor is there any certainty that the required resource consents will be approved under the current district and regional plans. However, I note that TVL commissioned a number of experts to prepare technical reports to inform the assessment of effects required for the resource consent process. In my view, TVL has demonstrated (through a significant investment in time, cost and resources) their intentions for the site and commitment to the project. It is the intention of TVL to work with Waikato District Council (WDC), as well as other stakeholders and tangata whenua, to achieve a successful outcome.
- 4.4 I address the merits of the proposed zoning approach in Section 3 above noting that it provides certainty in regard to the continued development and operation of the site and allows for integrated management of the Resort. In addition to the commentary in section 3, I do not consider it necessary to wait for the outcome of the resource consent process to determine if a zone change is necessary for the following reasons:

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<sup>30</sup> Provision 29.6.5, TVR Provisions

<sup>31</sup> Paragraph 27.1, rebuttal evidence of Miffy Foley, 10 March 2021

<sup>32</sup> I note that TVR is currently waiting on feedback from tāngata whenua to inform the response

- (a) I am not aware of a requirement within the RMA that requires resource consents to be confirmed in advance of rezoning land;
- (b) In my view, it would be inefficient to require a further first schedule process outside of this plan review process and as per clause 25(4)(b) of the first schedule of the RMA, Council may reject such a request for a plan change within the first two years of a plan review taking place;
- (c) Although the outcomes of the two processes are similar (in that they both seek to enable development of the land for a Resort), the statutory tests and considerations under the RMA are different and in that respect are not interdependent on each other;
- (d) The supporting technical information and evidence provided with the submission is adequate for the Panel to make a decision on the re-zoning proposal;
- (e) There will likely be subsequent phases of development and ongoing operational requirements over and above the development that would be enabled under the current resource consent application with Council at present. Accordingly, a special purpose zone provides clear signal to the public about future development of the Site. The consent packages and rezoning applications were always intended to be complementary and work in tandem to provide for the Resort development.

## **5. UPDATE TO PANEL ON TANGATA WHENUA CONSULTATION**

- 5.1 Since the submission of my primary evidence on 19 February 2021 I have been involved in further consultation with tangata whenua to discuss the rezoning proposal and evidence, including hui on 5 and 17 March to outline the proposal and evidence submitted.
- 5.2 Two key pieces of feedback from tangata whenua with respect to the provisions were:
  - (a) The proposed policy 29.2(P6) should be strengthened to specifically outline what buildings are acceptable within the 37m setback to the Waikato River. I agree that this amendment is appropriate and provides greater certainty and guidance as to land use and development outcomes within the Waikato River setback. Subsequent to this, I have amended proposed policy 29.2(P6) as set out in Appendix 1 to this rebuttal.

- (b) Consideration should be made as to the application of the Cultural Management Plan (CMP) to the provisions. At the time of writing this rebuttal, the CMP remains in draft format and is not ready to be publicised, however, I note the following:
- (i) The general purpose of the CMP is to provide a framework that sets out a collaborative approach between mana whenua and TVL to recognise, provide for, and - where possible - enhance, the cultural landscape.
  - (ii) The application of the CMP is broad and includes matters relevant to both district and regional planning matters as well as Heritage New Zealand Pohere Taonga and other relevant legislation.
  - (iii) The CMP is 'action focused', setting out roles and responsibilities as well as methods to mitigate potential effects on the cultural landscape, and is a 'live' document which will be updated when required.
- (c) Given the status of the CMP, its wide-ranging content and its 'live' nature I do not think it is appropriate to include it in the PWDP itself (e.g. as an appendix or similar to the TVR Zone chapter). However, relevant matters or outcomes within the CMP can be (and have been) incorporated or reflected in the provisions, as summarised in paragraph 6.7 of my primary evidence, and more specifically including:
- (i) Policy 29.2(P4) which seeks to manage adverse effects of the Resort having regard to the values of the Waikato River;
  - (ii) Policy 29.2(P6) which I have discussed above;
  - (iii) Including a trigger for resource consent for any activity within a maaori site of significance (e.g. the paa site). I note that the provisions within Appendix A of my primary evidence did not include specific matters of discretion with respect to this activity, in the updated provisions attached to this rebuttal as Appendix 1, new matters of discretion (rule 29.6.23) are now proposed;
  - (iv) Matters of discretion for rule 29.6.5 (in respect to buildings infringing the water body setback) includes consideration of effects on cultural values;

- (v) Matters of discretion for rule 29.6.16 (in respect to visitor accommodation that is not permitted) includes consideration of cultural effects, particularly on the values of the Waikato River.
- (d) In my opinion, where practicable the intent of the CMP has been adequately incorporated into the provisions.

## **6. CONCLUSION**

- 6.1 I remain of the view (which I outlined in my primary evidence) that the special purpose TVR Zone is the most efficient and effective method to achieve the objectives.
- 6.2 In my opinion a special purpose zone allows for a site specific policy framework, which appropriately responds to the site's context and signals the intentions and future development of the site for the community, TVL and Council.
- 6.3 For completeness I have considered the proposed amendments outlined in Appendix 1 in terms of section 32AA of the Act. In light of the new material provided through the section 42A report I consider that the amended TVR Zone provisions are the most appropriate way to achieve the purpose of the Act and to implement the objectives and policies of the TVR Zone itself.
- 6.4 I remain in support of relief sought by TVL subject to minor amendments outlined in attached amended provisions.

**Chris Scrafton**

3 May 2021

## APPENDIX 1 – REVISED SET OF TATA VALLEY RESORT ZONE PROVISIONS

Black text underline (additions) and ~~strikethrough~~ (deletions) recommendations from the s42A report  
Red text underline (additions) and ~~strikethrough~~ (deletions) TVR recommendations in response to section 42A report

### **TaTa Valley Amended Resort Zone Provisions – as of 3 May 2021**

#### **29.1 Objectives**

**29.1(O1)** The TaTa Valley Resort is enabled to operate as a regionally significant rural tourism and recreation facility.

**29.1(O2)** The TaTa Valley Resort is developed and operated while avoiding, remedying or mitigating adverse effects on the environment ~~as far as practicable~~ including on the character and amenity of the surrounding rural environment

~~**29.1(O3)** The development and operation of the TaTa Valley Resort maintains the character and amenity of the surrounding rural environment.~~

#### **29.2 Policies**

**29.2 (P1)** Enable the development and operation of the TaTa Valley Resort for all of the following primary activities:

- a) Visitor accommodation; and
- b) Rural tourism ~~as a rural commercial activity,~~ including recreation and entertainment activities.

**29.2 (P2)** Enable activities to establish onsite which are compatible with, or accessory to, the primary activities of the TaTa Valley Resort including:

- a) Ancillary ~~rural~~ commercial and retail activities;
- b) Conservation activities;
- c) Concerts, events and ancillary temporary buildings and structures;
- d) Workers accommodation; and
- e) Accessory buildings.

**29.2 (P3)** Develop and manage the TaTa Valley Resort zone in general accordance with the Concept Plan (attached as Appendix 1 to Chapter 29) including:

- a) Establishment of a large scale hotel in the Hotel Precinct ~~concept plan area~~
- b) Establishment of lower density visitor accommodation, rural tourism and recreation activities outside of the concept plan area
- ~~c) Protection of identified Significant Natural Areas, Areas of Significant Indigenous Biodiversity, Significant Amenity Landscape, and Māori Site of Significance~~
- ~~d) Avoid subdivision within the TaTa Valley Resort zone.~~

**29.2 (P4)** Manage the adverse effects of the establishment and operation of the TaTa Valley Resort by (to):

- a) Protecting and restoring the ~~having regard to the~~ values of the Waikato River
- b) Maintain Having regard to the ~~and the~~ amenity and character values of the surrounding rural environment
- c) Ensure Providing for the safe and efficient operation and functioning of the surrounding traffic network
- d) Recognising and providing for cultural values

**29.2 (P5)** Recognise that establishing and operating the TaTa Valley Resort may result in a greater scale of development than what may typically be found in the rural environment.

**29.2(P6)** Buildings within 37m of the Waikato River ~~shall demonstrate~~ **must have** a functional or operational need to be located in proximity of the Waikato River **(for example, river access structures and ancillary buildings such as waiting areas).**

### **29.3 Rules - Activity Table**

The activities below apply to both the Zone and the Hotel Precinct unless otherwise specified.

*Drafting Note: Where the rules propose to replicate recommended provisions of the Rural Zone (as per recommendations of the Reporting Officer in respect of Hearings 18, 21A and 21B), these are highlighted in green with the applicable Rural Zone rule footnoted. TVL are conscious that as per the Hearing Panel directions the plan will ultimately be reformatted to match National Planning Standards requirements, the provisions have been drafted in a manner to ease the hearing process:*

- *In some instances, the (Rural Zone) rule has been replicated in full for ease of use where it is likely that further discussion is required in respect to its application in the TVR Zone (e.g. built form rules).*
- *Other rules which are less likely to require discussion (e.g. earthworks, vegetation clearance) are simply cross referenced for conciseness.*
- *If elements of the Rural Zone rule are not applicable to the site (i.e. references to building setbacks to State Highways, which does not apply for the TVR Zone) these have not been replicated in the TVR Zone rules for simplicity and conciseness.*

*The documents referenced are:*

- *Appendix 1 of Closing Statement Hearing 18: Rural Zone – Land use 23/10/20*
- *Attachment 2 of Concluding Hearing Report – Hearing 21B Landscapes 22/10/20*
- *Appendix 2 of Rebuttal Evidence Hearing 21A: Natural Environments – Indigenous Vegetation and Habitats, November 2020.*

*Zone specific definitions are included at the end of provisions for ease of reference.*

	<b>Activity<sup>33</sup></b>	<b>Status</b>
A1	Farming	P
A2	Produce Stall	P
A3	Equestrian Centre	P
A4	Free range pig or poultry farming	P
A5	Community facility	RD
A6	Horse Training Centre	P
A7	Rural industry	RD
A8	Conservation Activities	P
A9	Earthworks	P
A10	Earthworks for the maintenance of existing tracks, fences or drains within a Significant Amenity Landscape – Waikato River Margins and Lakes	P
A11	Vegetation clearance outside of a SNA	P
A12	Vegetation clearance inside a SNA	P
A13	Vegetation clearance inside a SNA not complying with the standards in 29.5.7	D
A14	Storage of hazardous substances	P
A15	Storage of hazardous substances not complying with the permitted activity standards	D
A16	Signs	P
A17	Visitors accommodation within Hotel Precinct	RD
A18	Visitors accommodation outside the Hotel Precinct	P

<sup>33</sup> Activities A1-A17 are replicated from the Rural Zone provisions, as set out in Appendix 1 of the Closing Statement Hearing 18: Rural Zone – Land Use

	<b>Activity<sup>33</sup></b>	<b>Status</b>
A19	Permanent buildings for visitor accommodation outside of the Hotel Precinct that do not meet permitted standards but are no greater than: a) 10m in height; and/or b) 2,000m <sup>2</sup> building coverage	RD
A20	Workers accommodation	P
A21	Ancillary retail	P
A22	Ancillary commercial services	RD
A23	Ancillary offices	P
A24	Helicopter take offs and landings	P
A25	Informal recreation	P
A26	Entertainment activity	P
A27	Temporary events	P
A28	Special noise events	P
A29	Any permitted activity listed in Table 29.3 within a Māori site of Significance	RD
A30	Subdivision	RD
A31	Activities not complying with one relevant permitted activity standard in 29.4 or 29.5	RD
A32	Activities not complying with two or more relevant permitted activity standards in 29.4 and 29.5	D
A33	Activities not otherwise provided for	D

## **29.4 Standards - General**

All permitted activities listed in Table 29.3 must comply the following standards unless otherwise specified including within the Activity Specific Standards below. For the avoidance of doubt the Activity Specific Standards take precedence over the general standards.

### **29.4.1 Access**

- a) Access and egress to and from the Zone for all activities except for farming must be via an eastern entrance to the resort as shown on the Concept Plan as *Proposed Yashili Road Connection*.

### **29.4.2 Parking**

- a) All parking associated with activities occurring within the TVR Zone must be accommodated within the TVR Zone.

### **29.4.3 Building Height<sup>34</sup>**

- a) The maximum height of any building or structure must not exceed 15m, except:
  - (i) The maximum height is 10m where located within 50m of a road or internal boundary;
  - (ii) In a Significant Amenity Landscape the maximum height of any building must not exceed 10m, except where the building has a reflectivity of more than 40% the maximum height must not exceed 7.5m

### **29.4.4 Building Setbacks – General<sup>35</sup>**

<sup>34</sup> as set out in Hearing 18, Chapter 5 Rural Environment 22.3.7.1(P3-P4)

<sup>35</sup> as set out in Hearing 18, Chapter 5 Rural Environment 22.3.7.1(P3-P4)

- a) A habitable building located on a Record of Title 1.6ha or more must be set back a minimum of:
  - (i) 12m from the road boundary;
  - (ii) 25m from every boundary other than a road boundary
- b) A non-habitable building located on a Record of Title 1.6ha or more must be set back a minimum of:
  - (i) 12m from the road boundary; (ii) 22m from the centre line of an indicative road;
  - (ii) 12m from every boundary other than a road boundary.

#### 29.4.5 Building setbacks from water bodies<sup>36</sup>

- a) Any building must be set back a minimum of:
  - (i) 32m from the margin of any wetland;
  - (ii) 23m from the bank of any river with an average width of 3m or more (other than the Waikato River);
  - (iii) 37m from the banks of the Waikato River; and
  - (iv) 12 m from the bank of any river with an average width of 3m or less

#### 29.4.6 Building Coverage outside the Hotel precinct

- a) The total building coverage throughout the TVR Zone (excluding the Hotel Precinct) must not exceed 50,000m<sup>2</sup>.

#### 29.4.7 Lighting<sup>37</sup>

- a) Illumination from glare and artificial light spill shall not exceed 10 lux measured horizontally and vertically at the notional boundary on any other site in the Rural Zone; at any road boundary or within any other site in the Residential, Village or Country Living Zones;
- b) Rule (a) does not apply to vehicles used in farming activities and agricultural equipment.

#### 29.4.8 Noise

- a) The noise rating level from activities in the TVR Zone must not exceed:
  - (i) 50dB (LAeq), 7am to 7pm every day;
  - (ii) 45dB (LAeq), 7pm to 10pm every day;
  - (iii) 40dB (LAeq) and 65dB (LAm<sub>ax</sub>), 10pm to 7am the following day when measured at or within any Notional Boundary in the Rural Zone.
- b) No noise limits apply between sites in the Tata Valley Resort Zone.
- c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound".
- d) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustic – Environmental noise"

<sup>36</sup> As set out in Hearing 18, Chapter 5 Rural Environment, 22.3.7.5 (P1)

<sup>37</sup> As set out in Hearing 18, Chapter 5 Rural Environment 22.2.2(P1)

#### **29.4.9 Daylight Admission<sup>38</sup>**

- a) A building or structure must not protrude through the height in relation to boundary a height control plane rising at an angle of 45 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.

#### **29.4.10 Internal Road Circulation**

- a) Internal roading within the Zone is to be developed in general accordance with the indicative road network in the Concept Plan.

#### **29.4.11 New Infrastructure**

- a) Relevant Provisions will mirror those of Chapter 14: Infrastructure as set out in Hearing 22

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<sup>38</sup> Hearing 18, Rural Environment s22.2.3

## **29.5 Activity Specific Standards**

Activities and buildings containing activities listed in the activity table must comply with the relevant standards set out below:

### **29.5.1 Earthworks**

- a) Provisions will be as per the provisions set out for the Rural Zone in Hearing 21a – Natural Environment s22.2.3.1(P1-P6)

### **29.5.2 Earthworks for the maintenance of existing tracks, fences or drains within a Significant Amenity Landscape – Waikato River Margins and Lakes**

- a) Provisions will be as per the provisions set out in Hearing 21b – Natural Environment 22.2.3.4 - Earthworks within Landscape or Natural Character Areas(P1-P2).

### **29.5.3 Vegetation clearance outside a SNA**

- a) Provisions will be as per the Rural Zone provisions set out in Hearing 21a – Natural Environment 22.2.8 Vegetation Clearance outside a SNA (in a Rural Zone)

### **29.5.4 Vegetation clearance inside a SNA**

- a) Provisions will be as per the Rural Zone provisions set out in Hearing 21a – Natural Environment 22.2.7 Vegetation Clearance inside a SNA (in a Rural Zone)

### **29.5.5 Storage of Hazardous substances**

- a) Provisions will be as per the Rural Zone provisions set out in the PWDP – Hearing 8a Chapter 10 Hazardous Substances s10.3.1

### **29.5.6 Signs**

- a) The following signs are permitted and are not subject to (b) below:
  - (i) A public information sign erected by a government agency or an official sign
  - (ii) Signs that are located within a building or that are not visible from a road or adjoining site
- b) A sign must comply with the following conditions:
  - (i) It is the only sign on the site
  - (ii) The sign is wholly contained on the site
  - (iii) The sign does not exceed 5m<sup>2</sup>
  - (iv) The sign height does not exceed 3m
  - (v) If illuminated, the sign meets the lighting standards of rule 29.4.7
  - (vi) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials
  - (vii) The sign is for the purpose of identification and interpretation of a Māori site of significance listed in Schedule 30.3
  - (viii) The sign relates to goods or services available on the site, or a property name.

### **29.5.7 Visitors accommodation outside the Hotel precinct**

- a) The maximum height of the building is 5m.
- b) The maximum building footprint for Visitor Accommodation over the Zone (but outside the Hotel Precinct) must not exceed 1,000m<sup>2</sup>.

### **29.5.8 Workers accommodation**

- a) There are no more than 3 workers accommodation buildings onsite.

- b) Each workers accommodation building shall have a floor area equal to or less than 120m<sup>2</sup> excluding decks and garaging.
- c) Each building must comply with all the relevant yards setback and height requirements as set out in section 29.4.

**29.5.9 Ancillary retail**

- a) There are no more than 5 ancillary retail premises within the entire TaTa Valley Resort Zone.
- b) The maximum floor area for each of the ancillary retail premises is 200m<sup>2</sup>.

**29.5.10 Ancillary offices**

- a) Offices must be ancillary to other activities onsite and be included in the calculations for building height building coverage and building setbacks for those activities.

**29.5.11 Helicopter take offs and landings**

- a) Daily flight movements are limited to 5 landings and 5 take offs on any day.
- b) Flight movements are limited to 40 landings and 40 take-offs in any 30 day period.
- c) Flights may only be undertaken between 30 minutes before sunrise and 30 minutes before sunset on the same day.
- d) The noise level arising from helicopter movements on any site must not exceed Ldn 50dB and 85dB LAFmax on any single day measured at or within any Notional Boundary on another site outside the TVR Zone. This does not apply to helicopter movements required for emergency services.
- e) All helicopter noise measurements shall be undertaken in accordance with NZS 6801:2008 “Acoustics – Measurement of Environmental Sound” and all assessments shall be undertaken in accordance with and NZS6807:1994 Noise management and land use planning for helicopter landing areas. Where NZS6807:1994 is applied, the period for averaging of L<sub>DN</sub> levels shall be 1 day.

**29.5.12 Temporary events within the hotel precinct**

- a) The duration of the event is less than 72 hours
- b) Noise levels for temporary events shall comply with the limits specified in standard 29.4.8
- c) The maximum capacity of the event is 500 people in attendance
- d) Temporary buildings must be
  - (i) no greater than 15m in height;
  - (ii) erected no more than 2 days before the event occurs;
  - (iii) removed no more than 3 days after the end of the event; and
  - (iv) The site is returned to its previous condition no more than 3 days after the end of the event.

**29.5.13 Temporary events outside the hotel precinct**

- a) The duration of the event is less than 72 hours
- b) Noise levels for temporary events shall comply with the limits specified in standard 29.4.8
- c) The maximum capacity of the event is 500 people in attendance
- d) The event occurs between the hours of 7:30am and 8:30pm Monday – Sunday.
- e) Temporary buildings must be
  - (i) no greater than 15m in height;

- (ii) erected no more than 2 days before the event occurs;
- (iii) removed no more than 3 days after the end of the event; and
- (iv) The site is returned to its previous condition no more than 3 days after the end of the event.

#### **29.5.14 Special noise events**

- a) A Special Noise Event must not exceed a total cumulative duration of 8 hours on any day. A Special Noise Event that occurs over two days shall be considered to be two Special Noise Events
- b) There must not be more than one Special Noise Event on any day.
- c) There must not be more than two Special Noise Events in any seven day period.
- d) There must not be more than four Special Noise Events in any 30 day period.
- e) There must not be more than 12 Special Noise Events in any 12 month period.
- f) Special Noise Events may take place between 7.30am and 8:30pm on any day.
- g) The noise generated by any activity associated with the Special Event must not exceed 65dB  $L_{Aeq(5min)}$  when measured and assessed at any Notional Boundary on another site outside the Tata Valley Resort Zone.
- h) The noise level must comply with the stated limit for every 5 minute  $L_{Aeq}$  period. There shall be no adjustment for Duration or Special Audible Character in accordance with NZS6802:2008 when determining compliance with Rule 29.5.16(d). All other relevant adjustments and assessment requirements specified in NZS6802 apply;
- i) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound". Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustics – Environmental noise except as specified in (h) above.
- ~~j) Shall have a maximum capacity limit of 500 people~~

#### **29.6 Assessment – Restricted Discretionary Activities**

For all restricted discretionary activities, Council's discretion will be restricted to:

- a) The extent to which the proposed activity (and the proposed infringement) supports the efficient and effective development and operation of the Zone's primary and supporting activities.
- b) The extent to which the proposed activity is consistent with the Concept Plan.
- c) Any relevant activity specific matters of discretion outlined in section 29.7 below.

#### **29.7 Activity Specific Matters of Discretion**

In addition to the general matters of discretion outlined in 29.6, the following matters of discretion will be considered for specific activities:

##### **29.7.1 Access not complying with standards in 29.4.1**

Council's discretion is restricted to the following matters:

- a) The extent of traffic effects on the local road network and surrounding community and the adequacy of proposed measures to manage these effects.

##### **29.7.2 Parking not complying with standards in 29.4.2**

Council's discretion is restricted to the following matters:

- a) The extent of traffic effects on the local road network and surrounding community and the adequacy of proposed measures to manage these effects.

##### **29.7.3 Building Height not complying with standards in 29.4.3**

Council's discretion is restricted to the following matters:

- a) Whether the design of the building will result in adverse visual effects outside of the Resort Zone and the adequacy of proposed measures to manage these effects

**29.67.4 Building setbacks (General) not complying with standards in 29.4.4<sup>39</sup>**

Council's discretion is restricted to the following matters:

- a) amenity values;
- b) effects on traffic, transport network safety and efficiency;
- c) reverse sensitivity;
- d) where the road boundary is with an unformed paper road the likelihood of the road being formed or readily utilised by the public.

**29.7.5 Building setbacks from water bodies not complying with standards in 29.4.5**

Council's discretion is restricted to the following matters:

- a) The size of the adjacent water body and the landscape, ecological, cultural and recreational values associated with it;
- b) Erosion and sediment control measures;
- c) The functional or operational need for the building to be located close to the water body;
- d) Effects on cultural values;
- e) Effects on public access to the water body;
- f) The ability to retain an open and spacious rural character and amenity

**29.7.6 Building coverage not complying with standards in 29.4.6**

Council's discretion is restricted to the following matters:

- a) The extent to which the building bulk, design and external appearance manages adverse effects having regard to the amenity values and character of the surrounding area.
- b) The extent of traffic effects on the local road network and surrounding community and the adequacy of proposed measures to manage these effects.

**29.7.7 Lighting not complying with standards in 29.4.7<sup>40</sup>**

Council's discretion is restricted to the following matters:

- a) effects on amenity values;
- b) light spill levels on other sites;
- c) road safety;
- d) duration and frequency;
- e) location and orientation of the light source;
- f) mitigation measures;
- g) location and orientation of the light source.

**29.7.8 Noise not complying with standards in 29.4.8**

Council's discretion is restricted to the following matters:

- a) The extent to which proposed hours of operation and/or duration (of the activity causing the noise infringement) will give rise to adverse noise effects on the

<sup>39</sup> As set out in Hearing 18, Chapter 5 Rural Environment 22.3.7.1(RD1)

<sup>40</sup> As set out in Hearing 18, Chapter 5 Rural Environment, 22.2.2(RD1)

surrounding environment and adequacy of proposed measures to manage these effects.

**29.7.9 Daylight admission not complying with standards in 29.4.9**

Council's discretion is restricted to the following matters:

- a) Height of the building;
- b) Design and location of the building;
- c) Admission of daylight and sunlight to the site and other site;
- d) Privacy on any other site;
- e) Amenity values of the locality.

**29.7.10 Community facilities**

- a) Provisions will mirror those of the Rural Zone set out in Hearing 18, s22.1.3(RD3)

**29.7.11 Rural industry**

- a) Provisions will mirror those of the Rural Zone set out in Hearing 18, s22.1.3(RD2)

**29.7.12 Earthworks not complying with the standards in 29.5.1**

- a) Provisions will mirror those for the rural zone as currently set out in Hearing 21a – Natural Environment s22.23.1(RD1 or RD2)

**29.7.13 Earthworks not complying with the standards in 29.5.2**

- a) Provisions will mirror those for the rural zone as currently set out in Hearing 21b – Natural Environment, s22.2.3.4(RD1)

**29.7.14 Vegetation clearance outside a SNA not complying with the standards in 29.5.3**

- a) Provisions will mirror those for the rural zone as set out in Hearing 21a – Natural Environment 22.2.8 Vegetation Clearance outside a SNA (in a Rural Zone)

**29.7.15 Signs not complying with the standards in 29.5.6**

Council's discretion is restricted to the following matters:

- a) The extent to which adverse effects on the surrounding area are avoided, remedied or mitigated having regard to the amenity and character of the surrounding area;
- b) Where a sign does not comply with illumination standards, the extent to which the lighting will give rise to adverse visual amenity effects on the surrounding environment;
- c) If the sign is visible from a public road, the extent to which the sign may have adverse traffic safety effects.

**29.7.16 Visitors Accommodation (within the Hotel Precinct) and/or Visitors Accommodation not complying with the standards in 29.5.7**

Council's discretion is restricted to the following matters:

- a) The extent to which the building design and external appearance manages adverse effects having regard to the amenity values and character of the surrounding area. Matters to consider include:
  - (i) Articulation of the overall mass of the building. Consideration should be given to (amongst other things) breaking the elevation of the Hotel horizontally and vertically at key points.
  - (ii) The utilization of dynamic and innovative building forms to downplay the overall scale, visual bulk and perceived dominance of the built form.

- (iii) The use of varied textures on the building's façade to emulate natural textures and diffuse naturally reflected light
- (iv) The use of colour and materials in the lower built form
- (v) How the uniformity of the roofline at the upper level can be broken up to provide a varied silhouette reminiscent of natural formations of land and clouds.
- (vi) The extent of any cultural effects particularly on the values of the Waikato River
- b) The extent of traffic effects on the local road network and the adequacy of proposed measures to manage these effects.
- c) The extent to which the proposed activity supports the outcomes of the Concept Plan as identified in policy 29.2 (P3).

**29.7.17 Workers accommodation not complying with the standards in 29.5.8**

Council's discretion is restricted to the following matters:

- a) The extent to which the building design and external appearance manages adverse effects having regard to the amenity values and character of the surrounding area.

**29.7.18 Ancillary retail not complying with the standards in 29.5.9**

Council's discretion is restricted to the following matters:

- a) The extent of traffic effects on the local road network and the adequacy of proposed measures to manage these effects.

**29.7.19 Ancillary offices not complying with the standards in 29.5.10**

Council's discretion is restricted to the following matters:

- a) The extent of traffic effects on the local road network and the adequacy of proposed measures to manage these effects.

**29.7.20 Helicopter take offs and landings not complying with the standards in 29.5.11**

Council's discretion is restricted to the following matters:

- a) Whether the noise generated from the proposed flight path on surrounding properties gives rise to unreasonable noise effects.

**29.7.21 Temporary ~~and special~~ events not complying with standards in 29.5.12 or 29.5.13**

Council's discretion is restricted to the following matters:

- a) The extent of traffic effects on the local road network and the adequacy of proposed measures to manage these effects, including but not limited to:
  - (i) WDC approval of a Temporary Traffic Management Plan to be submitted as part of the application. The Temporary Traffic Management Plan shall include a detailed assessment of peak traffic movements and volumes during the event, associated effects on traffic network and surrounding properties, and proposed mitigation measures.
- b) The extent to which the temporary building's design and external appearance manages adverse effects having regard to the amenity values and character of the surrounding area.
- c) The extent to which the proposed activity gives rise to adverse effects on the amenity of surrounding properties.

**29.7.22 Special events not complying with standards in 29.5.14**

- a) The extent to which the proposed activity will give rise to adverse noise effects on the surrounding environment and adequacy of proposed measures to manage these effects.

**29.7.23 Any activity within a Māori site of significance**

- a) The extent of any cultural effects of undertaking the activity within the Māori site of significance and the adequacy of proposed measures to manage these effects.

**29.7.24 Subdivision**

Provisions will mirror those as currently set out for the Rural Zone in Hearing 18: Rural Zone (Subdivision Provisions), s22.4.1.2(RD1) plus the following assessment criterion:

- a) The extent that subdivision is consistent with the efficient operation of the Tata Valley Resort.

**29.8 Assessment – Discretionary activities**

Activities that do not comply with two or more permitted standards are discretionary activities. In undertaking an assessment of the resource consent application, Council will consider the relevant assessment criteria for restricted discretionary activities in section 29.6 – 29.7.

**29.9 New definitions proposed relevant to the TaTa Valley Resort Zone**

Entertainment activity	<del>Means the use of land and/or buildings principally for leisure and amusement activities other than sports, regardless of whether a charge is made for admission or not. It includes public performances, exhibitions, movie and live theatres, and ancillary workshops, storage, offices and retail activity.</del>
Special <u>noise</u> event	A temporary event that exceeds the permitted noise standard of the <u>TaTa Valley</u> Resort Zone.