

FILE NO AND TRIM NO	DDS-14-05-12 / 231123188610
DATE	24 November 2023
MEMO TO	Hearings Commissioners
FROM	Peter Wilson, Senior Policy Planner
SUBJECT	Response to Memorandum of 23 November 2023 from Richard and Geoff Spark

1. The purpose of this memo is to respond to the memorandum of Counsel for Richard and Geoff Spark in relation to the South-east Rangiora Development Area.
2. As the report author for the Waihanga waihanga Development area chapter (**FUDA**), Variation 1, and residential rezoning reports I have been asked to respond on behalf of Council. As I have not yet completed my evaluation of submissions on the FUDA chapter, I have for the purpose of this memo assumed that the provisions within the chapter remain as notified. However, I appreciate that there are a range of submissions seeking amendments to the chapter provisions and the certification process itself.
3. The primary request within their memorandum is set out in paragraph 15 and seeks a combination of:
 - a. evidence for FUDA areas within the rezoning requests to be heard in stream 12; and
 - b. timetabling of evidence exchange.
4. I note that while this specific request is in relation to the submission of Richard and Geoff Spark, I consider that the principal approach suggested should be considered for all submissions that have both a FUDA and rezoning component. There are approximately 12 submissions that are seeking rezoning requests and submitted on one or more provisions within the FUDA chapter.

Scope of the FUDA Hearings

5. At paragraph 8 of their memorandum, uncertainty is expressed as to the scope of the FUDA hearings. The scope of these hearings in my view specifically relates to the certification mechanism including the specific development area rules, standards, and outline development plans.
6. From my reading of the memorandum there is some concern that submitters will be required to provide technical evidence as part of the FUDA hearing. While this is an option that is available to submitters, in my view the FUDA chapter is predicated on the basis that the chapter focuses on what information is required to 'certify' development within a FUDA area, rather than the provision of that information at this stage in the process.

Interface between FUDA and Rezoning

7. I agree with the memorandum of counsel that there is likely to be a significant degree of crossover between the FUDA certification process and the rezoning hearings. While I am not aware what evidence submitters intend to submit for rezoning requests, I anticipate that in some instances this will be specific technical evidence in support of rezoning outcomes sought in submissions. Such evidence may specifically address matters within the notified version of

the FUDA chapter, such as the information requirements in the notified version of DEV-SER-APP1, and the outline development plans.

8. In my view however it is important to note that the certification process proposed in the PDP is an alternative process for consideration of development proposals with the FUDA areas if they retain their rural lifestyle zoning. It is not in my view dependent on the outcomes of the rezoning hearings but may (or may not) operate in parallel with the zoning outcomes within the FUDA areas.
9. I note however that one possible outcome may be that if submissions seeking rezoning are accepted and evidence is provided that addresses matter that are covered within certification, that the relevant provisions within the FUDA chapter may be practically redundant for that area of land.
10. I also note that there may be circumstances where the certification process and later rezonings provide for alternative development pathways that are not dependent on one another.
11. For instance, not all of the FUDA overlay area is subject to rezonings or has outline development plans in place. There will be portions of the FUDA overlay that may be developed under the certification provisions, rather than an outright rezoning.
12. The important point to consider is that certification provisions, heard in the FUDA hearing, and the rezoning requests operate in parallel. They are not necessarily contingent on each other. This parallel regime would theoretically continue after the Proposed Plan becomes operative through plan changes, until all of the FUDA overlay is developed.
13. If submitters choose to appear on only one topic and outline their preference for one pathway to development rather than the other, I do not consider that this will disadvantage them.

Timing of hearings

14. From a timing perspective, it is noted that while evidence may be presented at the rezoning hearings the s42A authors or submitters are not going to be in the position of knowing what the Hearing Panels' recommendations on rezoning will be. As a result, while there may be a need to reconsider the FUDA/rezoning interface at the end of the process, either as a result of hearing panel recommendations or a later plan change as foreshadowed in the FUDA chapter introduction, there is unlikely to be any wider benefit in combing the two hearings.
15. In addition to the above, I also consider that it would be helpful that if submitters have a recommendation on the FUDA component of submissions they either appear briefly at the hearings, or supply their comments in writing. This would help to integrate the chapters.
16. I note that the panel may also choose to revisit aspects of the FUDA chapter after the rezoning hearings finish or could issue further timing directions once it has received the s42A officers report for the FUDA chapter.

17. It is further noted that with the current date of the FUDA hearing being 19 February 2024¹ that at the time of writing this memo there is less than 60 working days before the commencement of the hearing.²

Recommendations

18. In response to the directions sought in the memo, I therefore recommend that the hearings panel:

- confirm the previous hearing schedule with the FUDA Chapter provisions set down within Hearing Stream 10.
- confirm the previous evidence exchange timeframes for the FUDA hearings (s42A report 20 working days before the hearing, expert evidence 10 Days before the hearing and legal evidence 5 days before the hearing).
- confirm that submitters, including Richard and Geoff Spark, are able to provide evidence at any hearing on which they have scope from their submissions and further submissions in line with the evidence exchange times set out in minute 1 version 7.

Peter Wilson



¹ Which Council intend would include an s42A report in relation to submissions on the full range of provisions within the FUDA chapters itself rather than in Stream 8 as set out in paragraph 7 of the memorandum of counsel.

² Councils understanding is that the reference to 'technical evidence' and 'expert evidence' in the table and in paragraph 119 of Hearings Panel Minute 1 version 7 is intended to relate to information in support of rezoning outcomes that submitters may intend to provide to Council in support of their submission prior to the completion of the s42A officers recommendation reports.