

BEFORE THE WAIMAKARIRI DISTRICT PLAN REVIEW HEARINGS PANEL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF the hearing of submissions and further submissions on the Proposed Waimakariri District Plan

AND

hearing of submissions and further submissions on Variations 1 and 2 to the Proposed Waimakariri District Plan

**MEMORANDUM OF COUNSEL ON BEHALF OF RICHARD AND GEOFF SPARK
(PDP SUBMITTER 183 / VARIATION 1 SUBMITTER 61) SEEKING A DIRECTION
THAT THEIR SUBMISSIONS ON THE SOUTH EAST RANGIORA DEVELOPMENT AREA
– DEV-SER-APP1, BE HEARD AS PART OF THE LARGE SCALE REZONING HEARINGS
COMMENCING ON 27 MAY 2024, RATHER THAN THE FUDA HEARINGS**

Dated 21 November 2023

Aston Consultants Limited
Resource Management and Planning
PO Box 1435
Christchurch

Attention: Fiona Aston
Phone: 0275 332213
Email: fiona@astonconsultants.co.nz

Counsel instructed:
David Caldwell, Barrister
Bridgeside Chambers
PO Box 3180
Christchurch

Phone: 021 221 4113
Email: dcc@bridgeside.co.nz

MAY IT PLEASE THE PANEL

1. This Memorandum is filed on behalf of Richard and Geoff Spark (**Submitters**). The Submitters have filed submissions on both the Proposed Plan and Variation 1 to the same. Their submission ID numbers are 183 and 61 respectively.
2. The Submitters seek a direction that the Submitters' request for changes to DEV-SER-APP1 South East Rangiora Outline Development Plan be heard as part of the large scale rezoning proposals to be heard in Stream 12 for the reasons set out below.
3. Both of the Sparks' submissions seek the rezoning of land from Rural Lifestyle to residential, amongst other changes. The land over which rezoning is sought comprises approximately 57.5 hectares of land and is located in south-east Rangiora. Part of the site (being 25.7 hectares) is north of Boys Road and within the South East Rangiora Development Area. It has an underlying Rural Lifestyle zoning under the PDP. The remaining land, approximately 30 hectares, is south of Boys Road and is proposed to be zoned Rural Lifestyle in the PDP.
4. Their submission on the PDP seeks, amongst other matters, the rezoning of all the land to the west of the proposed Eastern Link Road from Rural Lifestyle to General Residential and Medium Density, or alternatively, rezone it to GRZ, MDR, BIZ, Format Retail/Mixed Use or a mix of GRZ, MDR, BIZ and/or Format Retail/Mixed Use zones. It also seeks rezoning of all the land north of Boys Road and within the South East Rangiora Development Area. That land is subject to a proposed Council certification process.
5. The primary submission on the PDP raised concerns with the certification process and supports, in part, Part 3 Area Specific matters New Development Areas South East Rangiora. It also seeks an amendment to DEV-SER-APP1 South East Rangiora Outline Development Plan (all layers) to provide for additional areas of medium density housing adjacent to the stormwater reserve and west of the principal north-south road, and to reposition the local centre as shown on an amended proposed ODP.
6. The submission on Variation 1 raises similar issues, and ultimately seeks that the entire site, including that within the South East Rangiora Development Area, be rezoned. Again that submission raises issues in relation to the certification process.
7. The rezoning requests will form part of the large scale rezonings set down to commence on 27 May 2024. The tentative hearing date for the FUDAs is 19 February 2024. Counsel understands submissions on the certification process will now be heard in Stream 8 Subdivision commencing on 17 April 2024.

8. While there is some uncertainty as to the scope of the FUDA hearings, at this stage it is anticipated that there will be a significant degree of crossover in relation to evidence and expertise for the FUDA hearings (and potentially for the hearing of submissions on the certification mechanism) and the rezoning hearings in Stream 12 (which will include the rezoning of the land within DEV-SER-APP1). It is likely that a number of experts producing evidence for the rezoning hearings, given the rezoning request includes the land within the South East Rangiora Development Area, will also be required on the FUDA hearings.
9. Overall it is submitted that it would be efficient, and indeed prudent, for the FUDA matters, in so far as they relate to the Submitters, to be heard as part of the rezoning hearings in Stream 12.
10. In addition to the efficiency aspects, it is submitted that having the relevant FUDA, and potentially the certification mechanism, evidence for the Submitters heard as part of the large-scale rezonings (Stream 12) would aide the Panel in its understanding of the Submitters' overall long term goals for the site.
11. That would aide the Panel in addressing the integrated management of resources in terms of the decisions which the Submitters seek, including matters such as how the development may be staged.
12. Overall, it is submitted that it would be of considerable assistance to the Panel's consideration of the ultimate question of whether the Submitters' overall requests meet or achieve the purpose of the RMA.
13. At present the timetabling appears to be as follows:

Stream 10A: FUDAs [hearings commencing 19 February 2024]

- (a) Section 42A reports 20 working days before [19 January 2024]
- (b) Submitter evidence 10 working days before [2 February 2024]
- (c) Legal submissions 5 working days before [12 February 2024]

Stream 12: Rezoning [hearings commencing 27 May 2024]

- (a) Expert evidence for any submission seeking a substantial rezoning no later than 60 working days before hearing [28 February 2024] (I note the Minute refers to *technical evidence* that those seeking substantial rezoning proposals wish to have considered by Council officers in preparing their s42A reports,¹ but the summary

¹ Minute 1 – Hearing Procedures (as at 2 October 2023) Version 7

table at [119] refers to *expert evidence* for any submission seeking a substantial rezoning)

- (b) Section 42A reports 20 working days before [29 April 2024]
 - (c) Submitter evidence (including expert evidence) 10 working days before [13 May 2024]
 - (d) Legal submissions 5 working days before [20 May 2024]
14. If the Panel agrees with the merits of this approach, the Submitters' expert evidence (other than that subject to the 60 working day direction) can be provided with its rezoning evidence as follows:
- (a) Submitters' expert evidence (other than that subject to the 60 working day direction) be provided 10 working days prior to the commencement of the hearing, being 13 May 2024;
 - (b) Legal submissions, addressing both the rezoning and the FUDA matters, on 20 May 2024.
15. The Submitters therefore seek overall:
- (a) A direction that the Submitters' evidence and submissions on the FUDA be heard as part of the large scale rezoning hearings scheduled for commencement on 27 May 2024 as Stream 12;
 - (b) The submitters' expert evidence in relation to the FUDA (other than that subject to the 60 working day direction) be filed 10 working days before the commencement of the rezoning hearings, being 13 May 2024;
 - (c) Legal submissions addressing the rezoning and the FUDA matters be filed 5 working days before the commencement of the rezoning hearings, being 20 May 2024.
16. Alternatively, the Submitters seek a direction that the Submitters' expert evidence in relation to the FUDA be filed in accordance with the directions relating to Stream 12 Rezoning.

Dated this 21st day of November 2023



D C Caldwell
Counsel for Richard and Geoff Spark