

Michael Gibbons

From: Emily Thomson
Sent: Monday, 27 June 2022 1:29 pm
To: Nick Tait
Subject: Letter to submitters on PC49 regarding Variation_
Attachments: Letter to submitters on PC49 regarding Variation_.docx

Hi Nick

I have made a few edits and now all good to go (once tracking removed and typo checked) via the planning inbox to the submitters

Thanks

Em

Kia ora

I am writing to update you about Proposed Plan Change 49 (PC49).

A strong theme amongst submissions was seeking to rezone the Silverstream Spur as Natural Open Space. This was out of scope for PC49 but now with greater certainty that the site will remain in public ownership, it is considered appropriate to revisit the rezoning of the Silverstream Spur.

To do this an additional step, called a Variation, is required. Upper Hutt City Council is currently preparing a Draft Variation to PC49 which will be released in due course for public submissions. We encourage you to get involved in the submission process once the Variation is released.

This Draft Variation proposes to:

- rezone the Silverstream Spur as Natural Open Space
- enable site specific provisions for infrastructure including a transport corridor
- protect identified significant natural areas on the Silverstream Spur from development

The site-specific provisions are to provide access to the Silverstream Spur for a range of recreation, conservation, and customary purposes as well as potential future access to the Southern Growth Area.

Subsequently, the hearing for PC49 will now be delayed by approximately 3 months to include this Variation.

We will be back in touch with you as submitters on PC49 closer to the hearing time for the plan change and variation.

Michael Gibbons

From: Guy Smith
Sent: Monday, 20 June 2022 5:06 pm
To: 7(2)(a); Forest & Bird, Upper Hutt Branch; Pinehaven Hills
Cc: Emily Thomson
Subject: RE: Buddle Findlay advice on Silverstream Spur

Hi 7(2)(a) (and all). Hope you're all well and keeping as warm as you can as we approach the winter solstice!

Sorry for taking such a long time to come back on this question about the scope of PC49.

As you've noted below, even though the zoning of the Spur was excluded from the scope of PC49, we got a lot of submissions about it. You also know that Buddle Findlay's advice was that the correct way to address the Spur zoning, regardless of the long history, is through the plan change process.

In light of that Emily and I have been working together on the questions of whether we are able to bring the Spur zoning into PC49, and if so how.

My understanding of the reason the Spur was originally excluded from PC49 is that the existence of the land swap MoU, the general uncertainty about the future use of the Spur, and the strong views on the Spur zoning issue meant that there was a significant risk that PC49 would have been only about the Spur, and the rest of the open spaces in the City wouldn't have been given any attention. And so it was left out.

In light of the weight of public interest in the Spur as a piece of open space, and with the MoU with GTC now concluded, the landscape (sorry for the pun) is a bit different.

The upshot is that we are going to vary PC49 to include the zoning of the Spur.

The variation process under the RMA opens a new period of consultation and anyone who is interested to submit will be able to do so. You'll see public notification going out in the next little while, but I wanted to let you know as soon as I could.

Look forward to further discussion in due course no doubt. Did you guys ever end up getting our BF opinion peer reviewed? I'd be very interested to hear any other advice you got on it.

Cheers,

Guy.

From: 7(2)(a)
Sent: Thursday, 28 April 2022 7:45 am
To: Guy Smith <guy.smith@uhcc.govt.nz>; Forest & Bird, Upper Hutt Branch <UpperHutt.Branch@forestandbird.org.nz>; Pinehaven Hills <helpsaveourhills@gmail.com>
Subject: Re: Buddle Findlay advice on Silverstream Spur

Hello Guy

Thank you for sending that through.

Interestingly it states repeatedly in the contents that PC49 is the correct vehicle for deciding the zoning of the Spur, we assume from this that BF were not provided the brief which deemed the Spur was "out of

scope” of PC49? Obviously with the number of submissions and petition signatures submitted on the issue it seems likely that there will be some scope in the plan change to make some decisions? Another action that came from our meeting in December was for the question of why the Spur was deemed out of scope of PC49 which to be investigated and reported back more thoroughly to the group. We were wondering how this was progressing?

As it looks like I provided most of the background information for this legal opinion, it would be appreciated if you could forward on any information that UHCC directly contributed towards it, in particular the documents referred to in Paragraph 16 and the 48 and 59 (a) in particular the “number of other historical documents which indicate the council saw potential for other uses, including residential development”.

Many thanks

7(2)(a)

From: [Guy Smith](#)
Sent: Friday, April 22, 2022 4:28 PM
To: 7(2)(a) ; [Forest & Bird, Upper Hutt Branch](#) ; [Pinehaven Hills](#)
Subject: Buddle Findlay advice on Silverstream Spur

Good afternoon all,

Hope you all got a good break in over Easter. Apologies that this has been delayed in delivery a couple of additional days due to me taking some time off this week for the school hols.

Please find attached, strictly on a **without prejudice, confidential and without waiver of privilege** basis, the opinion of Buddle Findlay on the questions we posed them about the Silverstream Spur.

I hope you find it interesting and thorough, as I did. I’m happy to discuss it further of course and look forward to any comments your peer reviewer might have.

Regards,

Guy.

Guy Smith
General Counsel



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