

13 May 2024

Hi Wayne and Geoff

Here is the list of points discussed at our meeting a few weeks ago. It was good to discuss Guildford's concerns; thank you for your willingness to investigate these. Guildford seeks to continue the good working relationship it has with Council so appreciates you addressing these. You asked for a list of questions/concerns that GTC had.

Plan Change 49-v1.

1. Commitment to continue to work together post-MoU:
 - (i) GTC understood that UHCC and GTC agreed to work together on a public plan change to provide for access and rezoning of the SGA (Plan Change 49 -v1 and public rezoning of the SGA via plan Change 50). There was a draft term of reference developed for the rezoning between Council and GTC, which included sharing provisions in advance for comment and a no surprises approach. This was confirmed by both Wayne and Geoff at the meeting. We have also been informed by Wayne and previous GTC directors of the commitment by UHCC to fund a public plan change for the rezoning. This included plan change 49 and previously GTC land within PC50.
 - (ii) Despite the MoU coming to an end, there was a commitment and expectation from both parties that the relationship and partnership/collaboration would continue and that UHCC supported development of the SGA. This was expressed in the letter from Council to GTC in October 2021 stating, "*the underlying intention to work constructively together to explore development in the Southern Growth Area for the benefit of the city is unchanged*" and in the Council resolution, and we understand that was the genesis for Plan Change 49-v1.
 - (iii) UHCC continued to take steps towards this. One of the agreed items was for UHCC to publicly notify plan change 49 -variation 1 to provide for a roading and infrastructure corridor to support through the Spur Southern Growth Area, and a rule framework to allow that to happen. GTC have been surprised by the lack of collaboration on that plan change, given the intent to provide for a corridor to the SGA.
 - (iv) While provision for these items was included in the publicly notified version of proposed plan change 49-v1, as discussed Council appears to have rapidly departed from that position at every opportunity (even where these make little sense). The wording recommended by Council by the time the hearing resumed is available here (or labelled **attachment 1**).

<https://www.upperhuttcity.com/files/assets/public/v/1/districtplan/pc49/appendix-a-recommended-amendments-to-variation-1-0803.pdf>

A few examples – Council's recommended deletion of the "Support for the development of the Southern Growth Area" in New Policy 6(2) Southern Growth Area" from the proposed Policy framework and recent recommendation to delete the rule framework that is needed to provide for a roading corridor through the Spur (see Rule 15 and following as an example). GTC put up

considerable resources and evidence to support Council in its notified version of the provisions.

- (v) This is still being heard, and the Council Officer's reply is due today – (Monday 13 May). What is currently left is the “Natural Open Space Zoning”. There is no reference to the need for development of roading corridor and infrastructure to support development of Southern Growth Area in the Policy framework and no intact rule framework to provide for a road or infrastructure across the whole spur (which GTC understood was the stated purpose of the plan change). As currently proposed, it is hard to see how the recommended rules do not provide for, let alone “enable” construction on the Spur. The explanations provided by the Officer made no sense to us whatsoever. Relying on other rules in the plan does not enable a roading and infrastructure corridor through the Spur.
- (vi) GTC's understanding is that the recommendations of the Reporting Officer in Plan Change 49-v1 are reflective of “all of Council's view” as it is Council advancing the plan change, so GTC was surprised to learn that the Mayor and CE were unaware of the extent these provisions had been walked back and diluted to the point that the Officers suggested GTC just rely upon “the default rule” (the rule that applies where the activity is not specifically provided for). There was no need for the plan change if that was the outcome and it would be considered inconsistent with the Natural Open Space zoning if considered under the default rules.
- (vii) In the revised hearing UHCC's ecology expert has recommended a Significant Natural Area apply to the entire extent of the Kiln Street end of the Spur, which would preclude development of an access road from Kiln Street (see last page of the pdf at the link above). This is despite Council previously being comfortable with Dr Vaughan Keesing's (Boffas) assessment of the significant indigenous vegetation on the Spur (for land swap and to inform the IAF design). GTC called Dr Keesing as an expert as part of Plan Change 49 and he identified two main significant areas on the site.
- (viii) Council's expert has gone a lot further – it is unclear whether that is the Council's view. It is hard to see, based on Council's current recommendations, how an infrastructure and roading corridor will be enabled (or even possible) via plan change 49-v1 provisions now being advanced by Council.
- (ix) As Craig asked at our meeting (and I discussed with Geoff last week) has Council given any consideration to putting this plan change on hold or withdrawing it because of the direction from Government that SNAs will be put on hold for three years in an urgent amendment to the Bill (expected this coming month)?
- (x) I would expect it would be sensible for the Council to put Plan Change 49-v1 “on hold” for the time being due to:
 - (a) Minister Bishop's letter to Council dated 29 April 2024 (**copy attached at 2**) in which he advises of the Government's intention to urgently introduce amendments to the RMA to suspend the NPS-IB requirements for the Council to identify new significant natural areas for a period of three years, to give enough time for a review of how they operate.

- (b) GTC has also made an application for fast track which, if successful, means that a consent pathway will be taken rather than a planning pathway. UHCC has provided its support for this.
 - (c) Once greater certainty is available the plan change 49-v1 could be resumed if needed. It does not make any sense for UHCC to seek to "bake in" SNA provisions at the same time the Government is stopping them.
 - (d) There is little to be gained by the parties, including GTC and Council, incurring costs to argue this on appeal at this point.
- (xi) In the circumstances, it questions whether UHCC advancing a plan change for delineated one singles SNA in PC49 at this point in time is necessary, or a good idea (particularly given the fact that the decision will be issues after Government's Resource Management Amendment Bill is introduced in the coming week or so, which will suspend the operation of relevant parts of the NPS-IB).

Plan Change 50

2. We have been liaising with the planning team about GTC's request to rezone the Southern Growth Area via submission as part of plan change 50. We understood, based on previous discussions with Wayne, that Council was prepared to share the costs of that (given that they were going to need to assess GTC's request as part of its s42A report on that anyway and previous agreement that Council would fund a public plan change for the SGA). To date GTC has liaised with Suzanne Rushmere on ecology and traffic effects as part of its plan change 50 proposal and at present we have been advised that traffic and ecology costs would need to be met exclusively by GTC. It would be good to resolve this.

Access – Blue Mountains Road

3. Access across Council owned land on Blue Mountains Road. I have enclosed **at 3** an email chain about this. GTC own several sites on Blue Mountains Road that they wish to develop for residential land and GTC has sought to obtain an easement from Council who had a paper road next door. GTC were initially told that the Council held this as a paper road and then were recently told that it was now a recreational reserve and that public notification under the Reserve Act would be required to obtain an easement. The access that GTC is seeking has long been used as a forestry route. It would be good to ascertain how this land is held and the process to obtain access – particularly given that neither of you were aware of the paper road land being converted into reserve land.

Legal Status of Spur Land

4. GTC noticed that on the UHCC website for Plan Change 49-variation 1 there is a link to a legal opinion obtained by Buddle Findlay and other correspondence referring to meetings between UHCC general counsel and Forest and Bird relating to (in summary) whether the Spur land should have been gazetted as a reserve in the 1980s.
5. The correspondence included in that material appears to suggest this there may have been proceedings pending or an ongoing threat/live legal issue between Forest and Bird and UHCC and/or an agreement to avoid that? The link to that information on Council's website is:

<https://www.upperhuttcity.com/files/assets/public/v1/districtplan/pc49/buddle-findlay-information-from-jason-durry-1.pdf> or **attached at 4** starting at about page 3 with an email between presumably Forest and Bird and Guy Smith dated 22 April 2022, (noting Helen was copied into this advice by Guy on 13 April and appears to have attended those meetings as well). It refers to the legal opinion by Buddle Findlay being released to Silverstream Railway, Forest and Bird and Save our Hills (page 17 of that PDF bundle). Page 22 includes an email that refers to Helen and Guy meeting Forest and Bird to discuss concerns and refers to actions that UHCC undertook to do in response to that but does not say what the actions were.

6. GTC wishes to understand from Council the extent of that legal issue and any action that has been threatened or agreed with those parties and Council because of that dispute, or whether it has undertaken actions that are ongoing. GTC was surprised not to have been informed of this by Council. GTC has a greater interest than the public in ensuring that there are no legal constraints in relation to this land that would prevent the use of the Spur for an access corridor and wishes to better understand whether Council considers this is an issue. GTC would obviously be a party to any legal proceedings should they eventuate.
7. As both Council and/or Forest and Bird and other parties involved have submitted the material into a public forum and it is now up on the Council website, both parties have waived any confidentiality/privilege that existed in that material that would prevent the sharing of this information with GTC (as a party impacted by it).

Our team very much wish to continue the good faith and collaborative relationship that the parties have enjoyed dating. We hope that these provide some background to GTC questions that allows Council to investigate these further and get things back on track.

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