



13 April 2023



Ref: OIA-2022/23-0763

Dear 

**Official Information Act request relating to Documents related to the re-zoning of Waimakariri District land**

Thank you for your Official Information Act 1982 (the Act) request received on 28 March 2023. You requested:

*"I'm not sure if we have a copy of the MOU. It's not a document that we were specifically looking for, but if you've got a copy there, it might be useful to have a look at it.*

*The things we'd really like to find are:*

- *A signed copy of the Minister's decision*
- *Any maps issued in conjunction with the decision*
- *The officer's report relating to the decision*

*Also, if you came across any decisions made by the Minister around the same time which resulted in changes to the Regional Policy Statement, then copies of the same documents for any changes to the RPS (e.g. Minister's decision, any associated maps and officer's report) would also be really useful.*

*[...]*

*I'm trying to track down some documents associated with a notice given by the Minister for Canterbury Earthquake Recovery which re-zoned areas of land within Waimakariri District. I'm told you might be able to help, or point me in the direction of someone else who can?*

*The Minister's decision is attached (although it's not a signed copy) and I'm struggling to locate a copy of the maps and also the officer's report associated with the decision (which was granted on 24 November 2011). In particular, I'm trying to find some explanation about the re-zoning and anticipated use of one particular property.*

*I'd like to locate copies of:*

- *A signed copy of the Minister's decision*
- *Any maps issued in conjunction with the decision*
- *The officer's report relating to the decision*

*Are you able to help?*

*There were also decisions made by the Minister around the same time which resulted in changes to the Regional Policy Statement. Copies of the same documents for any changes to the RPS (e.g. Minister's decision, any associated maps and officer's report) would also be really useful."*

### Information being released

I note that the Memorandum of Understanding, of which the Waimakariri District Council is a signatory, has already been released to you in full. In addition, I have decided to release the relevant parts of the documents listed below, subject to some information being withheld as noted under section 9(2)(h) of the Act, to maintain legal professional privilege.

Date	Document Description
21 November 2011	Silverstream, Kaiapoi, Approval of changes to Waimakariri District Council's district plan

In making my decision, I have considered the public interest considerations in section 9(1) of the Act. No public interest has been identified that would be sufficient to override the reasons for withholding that information.

The Department of the Prime Minister and Cabinet is unable to locate the other documents you have requested. Accordingly, your request for those documents is declined under section 18(e) of the Act: the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

Yours sincerely



Clare Ward  
**Executive Director**  
**Strategy, Governance and Engagement**

To: Minister for Canterbury Earthquake Recovery

IN CONFIDENCE

## Silverstream, Kaiapoi – Approval of changes to Waimakariri District Council's district plan

Date	21 November 2011	Priority	Urgent
Report No	M / 2011 / 165	File Reference	M / 2011 / 165

### Action Sought

		Deadline
Hon Gerry Brownlee <i>Minister for Canterbury Earthquake Recovery</i>	Agree to use your powers under s 27 CER Act to rezone land (known as Silverstream) in west Kaiapoi for residential purposes.	Before Thursday 24 November so, if your decision is to approve the plan change, it can be publically notified this week.

### Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Bronwyn Arthur	Interim Chief Legal Officer	(03) 354 2615	029 200 8285 <input checked="" type="checkbox"/>
Richard MacGeorge	General Manager, Infrastructure	(03) 354 2661	021 533 242
Keith Tallentire	Advisor	(03) 354 2608	021 256 4494

### Minister's office comments

<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> Approved <input type="checkbox"/> Needs change <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not seen by Minister <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Referred to	<b>Comments</b>          
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# Silverstream, Kaiapoi – Approval of changes to Waimakariri District Council's district plan

## Purpose

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- 1 The purpose of this paper is to seek your agreement to the making of a public notice under section 27 of the Canterbury Earthquake Recovery Act ("CER Act") to change the Waimakariri District Plan to provide for residential development in west Kaiapoi.

## Executive summary

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- 2 Silverstream Estates Limited (SEL) has a proposed residential development to the west of Kaiapoi, known as Silverstream. The land was subject to private plan changes (P014 and P015) seeking both business and residential zoning. As a result of the exercise of section 27 CER Act powers which provided for changes to the Canterbury Regional Policy Statement (RPS) the 50 dBA noise contour line was established with an exception for Kaiapoi. Silverstream land can now all be used for residential development, which is what is being sought by SEL.
- 3 CERA staff have worked with SEL, WDC and ECan to encourage all involved to develop an outline development plan and agreed changes to the rules in the district plan. Negotiations have resulted in 550 sections and/or house land packages by 30 April 2013, as part of a total development for 1115 households. These changes to the district plan were based on the earlier work but revised to take into account the lack of restriction of the noise contours and to provide for a larger number of smaller sections.
- 4 For the changes to the RPS to have a practical effect of sections/houses on the ground, amendments have to be made to the district plan. This could be done through the normal Resource Management Act 1991 process, including appeals to the Environment Court. This could take well over a year. As a timely alternative to assist with the recovery and provides houses for persons displaced as a result of the Canterbury earthquakes, you have been asked to exercise your powers under section 27 of the CER Act.
- 5 s 9(2)(h)  
s 9(2)(h) Given the speed of this proposal there are, however, some issues that have not been resolved completely including a full geotechnical report which has been covered off by subdivision rule requirements. Previous geotechnical work has established there are minimal issues but a higher level of investigation is to commence to inform the proposed application for subdivision. There is no relevant advice or information from the community forum that needs to be had regard to.
- 6 If you agree to this proposal, a public notice will be prepared that provides for the rezoning but, given the size of the zoning document, will refer the public to a website to enable them to view the document. Space has been reserved in The Press for Thursday 24 November.
- 7 If you agree to this proposal it will mean that the changes to the district plan will enable SEL's development to proceed to the next step, which includes obtaining resource consents for earthworks and subdivision. The intention is that site works will commence during this construction season. A Memorandum of Understanding (MoU) is currently being finalised between CERA, SEL, Waimakariri District Council (WDC) and Environment Canterbury (ECan).



## Consultation

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- 8 WDC and ECan have been consulted in the development of this paper. Discussions have been had with the developer. Ministry for the Environment staff have been informed of the proposal.

## Recommendations

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- 9 It is recommended that you:

1. **note** P014 and P015 were proposed private plan changes to the Waimakariri District Plan. They sought to zone land in west Kaiapoi as business and residential zones but the decisions on those plan changes did not meet the developer's expectations;
2. **note** during the time appeals were being considered the Minister for Canterbury Earthquake Recovery made changes to the RPS which set the 50 dBA air noise contour but provided an exclusion from noise sensitive activities for Kaiapoi;
3. **note** as a result of the changes to the RPS, SEL was able to reconsider its proposed development and use all of the land for residential purposes. SEL has, therefore, worked with WDC and ECan to prepare an outline development plan and rule changes to the Waimakariri District Plan and has asked that these be made operative;

4. s 9(2)(h)
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5. **note** that the exercise of your powers for rezoning does fit within the purposes of the CER Act and there is no relevant advice or information from the community forum;
6. **agree** to exercise your powers under section 27 of the Canterbury Earthquake Recovery Act so that the WDC's district plan is amended to provide for the Silverstream residential development;
7. **note** a proposed public notice will be prepared with the intention of public notification on Thursday 24 November 2011 if you agree to the exercise of your powers;

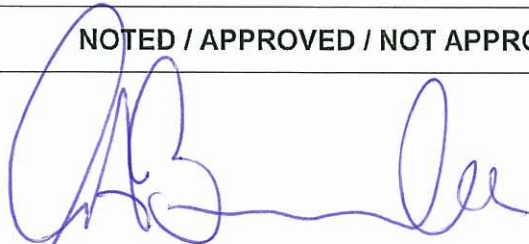
YES / NO



8. **forward** a copy of this paper to the Minister of Finance and Minister for the Environment for their information **YES / NO**



Bronwyn Arthur  
Interim Chief Legal Officer

NOTED / APPROVED / NOT APPROVED
 Hon Gerry Brownlee Minister for Canterbury Earthquake Recovery
Date: 22 / 4 / 2011

Released under the Official Information Act 1982

## Background

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- 10 In April 2010 two private plan changes to the WDC's district plan were notified relating to land west of Kaiapoi. Approximately 19 hectares was proposed to be zoned for business purposes and 50 hectares for residential. The land was divided by the proposed 50 dBA noise contour line. Land within the contour cannot be used for noise sensitive activities but could be used for business purposes.
- 11 In September 2011 decisions were notified on these plan changes (P014 and P015). The business zoning was refused as it conflicted with Kaiapoi township. The residential zoning was agreed but had a development sequence which started with land covered by the plan change but not owned by SEL.
- 12 In October 2011, as a result of the exercise of section 27 CER Act powers, the Canterbury RPS was changed to include chapters 12A and 22. Chapter 22 was concerned with the air noise contour and set the 50 dBA line in place around the Christchurch International Airport. An exemption was, however, provided for Kaiapoi so that noise sensitive activities could be established under the contour. This was due to the displacement of a number of Kaiapoi households following on from the damage caused by the Canterbury earthquakes. Chapter 12A, amongst other things, provided for the urban limit.
- 13 The effect of these decisions on the potential Silverstream development was that the land proposed for business could be used for residential purposes and that, in turn, provided a link with the existing township. The sequencing of residential development previously proposed to ensure links with the existing houses was no longer as relevant.
- 14 SEL, therefore, approached CERA, WDC and ECan about the possibility of reviewing the existing plan changes with the intention of creating a residential development with a mixture of high and medium density to meet the assumed demand for properties in Kaiapoi following on from the red zoning of residential properties. SEL, WDC and ECan have worked together to prepare an outline development plan and appropriate rules for consideration.
- 15 To give effect to this, changes need to be made to the WDC district plan. This could be done through normal processes but there would be considerable delay as it would require council hearings and potential appeal to the Environment Court. If the changes are to be made in a timely manner it will be necessary for you to exercise your powers under section 27 of the CER Act.

## Comment

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### OVERVIEW OF PROPOSAL

- 16 The Silverstream development is located to the west of Kaiapoi by the cemetery. The majority of the land is owned by SEL, but some pockets are owned by other persons. Although the development proposal covers their land, any development of their land will need to be as a result of negotiations between those owners and SEL (including SEL purchasing those properties).
- 17 The land is at present relatively low lying and will require fill in some places to raise its height above the ECan flood level. Although some previous geotechnical work has been completed, it is not as extensive and further work is required in order to inform the proposed application for subdivision. Given the flooding concerns there is also a need for an extensive storm water system, resulting in several storage areas within the proposal.

- 18 The proposal is for 550 sections or house/land packages at various densities by 30 April 2013. It is intended that the first 400 sections will be available by December 2012. The total development is intended to contain 1115 residential sections. These intentions, along with densities and pricing ranges, will be set out in the MoU. A significant number of sections are proposed for small units on small properties aimed at the older person. There is also proposed a small shopping area to provide for community needs. Connections to the rest of Kaiapoi and to the motorway are already in place, although SEL will need to develop and improve some roading links.
- 19 Although there has been some initial scrutiny of the proposal to have residential development in this area through the P014 and P015 plan changes, what is proposed is significantly more intense than those proposals. It is not known if there is likely to be opposition from the community from that level of development. It will limit other developments in the Kaiapoi area as the changes to the RPS do set limits on subdivisional numbers.

#### SEEKING AGREEMENT TO EXERCISE YOUR SECTION 27 POWERS

- 20 Notwithstanding that a number of detailed matters will require further work to enable development to proceed at Silverstream, it is recommended that you, as Minister for Canterbury Earthquake Recovery, exercise your powers under section 27 of the CER Act and amend the WDC's district plan to enable the Silverstream development to proceed quickly. s 9(2)(h)
- 21 Section 27 of the CER Act provides that the Minister may, by public notice, suspend, amend or revoke the whole or any part of certain documents as far as they relate to the area within greater Christchurch. The documents listed include "RMA documents". These are defined to cover regional policy statements, proposed regional policy statements, plans, proposed plans and changes or variations to those documents. s 9(2)(h)
- 22 Before these powers are exercised it is necessary for you to ensure that the exercise of the section 27 powers is in accordance with the purposes of the CER Act. Those purposes are set out in section 3. Some relate specifically to what the Act does and are, therefore, not relevant to the exercise of your powers under the Act. Relevant purposes are:
- To enable community participation in the planning of the recovery of affected communities without impeding a focused, timely and expedited recovery;
  - To provide for the Minister and CERA to ensure the recovery;
  - To enable a focused, timely, and expedited recovery;
  - To facilitate, co-ordinate, and direct planning, rebuilding, and recovery of affected communities, including the repair and rebuilding of land, infrastructure, and other property;
  - To restore the social, economic, cultural, and environmental well-being of greater Christchurch communities.

23 s 9(2)(h)



- 24 It does not, however, enable full community participation in the planning of the recovery of affected communities in relation to the zoning of west Kaiapoi as it stops any community involvement on these specific proposals, although the community has had the opportunity for input to P014 and P015.
- 25 You are also required to have regard to any information or advice provided by the community forum. There is no relevant information for you to have regard to.

### **Next Steps**

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- 26 You will need to decide if you wish to exercise your section 27 CER Act powers in relation to rezoning the land at west Kaiapoi known as Silverstream.
- 27 If you agree to exercise your powers a public notice will be prepared and will be published in The Press on Thursday 24 November 2011. If you do not agree then SEL can continue to pursue the plan changes through usual means.
- 28 A MoU will be finalised and signed by representatives of CERA, SEL, WDC and ECan as soon as possible.
- 29 We recommend that a copy of this paper be provided to the Minister of Finance and Minister for the Environment for their information.