

APPLICATION TO VARY CONSENT NOTICE & LAND USE RESOURCE CONSENT

Construction of new dwelling with attached garaging.

Owner	Address	Legal Description	Area (m ²)
Joshua Mitchell	172 Seabridge Road, Motukarara	Lot 1 DP 564058	10,000

Fourth Schedule:

In line with the Fourth Schedule of the Resource Management Act 1991, we've provided an assessment of environmental effects that matches the scale and significance of the proposed changes. The effects have been carefully considered, especially regarding flood risk, and we've concluded that the changes won't have more than minor adverse effects on the environment.

Additional Information:

We enclose any information required to be included in this application by the district plan, the regional plan, the Resource Management Act 1991, or any regulations made under that Act:

- See Appendices

1. Proposal

Joshua Mitchell wishes to construct a primary dwelling with attached garaging, as shown in the architectural drawing package. The location of the attached dwellings is shown in **Figure 1**. This application seeks to vary Consent Notice 4 registered on the Record of Title for [Lot 1 DP 564058], imposed under subdivision consent RC215150 and relating to the RC215151. The existing condition requires any new dwelling or principal building to be constructed with a finished floor level (FFL) of no less than 3.0m above mean sea level (Lyttelton Datum 1937) due to flood risk associated with the Lake Ellesmere / Te Waihora area.

The applicant proposes to amend this requirement to allow a minimum FFL of 2.22m LVD1937, based on updated flood modelling and site-specific data, and to enable a split-level dwelling.

The variation is accompanied by a land use consent application to address non-compliance with the 30m setback from an internal boundary GRUZ-REQ4 – GRUZ-TABLE 1 Partially Operative Selwyn District Plan and exceedance of permitted earthworks volume under SASM 30 overlay.

Description of site:

The site is located in a rural area, zoned Outer Plains under the operative Selwyn District Plan. It is an irregularly shaped 10,000m² lot situated along Seabridge Road, recently formed through the subdivision of Lot 2 DP 129 under resource consent RC215150 and RC215151.

The site is currently undeveloped and features a gradual fall from the road boundary, with a natural grade of approximately 1.2m to 1.4m descending toward the northwest rear boundary. This topography assists with natural drainage and supports the proposed split-level dwelling design, which maintains appropriate floor levels in line with updated flood modelling.

b. Natural Hazard Management

The variation still meets the original intent of Consent Notice 4 - to mitigate flood hazard risk, but does so in a way that reflects modern flood modelling, tailored to site-specific conditions.

c. Visual and Amenity Effects

No adverse effects are anticipated. The split-level approach is a common and appropriate design response for low-lying or flood-prone sites.

d. Supporting Evidence – Recent Rain Event

The property owner has provided photos and a firsthand account from a significant rain event (State of emergency for Selwyn was issued May 1st – May 3rd 2025), which resulted in widespread surface flooding across the surrounding area. These conditions offered a useful real-world test of the site's flood resilience.

The property owner observed:

“While much of the surrounding area and properties were under water, I was very pleased to see that the real-life results were much the same as what our flood mapping had predicted, and my property had virtually no standing water at all. I walked around the section and the areas above approximately 1.7m LVD1937 were all well drained and firm under foot – very reassuring!”

The photos were taken on the morning of **Friday 2nd May 2025**, during which time local roads—including the section between Tai Tapu and Banks Peninsula—remained closed due to flooding. One of the comparison images shows Duck Pond Road near the Seabridge Road intersection, demonstrating the severity of conditions nearby.

The subject site, in contrast, remained unaffected by standing water, providing practical validation of its elevation and confirming that the proposed finished floor levels are suitable in relation to flood risk.

These photographs and observations are included as **Appendix E – Flood Event Photos**.

e. Supporting Evidence – Email from ECan Science Analyst (Natural Hazards)

An email from Michael Thwaites, a Science Analyst (Natural Hazards) at Environment Canterbury (ECan), supports the applicant's position that the current 3.0m LVD1937 requirement in Consent Notice 4 is not a blanket rule under the Selwyn District Plan, but rather a condition imposed by Selwyn District Council (SDC) as part of the subdivision consent process for RC215150.

In his email, Michael states : **Appendix G – Ecan Flood Hazard Report and Correspondence Email**

"The requirement to be at least 3.0 m above the LVD1937 mean sea level is a requirement issued by SDC as part of the consent notice for the initial subdivision and not something written into the district plan as a blanket rule... I believe you can apply to SDC to have this condition removed... If Lake Ellesmere/Te Waihora is opened to the sea during high lake levels, I have no reason to believe the floor level recommendation in the report is underpredicting 300 mm of freeboard in a 200 year ARI event. The land on Lot 1 DP 564058 above 2.2 m is on a ridge that extends parallel to Seabridge Road. Water is likely to surround the entire area and leave this stretch of land clear in a 200 year ARI flood event, as shown in the modelling."

Michael's feedback aligns with Selwyn District Council's Development Engineer **Appendix C**, who also provided confirmation that the 2.2m LVD1937 floor level is suitable for the site. The SDC engineer's feedback indicates that, based on the latest flood hazard modelling and the site's elevation on a natural ridge, a 2.2m LVD1937 floor level, with an additional 300mm freeboard to accommodate a 200-year flood event, would be appropriate.

This feedback further reinforces the applicant's request to amend the Consent Notice, as the current 3.0m LVD1937 requirement was initially set as a precautionary measure, not reflecting updated, more accurate flood modelling and site conditions.

f. Practical and Economic Considerations

Reducing the minimum finished floor level from 3.0m to 2.22m LVD1937 also allows for a more practical and cost-effective building foundation design. The original 3.0m requirement would necessitate significantly higher foundation structures or extensive site works, increasing construction costs without a corresponding benefit to flood protection. The proposed levels therefore offer a more proportionate and efficient design response, aligned with actual site conditions.

2.1 Additional Assessment of Environmental Effects:

a. Setback Non-Compliance

The proposed dwelling encroaches within the 30m internal boundary setback required by GRUZ-REQ4 of the Selwyn Partially Operative District Plan. The affected boundary adjoins Lot 2 DP 564058. Given the rural context and distance between buildings, any potential effects on visual amenity, privacy, or rural character are considered less than minor. Written approval has been obtained from the adjoining landowner. **Appendix I.**

b. Earthworks and Ngā Tūranga Tūpuna Overlay

As earthworks exceed 350m³ (379m³) of SASM30, the proposal does not comply with SASM-R2.6.a.vi. Resource consent is required. Selwyn District Council is obtaining written approvals from Heritage New Zealand and Te Rūnanga o Ngāi Tahu. Sediment and erosion controls will be in place to avoid adverse effects. Earthworks will involve approximately 379m³ of cut and fill, with excavation up to 400mm deep. The earthworks will be localized and temporary in nature. They are to be completed within a short timeframe, further reducing the potential for long-term adverse effects.

Given the depth and duration of earthworks, the localized nature of the work, and proposed mitigation measures, effects on the cultural values associated with SASM30 are considered to be less than minor.

c. No Identified Cultural Features Within Site

There are no known wāhi tapu, archaeological sites, or identified cultural features within the subject site itself. The adjacent SASM30 is acknowledged and respected, but the location and scale of works are such that any adverse effects are highly unlikely.

d. Compliance with EW-R1

Earthworks for the construction of the dwelling will occur within 2m of the dwelling footprint, satisfying EW-R1. Cleanfill will be used, and erosion control measures will be implemented.

e. Natural Hazards

The proposal avoids diverting or concentrating floodwater onto neighbouring properties, in accordance with NH-REQ4. The building is oriented lengthwise in the direction of the natural fall of the site, and its simple footprint allows floodwaters to recede naturally without obstruction.

f. Ecosystems and Indigenous Biodiversity

The proposal does not involve modification of water races, drains, or ponds. The site is an empty paddock recently subdivided from a larger farm paddock. ECO-REQG is not triggered as no earthworks are proposed within any water race, drain or pond, and the area is not within a Mudfish Habitat Overlay.

3.0 Assessment of Environmental Effects

This application is made under Section 221(3) of the Resource Management Act 1991, which provides for the variation or cancellation of consent notices, as well as approval for associated rule non-compliances under the Selwyn District Plan.

The proposal is considered appropriate and consistent with the relevant planning framework for the following reasons:

- **Natural Hazard Management:**

The proposed finished floor levels are informed by the latest flood modelling and confirmed as suitable by

both Environment Canterbury and Selwyn District Council. Habitable areas are located well above the 2.2m LVD1937 threshold, ensuring protection from a 200-year ARI flood event.

- **Efficient and Sustainable Development:**

Reducing the required floor level from 3.0m to 2.22m LVD1937 allows for a more practical and cost-effective foundation solution without compromising flood resilience, aligning with sustainable development goals.

- **Setback Non-Compliance:**

A minor internal boundary setback breach (GRUZ-REQ4) has been assessed as having less than minor effects, with written approval obtained from the adjoining landowner to confirm no affected party.

- **Earthworks Volume and Cultural Overlay:**

Earthworks exceed the permitted volume (379m³ vs 350m³) of SASM 30 overlay. However, effects are considered minimal due to the shallow depth (max 400mm), localised extent, and use of cleanfill with appropriate sediment and erosion controls. Written approvals are being sought from Heritage New Zealand and Te Rūnanga o Ngāi Tahu.

- **Floodwater Management:**

The building's orientation and compact footprint support the natural drainage pattern of the site, avoiding diversion or concentration of floodwaters in accordance with NH-REQ4.

- **No Adverse Ecological Effects:**

The site contains no known ecological features or overlays, and no watercourses or sensitive habitats will be disturbed. ECO-REQG is not triggered.

Overall, the effects of the proposal are considered to be less than minor, and the application is consistent with the objectives and policies of the Selwyn District Plan.

3.1 Objectives and Policies

The proposal has been assessed against the relevant objectives and policies of the **Selwyn District Plan**. The most relevant provisions include:

- **Objective GRUZ-O1 and Policy GRUZ-P1** – To manage rural land use to maintain rural character and amenity while enabling productive use of the land.
→ The proposal supports a rural-appropriate dwelling design that respects the rural character of the area. The minor non-compliance with the 30m internal boundary setback (GRUZ-REQ4) is unlikely to cause adverse effects on visual amenity or neighbouring properties, particularly given written approval has been obtained from the adjoining landowner.
- **Objective EW-O1 and Policy EW-P1** – To manage earthworks in a way that minimises adverse effects visual amenity, sediment, and nuisance effects beyond site boundaries.
→ Earthworks exceed the permitted volume threshold (379m³ vs 350m³) and occur near the SASM overlay. The proposal includes appropriate sediment and erosion control measures, and written approvals are being sought from Heritage New Zealand and Te Rūnanga o Ngāi Tahu to manage effects on cultural heritage values.
- **Objective NH-O1 and Policy NH-P1** – To avoid or mitigate the adverse effects of natural hazards, particularly flooding, to protect life, property, and infrastructure.
→ The proposal complies with the natural hazard provisions of the Selwyn District Plan, supported by updated flood modelling and engineering advice.

Overall, the proposal aligns with the intent of the Selwyn District Plan objectives and policies, and the identified non-compliances are appropriately mitigated to ensure effects remain less than minor.

3.2 Section 95A

Under Section 95A of the **Resource Management Act 1991 (RMA)**, the council must publicly notify an application if:

- The activity is likely to have more than minor adverse effects on the environment.
- The applicant requests it.
- A rule or national environmental standard requires it.

For this application:

- The applicant does not request public notification.
- No rule or national environmental standard requires it.
- The assessment of effects (see Section 2-3) confirms that the proposed activity will not have more than minor adverse effects on the environment.

Therefore, the applicant considers that public notification is not necessary.