

Certificate of Compliance Decision

RC225754



APPLICANT:	Peter Lowery
PROPOSAL:	To erect a dwelling on an undersized allotment using the Grandfather clause.
LOCATION:	Corner Feredays and Prossers Road.
LEGAL DESCRIPTION:	Lot 2 DP 77670 being 10ha in area more or less, as contained in Record of Title CB44C/662.
ZONING:	<p>Operative Selwyn District Plan (2016)</p> <p>The property is zoned Rural Outer Plains under the provisions of the Operative District Plan (Rural) Volume.</p> <p>Proposed Selwyn District Plan (notified 05 October 2020)</p> <p>The property is zoned General Rural and is within the Plains Flood Management Overlay and the Liquefaction Damage Unlikely Layer under the provisions of the Proposed District Plan.</p>
STATUS:	This application has been assessed as an application for a Certificate of Compliance under the Operative Selwyn District Plan (2016) and the Proposed Selwyn District Plan (notified 05 October 2020).
This application was formally received by the Selwyn District Council on 28 October 2022. Assessment and approval took place on 10 November 2022 under a delegation given by the Council.	

Decision

1. Certificate of Compliance RC225754 to erect a dwelling on Lot 2 DP 77670 being 10ha in area more or less, as contained in Record of Title CB44C/662 be issued pursuant to section 139 of the Resource Management Act 1991.

Yours faithfully

Selwyn District Council

A handwritten signature in black ink that reads 'Kate Bonifacio'.

Kate Bonifacio

Resource Management Planner

AS APPROVED BY
SELWYN DISTRICT COUNCIL
Planning Department

RESOURCE CONSENT 3350
RC225754

10/11/2022

bonifk

proposed building
platform

Approved by the Council on 10/11/2022

10/11/2022

10/11/2022

10/11/2022

Certificate of Title Allocated

Lot 1 44C/661
Lot 2 44C/662

Total Area 20.8922 ha

Composed of S.T. 431/30

1. Robert, Clifford, Middleton

Registered Surveyor and holder of a professional certificate of practice in the Survey Act 1980

who has prepared the plan and who has been made the person responsible for the plan

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LAND DISTRICT Canterbury
SURVEY BLK. & DIST 1 Southbridge
MEMS 261 ENT RECORD MAP No

Lots 1-3 being subdivision of
Lot 1 D.P. 12011

TERRITORIAL AUTHORITY Selwyn District
Surveyed by Middleton Williams & Co. Ltd
Lots 1 2500 3rd December, 1997



Approved on 10/11/2022
341 2198
10/11/2022
DP 77670

Section 139 Resource Management Act 1991



Report pursuant to section 42A of the Resource Management Act 1991 recommending whether or not a Report determining whether or a Certificate of Compliance can be issued for an activity.

Author: Kate Bonifacio

Position: Resource Management Planner

Resource Consent Number: 225754

APPLICANT:	Peter Lowery
PROPOSAL:	To erect a dwelling on an undersized allotment using the Grandfather clause.
LOCATION:	Corner Feredays and Prossers Road.
LEGAL DESCRIPTION:	Lot 2 DP 77670 being 10ha in area more or less, as contained in Record of Title CB44C/662.
ZONING:	<p>Operative Selwyn District Plan (2016)</p> <p>The property is zoned Rural Outer Plains under the provisions of the Operative District Plan (Rural) Volume.</p> <p>Proposed Selwyn District Plan (notified 05 October 2020)</p> <p>The property is zoned General Rural and is within the Plains Flood Management Overlay and the Liquefaction Damage Unlikely Layer under the provisions of the Proposed District Plan.</p>
STATUS:	This application has been assessed as an application for a Certificate of Compliance under the Operative Selwyn District Plan (2016) and the Proposed Selwyn District Plan (notified 05 October 2020).

This application was formally received by the Selwyn District Council on 28 October 2022. Assessment and approval took place on 10 November 2022 under a delegation given by the Council.

Introduction

1. The applicant has applied for a Certificate of Compliance to erect a dwelling on the undersized lot within the Outer Plains zone subject to compliance with the bulk and location requirements of the Operative District Plan.

2. Although the application site is below the required minimum lot size of 20ha in the rural Outer Plains zone, Policy B4.1.5(c)¹ and the rule which implements it (Rule 3.10.2) of the Plan, are 'grandfather provisions' which allow for erecting a dwelling on allotments where some action has been taken during the currency of the Transitional District Plan towards the development of those allotments for residential use.

Site and Locality

3. Lot 2 DP 77670 being 10ha in area more or less, as contained in Record of Title CB44C/662. The 10ha site is located on the corner of Feredays and Prossers Road, Leeston and is highlighted in blue in the aerial below taken from Council's Mapping system.



4. The site is currently vacant.

Statutory Requirements

5. Section 139 provides that a consent authority must issue a Certificate of Compliance on application, if an activity can be done lawfully in a particular location without a resource consent.

Operative Selwyn District Plan

6. The Selwyn District Plan ('the District Plan') was made operative on 03 May 2016. Under the District Plan the application site is zoned Rural Outer Plains.
7. Erecting a dwelling is a permitted activity in the Rural Outer Plains zone where the following relevant criteria are met:

¹ Policy B4.1.5(c) recognises that some allotments which are smaller than the minimums set out in Policy B4.1.1, have been subdivided, bought and sold for residential uses in the past.

Permitted Activities — Buildings and Residential Density

- 3.10.1 Erecting any building or any additions or alterations to, or modification or demolition of any building shall be a permitted activity if the following conditions are met:
- 3.10.2 The minimum land area required to erect any dwelling:
- (a) Complies with the minimum land area per dwelling shown in Table C3.1; and
 - (b) Is held in one, separately saleable allotment which is the same allotment on which the dwelling(s) are to be erected.

Table C3.1 — Minimum Land Area to Erect One Dwelling

Area (on Planning Maps)	Legal Description	Land Area
Outer Plains	–	20ha minimum

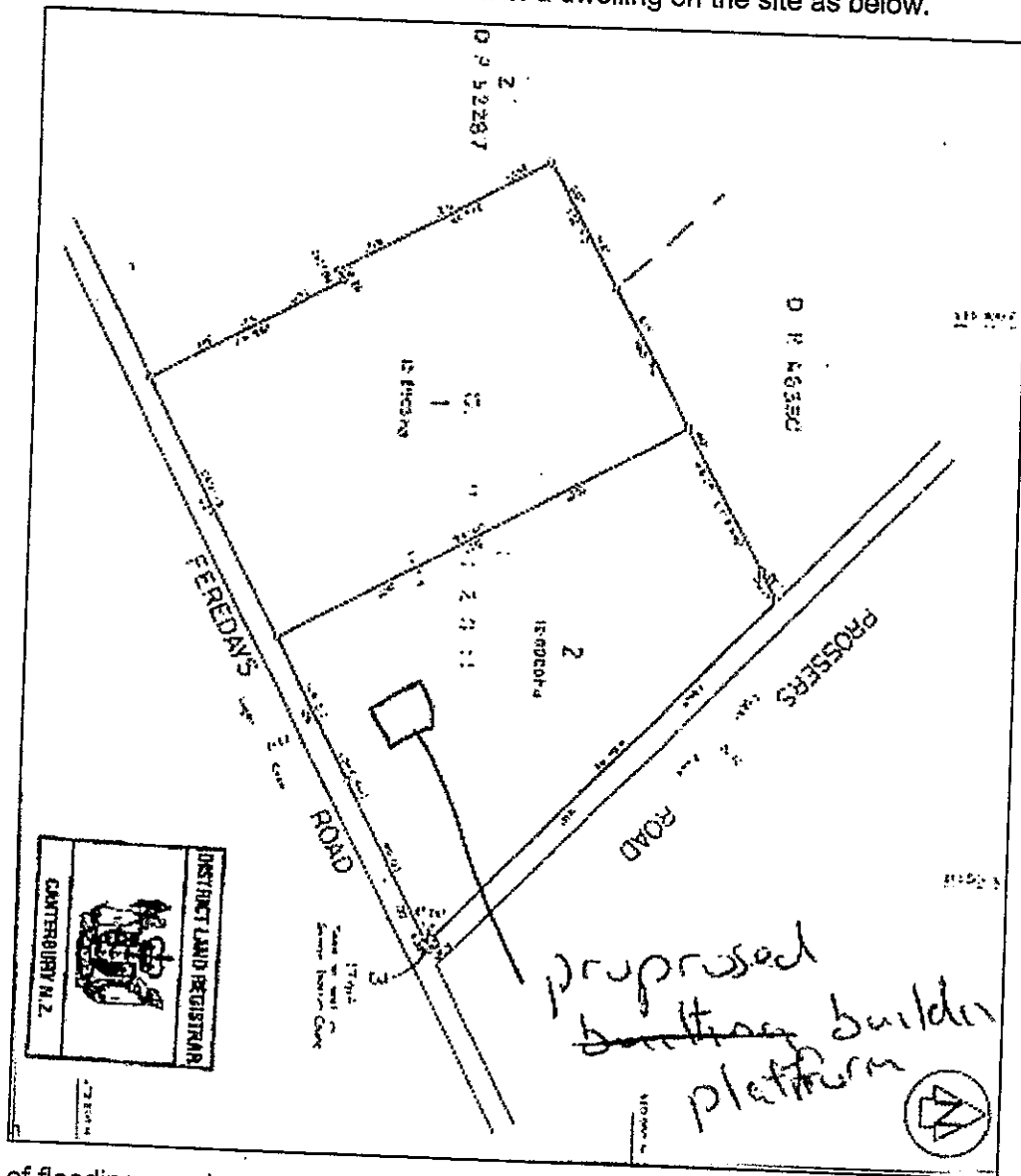
- 3.10.2 Any dwelling on any allotment which does not comply with Rule 3.10.1 shall be a permitted activity if all of the following conditions are met:
- 3.10.2.1 The allotment is a separately saleable allotment with a continuous area of not less than 4 hectares; and
 - 3.10.2.2 The allotment has been bought, sold or created by subdivision within the ten years immediately preceding notification of the Rural Volume of the Proposed District Plan (that is on or after 12 September 1991 but before 12 September 2001) or a subdivision consent has been granted to create the allotment within this timeframe and that subdivision consent has not lapsed.
8. The proposal to erect a dwelling on the application site complies with Rule 3.10.2.1 and 3.10.2.2 of the District Plan as the lot exceeds 10ha in size and was created/bought or sold on or after 12 September 1991 but before 12 September 2001 as per the site history outlined below.

Site History

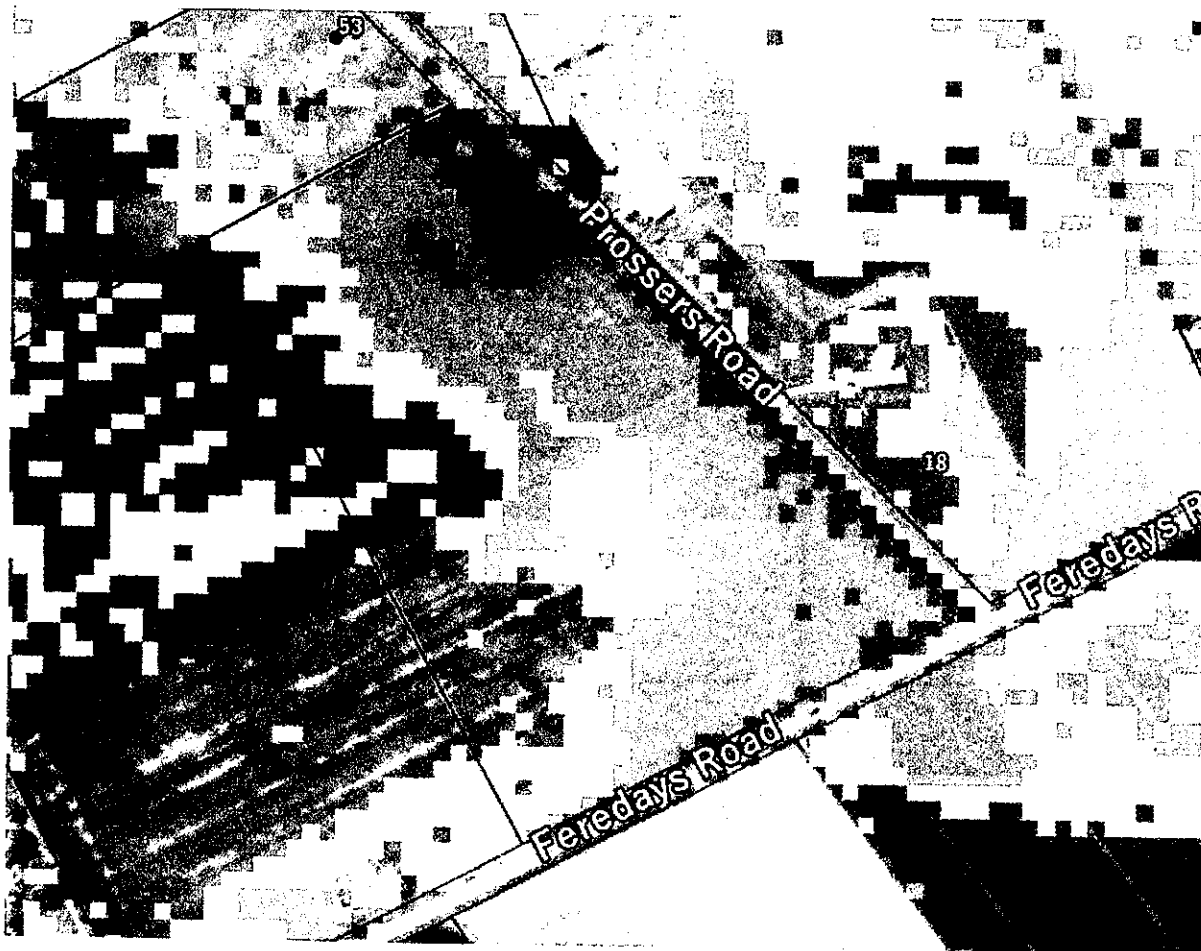
9. The application site is a 4ha allotment which came into the ownership of the applicant on 23 June 1998.
10. As the allotment has been bought, sold or created by subdivision within the ten years immediately preceding notification of the Rural Volume of the Proposed District Plan (that is on or after 12 September 1991 but before 12 September 2001) a dwelling may be erected on the lot as a permitted activity. The subdivision which created these allotments was R302731 which was granted 26/06/97 with its S224 issuing 17/03/98.
11. An assessment of the property shows that building a dwelling on this allotment will also be able to comply with the other relevant rules regarding building:
- The site has legal access to a formed and maintained legal road (Rule 3.9.1)
 - There is ample space on the allotment to comply with the maximum area to be covered by buildings of 5% (Rule 3.11.1)
 - There is ample space on the allotment for the road and boundary setbacks to be complied with (Rule 3.13.1, and Table C3.2). This proposal would be able to meet the required bulk and location rules of the Operative District Plan.
 - There is ample space on the allotment for the required on-site manoeuvring (Rule E13.1.9)
 - A vehicle accessway will be able to be constructed for access to the allotment in accordance with Rule E13.2.1 and Table E13.4

- The vehicle crossing can be located so as to meet the minimum distance requirements from intersections in accordance with Rule E13.2.2 and Table E13.5.

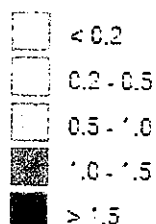
12. The application shows the proposed location of a dwelling on the site as below.



13. In terms of flooding, as shown on aerials and information provided in the 2017 LiDAR survey (as shown below), the site where the proposed dwelling is to be sited is not subject to significant flooding. Appropriate floor height will be determined at Building Consent stage.
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200-year ARI Selwyn River flood depth (m)



Proposed Selwyn District Plan (Notified 05 October 2020)

15. Under the Proposed Selwyn District Plan ('the Proposed District Plan') the site is zoned General Rural. The site is also subject to the Plains Flood Management Overlay and the Liquefaction Damage Unlikely Layer. The site is also subject to the Rail Corridor and State Highway Noise Control Overlay.
16. No decisions have yet been made on the Proposed Plan
17. There are no rules with immediate legal effect that apply to this proposal.
18. The land use proposal is therefore a permitted activity under the Proposed District Plan.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health


19. Although this proposal is not a change of use of this site, a PLG1 form has been provided with this application and will also need to be supplied with the application of any building consent to address whether the NES for Assessing and Managing Contaminants in Soil to Protect Human Health applies.
20. I note that a check of the Listed Land Use Register (LLUR) on Ecan's website does not currently have any information about a Hazardous Activities and Industries List (HAIL) activity on the application site.
21. This proposal is not a change of use of the land and therefore the NES for Assessing and Managing Contaminants in Soil to Protect Human Health does not apply.

Conclusion

22. The assessment of this activity concludes that no resource consent is required to erect a dwelling, subject to compliance with bulk and location requirements, and NES requirements, on this undersized lot within the Outer Plains Zone under the Operative Selwyn District Plan.


Recommendation

1. Certificate of Compliance RC225754 to erect a dwelling on Lot 2 DP 77670 being 10ha in area more or less, as contained in Record of Title CB44C/662 be issued pursuant to section 139 of the Resource Management Act 1991.

Reported and recommended by  Kate Bonifacio Resource Management Planner	Date: 10 November 2022
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Decision

That the above recommendations be adopted under delegated authority.

 Rosie Flynn, Team Leader Resource Consents	Date: 10 November 2022
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RC225754 - To erect a dwelling on an undersized allotment (Grandfather clause)

To p.l.lowery@xtra.co.nz <p.l.lowery@xtra.co.nz> Copy

Online Resource Consent Applications <online.resourceconsentapplications@selwyn.govt.nz>

Good Afternoon,

Please find attached decision on your application to erect a dwelling on an undersized allotment (Grandfather Clause) on the corner of Prossers and Fereday Road,

Please see below for important information regarding this decision.

Resource Consent Decision Information

Lapsing of Consent

A resource consent lapses on the date specified in the consent, or, if no date is specified, **5 years** after the date of the decision (or if any appeal results, from the date of any decision of the Environment Court) **unless, before** the consent lapses,

- a. The consent is given effect to; or
- b. An application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension after taking into account:
 - i. Whether substantial progress or effort has been, and continues to be made towards giving effect to the consent; and
 - ii. Whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
 - iii. The effect of the extension on the objectives and policies of an plan or proposed plan.

If you or any future purchaser of your property wish to change or cancel any conditions of this resource consent, an application for a variation of consent must be made to the Council on Form 10. An application for a variation will be processed pursuant to Section 127 of the Resource Management Act, and may or may not be granted by Council.

This is a Resource Consent Only

This consent is a resource consent in terms of the Resource Management Act. It is **not** a consent under any other Act, Regulation or Bylaw. Separate applications will need to be made for any other approval, such as a building consent, water race by-law approval or Regional Council consent (if not applied for concurrently with this application).

Rights of Appeal

This notice of resource consent is distributed in accordance with the terms of Section 114 of the Resource Management Act.

Your attention is drawn to the provisions of Section 120, 121 and 357 of the Resource Management Act which allows for objections to, and appeals against, decisions made by consent authorities.

Any party to this application may, within 15 working days of the receipt of this decision, appeal to the Environment Court pursuant to Section 120 of the Resource Management Act.

The Christchurch address of the Environment Court is:

Physical Address:

99-101 Cambridge Terrace, Christchurch