

**APPLICATION FOR RETROSPECTIVE  
LANDUSE CONSENT FOR A GARAGE, 35  
PETTICOAT LANE, DOYLESTON**



## **APPLICATION FOR RESOURCE CONSENT PURSUANT TO SECTION 88 RESOURCE MANAGEMENT ACT 1991**

### **RESOURCE CONSENT SOUGHT**

The following report is an assessment of the actual and potential effects on the environment generated by the land use application at 58 North Terrace, Darfield.

This application addresses the character of the land, the proposed land use activity, and the relevant provisions of the Selwyn District Plan. This application also includes an assessment of effects on the environment as required by the Fourth Schedule of the Resource Management Act 1991.

### **1.0 INTRODUCTION**

The following report is an assessment of the actual and potential effects on the environment generated by a garage that was constructed without the necessary land use consent located at 35 Petticoat Lane, Doyleston.

This application addresses the character of the land, the proposed subdivision, and the relevant provisions of the Operative and Partially Operative Selwyn District Plans. This application also includes an assessment of effects on the environment as required by the Fourth Schedule to the Resource Management Act 1991.

### **Summary of Application Details**

Applicant:	Michael McAdam
Owners:	Bella Ann Wilson and Michael Stephen McAdam
Site Address:	35 Petticoat Lane, Doyleston.
Legal Description:	Lot 41 Deposited Plan 105
Record of Title:	CB17B/934
Roading Hierarchy:	Petticoat Lane – Local Road
District Plan Zoning:	<u>Operative Selwyn District Plan</u> Living 1 <u>Partially Operative Selwyn District Plan</u> Low Density Residential Zone Plains Flood Management Overlay Liquefaction Damage Unlikely Overlay
Proposal:	Retrospective Land use consent is required for a garage that has Code of Compliance.

## 2.0 SITE AND SURROUNDS

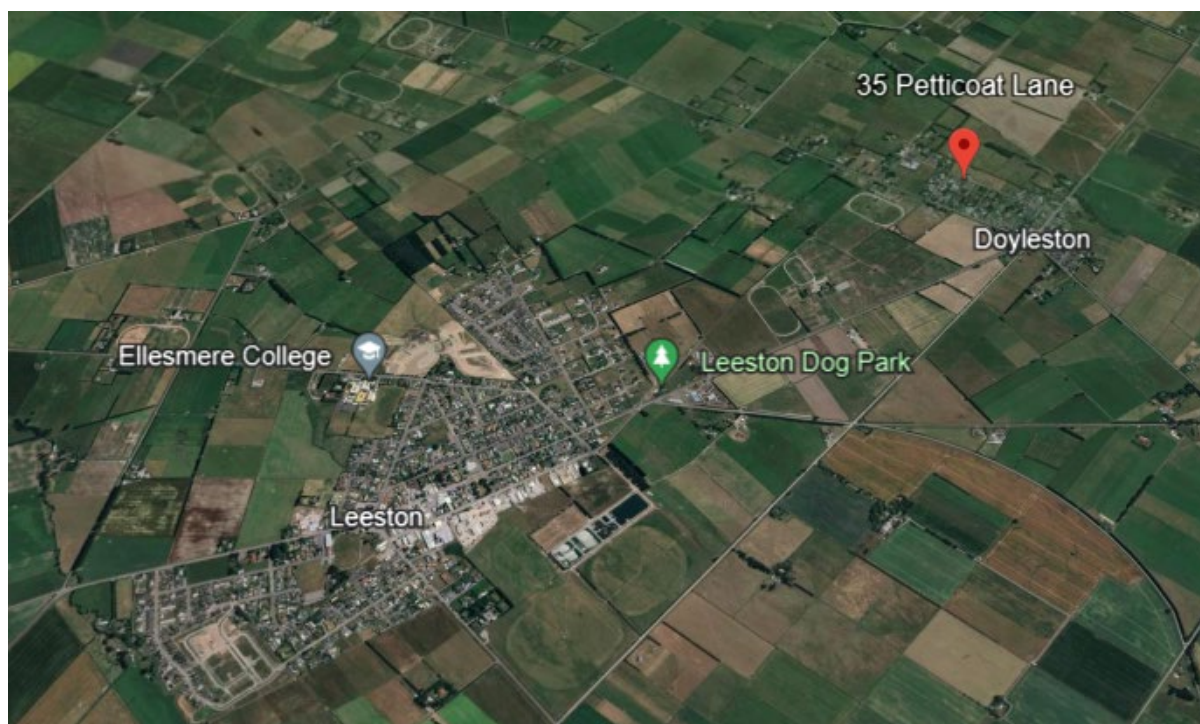
The application site is legally described as Lot 41 Deposited Plan 105. It is held in Certificate of Title 17B/934. It contains a total land area of 2023m<sup>2</sup>. A copy of the title is attached in **Appendix 1** to this application.

The site is located on the south side of Petticoat Lane. The front part of the site contains the existing dwelling, garage and small shed. The site is entirely fenced with areas of established trees along the boundaries of the site. The site gains access via an existing 5.0m wide metalled driveway located directly off Petticoat Lane.

A sewer lateral runs through the rear of the property and is connected to the sewer ID 25397 located in Drain Road.

### Surrounds

The application site is situated in the township of Doyleston, a small farming community on the Canterbury Plains. It is located 5 km west of Lake Ellesmere and 3 km north of Leeston. A variety of services are available in the nearby rural settlement of Leeston. Figure 1 below illustrates the general location.



**Figure 1: Location – Google Maps**

## 3.0 BACKGROUND

An application for subdivision was lodged with council (RC245296) and during the processing of the application it was established that the garage had building consent and code of compliance, but no resource consent. A s37 was never issued with the building consent that required a land use consent to be issued and a Code of Compliance was issued. Attached property file



(Appendix 3) from council showing the approved Building Consent plans and Code of Compliance for the garage.

The garage was built closer to the boundary than what the previous Living 1 permitted and now requires a retrospective land use consent.

#### **Site Contamination**

Contamination of the parent property has been addressed under RC225042 and RC225043 and remediation was undertaken, and the site was cleared of any contamination by ECan. No further resource consent under the NES is required for this application.

#### **Flood Management Area**

The property is located within the Plains Flood Management Overlay. The building is a garage and is not a habitable space. An FAC is not required for purpose of this application.

### **ASSESSMENT**

The assessment will only address the establishment of the garage. The subdivision has provided a full assessment of all the rules related to transport and subdivision and any other potential non-compliances arising from the subdivision.

#### **ASSESSMENT UNDER THE OPERATIVE SELWYN DISTRICT PLAN**

The application is zoned Living 1 under the Operative District Plan.

#### **Building Compliance Assessment**

An assessment is provided under the Operative Plan, although not required for this application since none of the requirements for the Low Density Zone is under appeal.

The following table summarizes the requirements for the garage, when the garage was established, so as to determine whether it was legally established at the time of Building Consent.

**Table 1: Assessment of Standards – Operative District Plan**

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Chapter 4 - Living Zone Rules - Buildings				
<b>Rule 4.7.1 – Buildings and Site Coverage</b> <i>Except as provided in Rule 4.7.2, the erection of any building which complies with the site coverage allowances set out in</i> <i>Table C4.1 below shall be a permitted activity. Site coverage shall be calculated on the net area of any allotment and shall</i> <i>exclude areas used exclusively for access, reserves or to house</i> <i>utility structures or which are subject to a designation.</i> <b>Table C4.1 Site Coverage Allowances</b>			<input type="checkbox"/>	The coverage including the garage over the entire lot is less than 40%
	Zone		Coverage	
	Living 1	Including garage	40%	
		Excluding garage	40% minus 36m <sup>2</sup>	
		Emergency Services only	50%	
<b>Rule 4.8.1 – Buildings and Building Height</b> <i>The erection of any building which has a height of not more than 8 metres shall be a permitted activity.</i>			<input type="checkbox"/>	The existing garage is a single storey building and complies with the minimum building height.

<b>Rule 4.9.1 - Recession Planes</b> <i>Except in Rule 4.9.1.1 and Rule 4.9.1.2, the construction of any building which complies with the Recession Plane A requirements set out in Appendix 11;</i>	□	There is no recession plane infringements as illustrated on the Scheme Plan – SC-01 Rev C, Recession plane Diagram.																													
<b>Rule 4.9.2 - Setbacks from Boundaries</b> <i>Except as provided in Rules 4.9.3 to Rules 4.9.33, any building which complies with the setback distances from internal boundaries and road boundaries, as set out in Table C4.2 below</i> <b>Table C4.2 - Minimum Setbacks for Buildings</b> <table border="1" data-bbox="212 613 898 1146"> <thead> <tr> <th data-bbox="212 613 518 689" rowspan="2">Building Type</th><th colspan="2" data-bbox="518 613 898 640">Metres from Boundary</th></tr> <tr> <th data-bbox="518 640 651 689">Internal</th><th data-bbox="651 640 898 689">Road (or shared access where specified)</th></tr> </thead> <tbody> <tr> <td data-bbox="212 689 518 716">Dwelling or principal building</td><td data-bbox="518 689 651 716">2m</td><td data-bbox="651 689 898 716">4m</td></tr> <tr> <td data-bbox="212 716 518 792">Garage: Wall length 7m or less and vehicle door faces road or shared access</td><td data-bbox="518 716 651 792">1m</td><td data-bbox="651 716 898 792">5.5m</td></tr> <tr> <td data-bbox="212 792 518 869">Garage: Wall length 7m or less and vehicle door faces internal boundary</td><td data-bbox="518 792 651 869">1m</td><td data-bbox="651 792 898 869">2m</td></tr> <tr> <td data-bbox="212 869 518 945">Garage: Wall length greater than 7m and vehicle door faces road or shared access</td><td data-bbox="518 869 651 945">2m</td><td data-bbox="651 869 898 945">5.5m</td></tr> <tr> <td data-bbox="212 945 518 1021">Garage: Wall length greater than 7m and vehicle door faces internal boundary</td><td data-bbox="518 945 651 1021">2m</td><td data-bbox="651 945 898 1021">4m</td></tr> <tr> <td data-bbox="212 1021 518 1070">Accessory Building with wall length not more than 7m</td><td data-bbox="518 1021 651 1070">1m</td><td data-bbox="651 1021 898 1070">2m</td></tr> <tr> <td data-bbox="212 1070 518 1120">Accessory Building with wall length greater than 7m</td><td data-bbox="518 1070 651 1120">2m</td><td data-bbox="651 1070 898 1120">4m</td></tr> <tr> <td data-bbox="212 1120 518 1146">Utility Structures</td><td data-bbox="518 1120 651 1146">0m</td><td data-bbox="651 1120 898 1146">0m</td></tr> </tbody> </table>	Building Type	Metres from Boundary		Internal	Road (or shared access where specified)	Dwelling or principal building	2m	4m	Garage: Wall length 7m or less and vehicle door faces road or shared access	1m	5.5m	Garage: Wall length 7m or less and vehicle door faces internal boundary	1m	2m	Garage: Wall length greater than 7m and vehicle door faces road or shared access	2m	5.5m	Garage: Wall length greater than 7m and vehicle door faces internal boundary	2m	4m	Accessory Building with wall length not more than 7m	1m	2m	Accessory Building with wall length greater than 7m	2m	4m	Utility Structures	0m	0m	x	The garage does not comply with the minimum setback from the western internal boundary at 0.9m. The garage door faces an internal boundary is longer than 7m in length and requires a 2m setback.
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#### Rule 4.9.48

Any activity which does not comply with **Rule 4.9.2** and Rules 4.9.4 to Rule 4.9.30 and Rule 4.9.32 to Rule 4.9.33 shall be a restricted discretionary activity The garage required resource consent as a **Restricted Discretionary Activity** under the Operative Plan, when it was established.

#### ASSESSMENT UNDER THE PARTIALLY OPERATIVE SELWYN DISTRICT PLAN

The application property is zoned **Low Density Residential Zone**. Only rules relevant to the garage will be addressed. The garage is considered an accessory building for purposes of this application, since it is a detached building of which the use is ancillary to the use of the residential dwelling. The application is not for a principal dwelling or minor dwelling and R1, R2 and R3 is not considered relevant to this application.

The property is located within the Plains Flood Overlay and Liquefaction unlikely zones. The application is not for a residential dwelling and the said overlays do not apply to this application.

**Table 2: Assessment of Standards – Partially Operative District Plan**

Rule / Standard	Performance Standards	Proposal	Consent Required
<b>Part 3 – LOW DENSITY RESIDENTIAL ZONE</b>			
<b>LRZ – R4</b> Accessory building	The establishment of a garage as an accessory building is Permitted if LRZ-REQ2 -LRZ-REQ4, LRZ-REQ7 and LRZ-REQ9 are met.	The application is for an existing garage which does not have planning permission. The existing garage does not comply with <b>LRZ-REQ7</b> .	<b>RDIS</b>
LRZ-REQ2 Coverage	40%	The garage and existing dwelling is well below 40% for the overall site	<b>Complies</b>
LRZ-REQ3 Building Height	8m	The garage is a single storey building and complies with the building height	<b>Complies</b>
LRZ – REQ4 HIRB	APP 3 – height in relation to Boundary	The garage complies with the HIRB as shown on the scheme plan	<b>Complies</b>
LRZ – REQ7 Setback of Buildings	2m internal boundary for garage if garage wall is greater than 7m  The standards are the same for garages REQ6	The garage faces an internal boundary and is located 0.9m from the internal boundary and has a wall along this boundary that is approximately 9m long.	<b>Does not Comply</b>
LRZ – REQ9 Outdoor Living	50m <sup>2</sup> , 4m min dimension	The existing dwelling has adequate outdoor living space which complies with the requirements	<b>Complies</b>
<b>Part 2 District Wide Matters</b>			
<b>Energy Infrastructure and Transport</b>			
TRAN – R6 Parking Manoeuvring and loading areas	Permitted if compliance is shown of TRAN-REQ9 – 17 and REQ 28	The garage complies with all transport requirements.	<b>RDIS</b>

TRAN-REQ9 On-Site Parking	2. Minimum Dimensions as per TRA-Table 11 Internal dimensions  Double garage: 5.6m x 5.5m	The double garage has internal dimensions of 5.820m x 5.820 as per the approved building consent plans. The garage door is 4.9m in width.	<b>Complies</b>
TRAN-REQ16 Vehicle Manoeuvring	On-site manoeuvring required for access to State Highway/Arterial Road  To collector road with 3 or more parking spaces  To accessway that serves more than 6 or more parking spaces  Not more than one reverse manoeuvre to exit parking space	There is adequate space for on-manoeuvring	<b>Complies</b>

Resource Consent is required for the following non-compliances as a **Restricted Discretionary Activity** under the Partially Operative District Plan

- Setback of Accessory Buildings/Garage – LRZ- REQ7

### **Matters of Control or Discretion**

#### **RESZ – MAT6 – Internal Boundary Setback**

1. Effects on the amenity of adjoining residential properties regarding privacy, outlook and shading.
2. Effects on the accessibility of the space between buildings and the affected boundary for cleaning and maintenance, access for emergency services personnel, storage, and to keep the area free of vermin.

The above are relevant matters of discretion to the existing garage. The garage makes provision for 2 parking spaces, storage and workspace. The garage wall is 9m in length along the eastern boundary as illustrated in the drawings.

The garage is set back 0.9m from the western boundary, whilst the requirement is 2m measured from the wall if the eave width is 600mm and less. The eave width of the garage is less than 600mm.  
**(Refer Appendix 2 – Drawing LU-01)**

The consented building plan for the garage shows a setback of 1.2m. During the site survey it was established that the fence and actual boundary do not align as shown on the scheme plan and that there is a difference of 300mm with the boundary closer to the garage. It can be assumed that the contractor who constructed the garage may have thought that the fence was built on the boundary and the setout was done from the fence. There was no Building Location Certificate required at Building Consent stage, so this error could easily occur.

The garage was approved in 2022 and a Code of Compliance was issued on the 8<sup>th</sup> of March 2023. The garage has been in existence for 1 year and 6 months and the effects of the garage have been established. According to our knowledge there have been no complaints from the neighbours, due to the garage being closer than what is permitted.

The garage does not create any recession plane breach along the western boundary as illustrated on the Scheme Plan, so no additional shading is created by the garage. The garage does not affect any outlook or outdoor living area of the neighbouring property, since the neighbours garage is on the opposite side of the fence.

The 0.9m setback provides for adequate space for access and maintenance.

## **ASSESSMENT UNDER THE PARTIALLY OPERATIVE DISTRICT PLAN- OBJECTIVES AND POLICIES**

### **LRZ-01**

#### **Objective**

The Low Density Residential Zone provides for residential activity and is characterised by low density and spacious housing typologies consistent with a suburban character.

### **LRZ-P1**

#### **Policy**

Enable activities that support and maintain a suburban character by managing the number of residential units that can be accommodated on each site and requiring:

1. a generally low rise built form consisting of single and two storey detached residential units; and
2. appropriate levels of openness around residential units which provides for residents on-site amenity.

The proposal is consistent with the Objective and Policy for this zone. The garage that breaches the non-complying setback requirement does not impact the character and opened of the area. The garage has been established and the effects have been established.

### **TRAN – 01**

#### **Objective**

People and places are connected through safe efficient and effective land transport corridors and land transport infrastructure for all transport modes, which are well integrated with land use activities and subdivision development and reduce dependency on private motor vehicles.

### **TRAN – P1**

#### **Policy**

(2) Provide land transport infrastructure that is consistent with the form, function and character of each zone

The proposal is consistent with the above Transport Objective and Policy. The proposal provides for adequate parking with adequate dimensions and on-site manoeuvring.

## **ASSESSMENT AGAINST PART 2 OF THE RMA**

The purpose of the Act (Part 2) is to promote the sustainable management of natural and physical resources.



Section 5 imposes a duty on consent authorities to promote sustainable management while avoiding, remedying or mitigating adverse effects of activities on the environment.

Section 6 addresses matters of national importance and Section 8 Treaty of Waitangi issues. It is considered that there are no matters of national importance which need to be taken into account in this instance. There is to be no discharge to water and no disturbance of indigenous flora and fauna. There are no heritage structures, sites or protected trees identified on the site.

### ***Summary of Effects***

The assessment provided in this report concludes that the environmental effects of the proposal will be less than minor.

Accordingly, it is considered that the proposal satisfies all matters that the consent authority is required to address in terms of section 95 and 104 of the Act and that the application can be granted on a non-notified basis.

### **CONCLUSION**

The preceding assessment has demonstrated and concluded that the proposed activity will have insignificant actual or potential effects on the environment. Further, the proposal is not contrary to the relevant provisions set out in the Selwyn Partially Operative District Plan or the purpose and principles of the Resource Management Act 1991, as set out in Part II.

### **Prepared by:**

Sonja Perrin  
16/09/2024