

**BEFORE A COMMISSIONER APPOINTED BY ASHBURTON DISTRICT  
COUNCIL**

**UNDER** the Resource Management Act 1991 ("RMA")

**IN THE MATTER OF** An application for a resource consent under section 88  
of the RMA by **AK Tech Services Limited** to establish  
and operate a building to be primarily used as an  
agricultural workshop for rural machinery and  
equipment on Acton Road, Rakaia (Application No.  
LUC21/0103)

---

**EVIDENCE OF DAVID HARFORD  
ON BEHALF OF AK TECH SERVICES LIMITED**

**Date: 27 APRIL 2022**

---

## **1. INTRODUCTION, QUALIFICATIONS & EXPERTISE**

- 1.1 My name is David Harford. I am an independent Planning Consultant and Director of David Harford Consulting Ltd (DHCL). I have a Bachelor of Resource Studies (Lincoln University) and I am an associate member of the New Zealand Planning Institute ("NZPI"). I have been involved in resource management for both local government and in a private capacity for over 24 years.
- 1.2 In preparing this evidence, although this is not the Environment Court, I acknowledge that I have read the code of conduct for Expert Witnesses in the Environment Court Consolidated Practice Note (2014). I agree to comply with this Code of Conduct. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 1.3 This evidence is given in support of the application for resource consent lodged with the Ashburton District Council by AK Tech Services Limited ("the applicant").
- 1.4 The applicant wishes to establish and operate an agricultural workshop primarily servicing agricultural equipment and machinery within a circa 615m<sup>2</sup> floor area building with an ancillary office building as shown on the site plans and details included within the application and as detailed in the Council planning officer report.
- 1.5 I am authorised to give this evidence on behalf of the applicant.

## **2. SCOPE OF EVIDENCE**

- 2.1 I have been engaged by AK Tech Services Ltd, to provide planning advice on its application for the proposed facility on this Rural A zoned site in Rakaia. Specialist acoustic analysis was prepared to support the Assessment of Effects on the Environment ("AEE") documentation for the application that is the subject of this hearing. I am thus familiar with the area and application site.
- 2.2 In preparing this evidence I have read the Officer Report and wish to record that it accurately describes the site location and the nature of the proposed development. Accordingly, there is no need for me to repeat the development description contained in the AEE or in the Officer Report.

- 2.3 Further, I wish to record that I support and agree with the intent, assessment and nature of the recommended conditions in the Officer Report except where I make comments.
- 2.4 My evidence will address the following matters:
- (a) The existing environment.
  - (b) Overview and conclusions from the Officers Report, AEE and subsequent matters.
  - (c) Activity Status;
  - (d) Conclusions from other experts;
  - (e) Issues raised in the submission;
  - (f) Officer's Report Recommended Conditions; and
  - (g) Conclusion;

### **3. THE EXISTING ENVIRONMENT**

- 3.1 The application and acoustic assessment alongside the planning officer report detailed the existing environment which generally included the existing site and surrounding land holdings including those sites with existing residential units and ancillary buildings.
- 3.2 In addition to the above the application and officer report made mention of the existing road boundary shelter planting which is to remain. In recent months the applicant has undertaken some boundary plantings on the site for amenity and shelter. Details regarding these plantings can be provided in the form of a condition that planting of trees along the internal boundaries will be maintained by the applicant and any dead or diseased trees will be replaced. There is no need for a landscape plan to be prepared for this.

### **4. OVERVIEW & CONCLUSIONS FROM THE OFFICER REPORT, AEE AND SUBSEQUENT MATTERS**

- 4.1 For the reasons set out in the AEE documentation and in the assessment within the Officer Report, I consider that the Application should be granted

subject to the imposition of the conditions recommended by the Reporting Officer except where I comment to the contrary below.

- 4.2 The acoustic report provided by Mr Farren of Marshall Day Acoustics for the applicant provided following the pre-hearing meeting in February 2022 assessed that the daytime noise from activities within the proposed workshop building can comply with the Ashburton District Plan noise levels. This is a key actual effect of the proposal and one that therefore can be mitigated as discussed in the acoustic report.
- 4.3 The Rural zone (in this case a Rural A zone) does provide for Rural Service Activities such as this, as a discretionary activity.
- 4.4 I consider that the application site is an appropriate location for this proposal on the basis that the proposal is essentially an agricultural workshop that could operate at this location with less than minor effects on the adjoining landowners.
- 4.5 As detailed in the application with regards to the proposed facility itself, this will be compliant with the road and internal boundaries such that it complies with the District Plan standards. The design, scale and finishing's will ensure this structure does not appear excessive or imposing and/or out of keeping with what the District Plan anticipates.
- 4.6 In regards to a permitted baseline comparison, I agree with the planning officers comments on page 11 of his report that ... *"it is considered appropriate that the permitted baseline be applied to this application because it is within a Rural Zone and certain levels of operational and maintenance activities can be expected as part of the activities permitted in the zone"*.
- "Additionally, the District Plan allows substantial structures associated with agricultural and intensive farming activities to be erected as permitted activities (such as sheds up to 500m<sup>2</sup> for farming activities)"*.
- 4.7 It is possible to have larger buildings on smaller rural zoned lots for many agricultural and horticultural purposes that would be permitted by the District Plan and activities within and about those buildings could be undertaken in accord with the farming activity definition as permitted activities i.e. a hydroponic type of facility where all the salad type vegetation is grown on the site alongside its packaging and transport on the site. I do not consider that as a fanciful activity as modernised primary production for this type of produce could become more common.

4.8 In terms of other potential effects of this proposal as raised in the planning officer report the following are matters that can be generally agreed upon.

4.9 On page 11 of the officer report under the heading *Noise* the hours of operation are stated in accord with what was sought as part of the application. That is 7am to 7pm during normal operation and 7am to 11pm during busier times of the year. As part of the pre-hearing considerations the applicant offered the following;

*The hours of operation for AK Tech Services business on the site shall be limited to 8.00am to 6.00pm Monday to Friday, and 9.00am to 12.00pm Saturday. No operations are authorised on Sundays or public holidays excluding essential breakdown repairs where jobs will be carried out inside of the shed with closed doors.*

*Use of the shed for personal projects or activities is excluded as this is no different to a landowners/occupiers personal use of their own accessory buildings for general use such as a garage or storage area. i.e. the applicant can use this building as their own garage/ storage area.*

4.10 The applicant offered that condition following the pre-hearing meeting however as no agreement was reached in that regard this offer was not considered further. The applicant is willing to have this offer of those hours in italics above re-considered if the application and planning officer recommended hours are an issue for the commissioner.

4.11 In terms of the essential breakdown repairs that may be required outside of the stated hours this includes the urgent fabrication/making of or repair of a damaged /broken part of machinery or equipment. The relevant part would be removed from the machine and the part only would be worked on in the workshop. After hours work is needed so as to keep time sensitive and seasonal dependant farm work progressing. Based on expectations this is likely to be infrequent but the applicant needs the flexibility to provide this repair service for farmers, growers and contractors.

In terms of the use of the words “extended use of hand tools” that might lead to non-compliance with the District Plan. Mr Farren explains this in his evidence. He provides an advice note with regards to the extended use of hand tools that says;

*As a guide to compliance with the night-time noise limits, powered hand tool use should be minimised and generally be no longer than 10 minutes in any one hour period.*

- 4.12 Mr Farren then recommends that Condition 2 as recommended by the planning officer be removed in place of the advice note.
- 4.13 In terms of the busy times of the year, namely planting and harvesting periods, these periods for planting range from late August through to late November and harvest periods are generally February – late April however the applicant needs the ability to provide the workshop repair and maintenance ability over the course of the year. What needs to be quantified here is the applicant is a specialist in many types of machines and equipment. There are other agricultural machines he will be working on from time to time that may require after hours on site repair or maintenance however in many cases the applicant will work on the machinery out in the field unless it is not possible to do so and therefore a return to the workshop for repair, replacement or maintenance as required.
- 4.14 In terms of the potential visual effects it is agreed that the large roadside boundary hedge will be retained to provide both screening and shelter with the only gap being that for the access into the site via the vehicle crossing. Photos of this can be provided however it is anticipated the hearing commissioner will undertake a site visit so will see this first hand alongside the other plantings undertaken by the applicant on the site.
- 4.15 The planning officer comment however following on from this states...
- “Visual effects are likely to be mitigated by the scale of the shed within a Rural Zone, and the retention of the road boundary landscaping and in my opinion could be adequately mitigated through landscape planting and maintenance. (underlining added)*
- I have included a landscaping plan requirement condition for the consideration of the commissioner should they be minded to approve the application. Ideally the applicant should consider submitting a landscape plan prior to or at the hearing so that the Commissioner can consider the type of landscaping that could be established and how it might reduce potential visual effects of the building”.*
- 4.16 Where I underline above proposed condition 8 requires planting to the southeast and northwest. The applicant has already undertaken some plantings on the boundary but just need clarity regarding the extent of the planting Council consider necessary in addition to the existing road boundary planting.

- 4.17 It is not considered a landscape plan is necessary as the existing roadside planting will be retained and there will be additional planting on internal boundaries of the site which the applicant will maintain.
- 4.18 In terms of transport matters and in particular traffic generation and parking demand details of this were provided in the application and further were provided as part of a pre-hearing response in terms of the intensity of the application. This summarised the intensity in terms of traffic as no greater than 5HGV vehicles on any site at any one time and an average of 10 vehicle movements/day not including the applicant's personal or family movements. No comments were raised by the planning officer in that regard and the existing gateway access is accepted as the main property entrance and exit.
- 4.19 Further the actual building and yard area for the workshop and yard area will be fenced and contained within its own circa 4500m<sup>2</sup> area to separate this from the balance of the property.

## **5. ACTIVITY STATUS**

- 5.1 As discussed in the AEE and Officer Report, under the Operative District Plan the proposal is a discretionary activity due to Rural Service Activity definition.
- 5.2 The application and officer report provide a level of assessment details in terms of the potential effects. The application is supported by an expert acoustic report.

### **Acoustic Assessment**

- 5.3 The acoustic report from Mr Farren determined that the workshop activity can comply with the permitted daytime (7am-10pm) noise limits for the zone for the notional boundaries of the closest residential units.
- 5.4 It was emphasised that the assessment is based on a conservative level of hand tool use and assumes that the large roller doors will be open to the north.
- 5.5 The assessment factored night-time activity is infrequent which is correct and the findings were that the workshop can be used at night, but *...hand tool use (e.g. impact driver or angle grinder) has the potential to exceed the permitted activity noise limits.*

- 5.1 The recommendation was to include a condition for the consent which is the District Plan Rural zone noise standard. This condition has been recommended by the planning officer. I note that in evidence Mr Farren has made a correction to the wording of this condition which is necessary due to the LAF max noise limits.
- 5.2 Mr Farren did not consider that site boundary noise limits are required to be considered as the noise effects are acceptable or more appropriately are able to be complied with.
- 5.3 In summary, Mr Farren's opinion is that the activities on site can achieve the notional boundary noise standards which are suitable for the protection of residential amenity.
- 5.4 Therefore, overall I consider the effects of this proposal are less than minor based on the low potential effect on the residential amenity and the rural zoning of the area being appropriate for this type of activity. The consideration for a decision as a discretionary activity is to have generally consider all other effects being avoided, remedied or mitigated.

### **Objectives and Policies of the Ashburton District Plan**

- 5.5 An assessment against relevant Operative District Plan objectives and policies was included as part of the application and the planning officer report.

#### *Objective 3.5: Rural Character and Amenity*

*To protect and maintain the character and amenity values of the District's rural areas, considering its productive uses whilst providing for non-rural activities that meet the needs of local and regional communities and the nation.*

- 5.6 I agree with the planning officers comments regarding this objective. There will be a change in amenity as there will be a building utilised for rural related activities servicing equipment and machinery not specifically linked or related to the application site i.e. not machinery farming or working on the subject site. The objective is met in my opinion as the activity is rural related and does fulfil a need for the local and regional community at least.

*Policy 3.5B - Provide for the establishment of non-rural activities in the rural areas, whilst managing any potential adverse effects on the character and amenity of the rural environment and rural productive activities.*

5.7 The policy provides for the establishment of what is a rural activity in the rural zone and it is agreed with the planning officer that conditions of the consent plus the proposed methods for establishing and operating the facility will provide avoidance and mitigation of potential adverse effects.

5.8 Just a comment on the planning officers wording regarding volunteering of conditions. Not all of these have been volunteered and I comment where necessary further below.

*Policy 3.5D - Protect the visual qualities of the surrounding environment from any adverse effects of night lighting of recreational and business activities.*

5.9 The proposal will comply with the District Plan standards for glare with regards to both interior and exterior building lighting. Consideration of vehicle head lighting will be such that headlight direction toward adjoining neighbours from stationary vehicles is to be avoided.

5.10 The level of activity anticipated is limited and most activity will take place predominantly during hours of daylight. The incidents of night-time lighting will be very rare and only ever temporary/short term in duration.

*Policy 3.5E - Retain an open and spacious character to the rural areas of the District, with a dominance of open space and plantings over buildings by ensuring that the scale and siting of development is such that.*

- *it will not unreasonably detract from the privacy or outlook of neighbouring properties;*
- *sites remain open and with a rural character as viewed from roads and other publicly accessible places;*
- *the character and scale of buildings is compatible with existing development within the surrounding rural area;*
- *the probability of residential units being exposed to significant adverse effects from an activity on a neighbouring property is reduced.*

5.11 There is some key points here as part of this policy. It is considered that with regards to the first point the building is sited in accordance with the minimum requirements. This building could be 3 metres from the internal boundary however the setback proposed is 12 metres. Of note is that on this boundary with the neighbour to the south-east the building only has a small door and two windows facing that direction. There is a greater

setback with the neighbour to the north-west with some limited viewpoints of this proposed workshop. This in time can be mitigated with boundary plantings. There are no roller doors or openings facing out toward the south-eastern boundary.

- 5.12 In terms of the question raised about potential to move the building further away from the boundary the applicant wishes to keep the building in its current position as it enables ease of internal vehicle movements based on the proposed layout. A couple of metres adjustment is unlikely to matter significantly for the applicant as it's in a compliant internal and road boundary position now but that small adjustment would have little effect of any great benefit in my opinion.
- 5.13 For the second bullet point the site is still an open one from the perspective that there is significant road boundary screening now when viewed from the road and equally from the river bed land to the north, the balance of the property is open.
- 5.14 With the last bullet point whilst there are not several larger buildings similar in scale to the proposed one in the immediate surrounding area the nature of this building is such that the character and scale is compatible with farming related buildings that could be built on the site. I used the example of a hydroponic type building or intensive vegetable/salad produce facility which could easily be established and undertaken as a permitted farming activity on the site.
- 5.15 For the last bullet point. Based on the assessment the nature of the proposed activity whilst it is not suggesting that there are no effects what has been assessed is there are no significant effects as stated under the policy.

#### **Objective 11.1: Effects of Noise**

*Minimise the potential for conflict between noise emissions from land use activities and other more sensitive land uses.*

- 5.16 The expert acoustic assessment details that the potential noise effects are not significant at this site. The proposal will minimise conflict with the use and type of equipment within the building and the proposed hours of operation.
- 5.17 The key wording is to minimise the potential for conflict which is what the applicant will and can do. The activities on site will not occur throughout the day continuously as the majority of the proposed work activity is undertaken out in the field where the machines are working. Doing so is much more

economic and practical. The majority (if not all movements) are undertaken during the hours of daylight will ensure any noise effect is considered limited in character and scale.

- 5.18 In summary, the assessment of those relevant objectives and policies, whilst the planning officer comments on slight inconsistency I would emphasise that this would only be very slight based on the objective and policy wording however this does not in my opinion stretch to being contrary or antagonistic to those relevant objectives and policies.

## **6. SECTION 104 SUMMARY**

- 6.1 Whilst the proposal is not a non-complying activity requiring the Section 104D of the RMA test to be determined, as a discretionary activity Section 104(1)(c) enables all other matters to be considered.
- 6.2 It is agreed that any unlikely potential adverse effects, can be remedied and/or mitigated, and taken as a whole, that are no more than minor. Based on the application and evidence provided by myself and particularly the evidence of Mr Farren, alongside the planning officers report, that the proposal does not result in “more than minor” adverse effects.
- 6.3 In terms of the objectives and policies of the District Plan, for a proposal to be contrary to those, means that a proposal must be “repugnant” to the relevant plan objectives and policies rather than simply not being in accordance or inconsistent with them. *This is considered to be a high threshold, and in order to be considered ‘contrary’ the application must demonstrate significant level of inconsistency with the policy framework.* I don’t consider the proposal is contrary to those objectives and policies.
- 6.4 For the reasons set out in the AEE, the Officer’s Report and earlier in my evidence, it is my opinion that with the inclusion of appropriate consent conditions, the effects of the proposal will be less than minor.
- 6.5 The matters of Precedent and District Plan Integrity are not considered issues for this proposal.
- 6.6 The precedent effect matter is one where in my view the approval of this application does not then raise an immediate onus of Council to approve similar consent(s).

- 6.7 My understanding is that the consideration is whether the concept of precedent may have planning significance beyond the immediate vicinity of the land concerned. I don't consider this proposal for a specialist agricultural workshop and servicing facility would be easily established in this vicinity at the scale and character as this proposed.
- 6.8 The planning officer raises the matter of integrity at section 6.8.1 of his report. It's a stretch to say that this activity is better provided in other zones such as the Business E zone as there are very few agricultural contractors within Business E zones that I am aware of. I am not saying they cannot establish within a Business E zone as that provides for service activities but often it is a question of availability of Business zoned land, the appropriate size and scale, the logistics of access/egress and cost of that land. These are all relevant factors.
- 6.9 A Rural Service Activity is a discretionary activity within the District Plan. The rural environment this proposal wishes to establish provides for this type of activity subject to its potential effects.
- 6.10 Non-compliance with a plan cannot of itself create a precedent effect. The integrity of the plan is not always placed at issue simply because an activity is classified as discretionary.
- 6.11 Precedent effect only ever arises for consideration if the proposal runs up against the District Plan's objectives and policies. I submit that it doesn't.
- 6.12 Confidence will only be affected if a decision-maker ignores a District Plan's policies and objectives and allows an activity with major effects and which would be contrary to those objectives and policies. This proposal is not considered to have major effects.
- 6.13 Accordingly, there should be no concern that the integrity of the District Plan will be placed in jeopardy, should consent be granted to this proposal.

## **7. ISSUES RAISED IN THE SUBMISSION**

- 7.1 One submission was received in relation to the Application from W and T Mewes, the owners of 63 Acton Road. This property adjoins the application site.
- 7.2 The planning officer summarises this submission and I have provided evidence that discusses detail related to the points raised. For completeness my response to the submission is below.

- 7.3 The activity is not permitted in the Rural A zone however as a Rural Service Activity, it is a discretionary activity. These types of activities are not uncommon in the Ashburton District and particularly within the Rural zones. The nature of some discretionary activities are not suitable within a Rural A zone such as a quarry or aggregate extraction site or shooting range which may not be appropriate and may not meet any relevant zone standards. For this proposal, it is one that is linked to the rural industry and offers a service to agricultural growers, farmers and contractors and the like of which this District has numerous operators.
- 7.4 The acoustic assessment for the daytime noise was assessed as being compliant. The position of the building is setback in a compliant position being 12 metres off the internal boundary. Importantly in my opinion is the door openings or rollers doors of the building are not facing directly toward the submitters property where some noise would be mitigated by the wall of the building closest to the submitters property.
- 7.5 The land holdings including the applicants and submitters sites are smaller Rural A zoned sites however the point here is they are still zoned Rural and are not zoned Residential D (low density residential).
- 7.6 In terms of property valuation it has been my understanding what the planning officer raises regarding financial effects is not an effect that can be considered under the RMA is correct. It is the environmental effects that are the key considerations for this application.

## **8. OFFICERS REPORT RECOMMENDED CONDITIONS**

- 8.1 The proposed conditions recommended in the officer report are supported however I comment on some of these below.
- 8.2 Condition 2 states the extended use of hand tools not to be used between 10pm and 7am. This has been explained by Mr Farren in his evidence. His recommendation is that the condition be replaced by an advice note.
- 8.3 The hours of operation are agreed however there was pre-hearing discussion and a response about some alternate hours as discussed earlier in evidence. A key ability the applicant needs is to be able to access the building outside those times if needed and this has been discussed in this evidence. This would be very intermittent and sometimes unpredictable but it is not something that would occur several times in a week.

- 8.4 Condition 8 requires a landscape plan. This condition is not necessary as it's worded. The applicant will undertake some planting along those boundaries and can accept a condition that all trees/plants on this boundary be maintained and any dead or diseased trees/plants shall be replaced.
- 8.5 Condition 13 provides for a review condition. In my planning experience a review condition could be said to be standard and is the norm rather than the exception. I don't see any issue with this condition.
- 8.6 All other conditions are accepted and the advice notes I have no comment on.

## **9. PART II OF THE RMA**

### **Section 5**

9.1 *Section 5 outlines the purpose of the Act as follows:*

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, "sustainable management" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:
  - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
  - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.**

9.2 By establishing this activity, the applicant will contribute towards the Districts social and economic well-being with less than minor effects on the Rural A zone of Ashburton. This has been addressed in the evidence and particularly the acoustic report and evidence of Mr Farren in terms of the empirical noise data.

- 9.3 Whilst the building is large this is necessary for the applicants operation. The applicant supports a wide range of farmers, growers and contractors throughout the Mid-Canterbury District. The positive aspects of the development from an economic, social and cultural perspective will outweigh any detrimental impact upon the Rural A Zone as detailed and therefore it is considered that the proposed development achieves this purpose by avoiding, remedying or mitigating any adverse effects.
- 9.4 Accordingly, the proposal will achieve the purpose of Section 5 of the RMA

### **Section 7**

- 9.5 Section 7 outlines other matters that need to be considered. Matters of relevance are:

*(c) The maintenance and enhancement of amenity values;*

*(f) Maintenance and enhancement of the quality of the environment.*

- 9.6 Section 7(c) and (f) of the Act are matters to which Consent Authorities should give particular regard to when making informed decisions. When assessing a discretionary application in the Rural A zone, consideration may be given to the effects on amenity values and maintenance and enhancement of the quality of the environment as a result of the proposed activity.
- 9.7 The proposal is considered to be consistent with these Part II matters.

## **10. CONCLUSION**

- 10.1 Overall, I consider that any effects of the proposal on the environment will be less than minor and can be adequately addressed through appropriate conditions.
- 10.2 The proposal is not inconsistent with the objectives and policies of the District Plan as explained in the evidence.
- 10.3 The application is in order to be approved with conditions.

**David Harford**

27 April 2022