



**Sections 95, 95A – 95F Resource Management Act 1991**

**Report determining whether an application for Resource Consent should be processed as publicly notified, limited notified or non-notified**

<b>Consent number:</b>	<b>LUC22/0107</b>
<b>Applicant's Name:</b>	<b>Daniel Drummond</b>
<b>Street Address:</b>	49 Mitcham Road, Ashburton
<b>Legal Description of Site:</b>	Lot 1 DP 403730
<b>Zone:</b>	Rural A
<b>Application summary:</b>	Land use consent to establish and operate a rural contracting business from a site at 49 Mitcham Road, Ashburton within the Rural A Zone

**1.0 DESCRIPTION OF THE PROPOSAL**

Resource consent is sought to establish and operate a rural contracting business at 49 Mitcham Road, Ashburton. It is noted that some aspects of the activity are already operating from the site such that the resource consent application is, in part, retrospective.

The application site is a rural property of approximately 10.1 hectares in area. It is proposed to operate the activity on part of the site which will include the following:

**Proposed Activity**

- The contracting business is limited to making hay and balage for clients.
- Limited volumes of hay and balage are brought to and stored on site.
- The applicant lives, and will continue to live, on site as part of the activity.
- An application plan has been submitted which identifies that part of the site occupied by the activity.
- The activity will occupy approximately 6,400m<sup>2</sup> of the site.
- Approval for the activity includes the seeking of a non-compliance with District Plan acoustic standards primarily to allow the activity to operate at times during night time hours.

**Equipment and Buildings**

- Equipment stored on site is limited to up to eight tractors, two loaders plus hay mowers, hay rakes, balers, balage wrappers and carting trailers.
- The majority of hay and balage will be stored on clients properties but some storage will occur on the application site. Balage will be stored in individually wrapped bales and hay will be stored in a covered stack or within a shed.
- The balage stacks will consist of individually wrapped bales which are stacked a maximum of 3 bales high (total of 4 metres in height). The hay/straw bales are stacked a maximum of 6 bales

high (total of 6 metres in height). The stacks are temporary until the material is removed from site during the year as required by clients.

- The applicant has also noted there will be baleage and haystacks within the storage area which belong to the property owners which is for their own on-property use over the winter period.
- Two new buildings are proposed to be erected as part of the proposed activity. Each shed will be 180m<sup>2</sup> in area and will have a maximum height of 5.2 metres. The sheds will be used for the storage of hay and machinery.
- The activity will also utilise an existing four bay shed, which includes a workshop. The combined area of the shed and workshop is approximately 230m<sup>2</sup>.
- Lighting is proposed to be limited to security lighting.

#### Hours of Operation

- The majority of activities primarily occur the summer months during the harvest season from October to April each year.
- Hours of operation during summer months are proposed to be between 7am and midnight, seven days a week.
- Hours of operation outside of the summer months (October to April) will be between 7am and 7pm and will be limited to tractors and trailers delivering hay and baleage with a maximum of four vehicle movements per day.

#### Staff & Facilities

- A total of five staff will be employed as part of the proposed activity including the applicant. Staff movements to and from the site will vary, depending on whether tractors etc have been parked on other properties overnight.
- Subcontractors may also be required during peak periods. They will not be based from the site but may from time to time visit the site to collect or drop off equipment.
- Any office, staff and toilet facilities will be provided within the existing dwelling on the property which the applicant also resides within.
- Diesel will be stored on site as part of the proposed activity. Up to 5,000 litres will be stored on site in a tank within a bunded area. A spill kit and fire extinguishers will also be held on site.
- Tractors will be predominantly serviced on site by specialist servicing companies.
- It is not proposed to seal the driveway, yard or storage areas and instead dust suppressants will be utilised.
- Indicative plans have been provided as part of the resource consent application which identify the location of buildings, parking and storage areas.

#### Vehicle Movements

- Access to the site will be via an existing vehicle crossing which will be upgraded as part of the proposed activity. This will include shifting the entrance gateway up the driveway from its current position and the driveway would be sealed for a length of up to 10 metres from the roadside boundary.
- The applicant anticipates that during the summer period that most tractors and equipment will leave the yard in the morning and return in the evening which will generate up to twelve vehicle movements per day.
- Depending on the location of the work, some machinery will not return to site for several days, depending on the scale of work being undertaken.
- It is estimated that the activity will generate up to a maximum of 26 vehicle movements per day during the summer period including tractors, staff, servicing and deliveries.
- Outside of the summer period the activity will generate up to 8 vehicle movements per day.

## Landscaping

- Existing shelterbelts on all internal boundaries will be maintained as part of the activity. A shelterbelt is proposed to be established along the roadside boundary.
- No additional fencing is proposed to be established as part of the proposed activity.

## Irrigation Channel

- An irrigation channel passes through the site which is designated for irrigation purposes. The applicant has advised that the irrigation channel is being replaced with a pipeline which will be protected by way of easement. No buildings or permanent structures will be placed over the top of the pipeline.

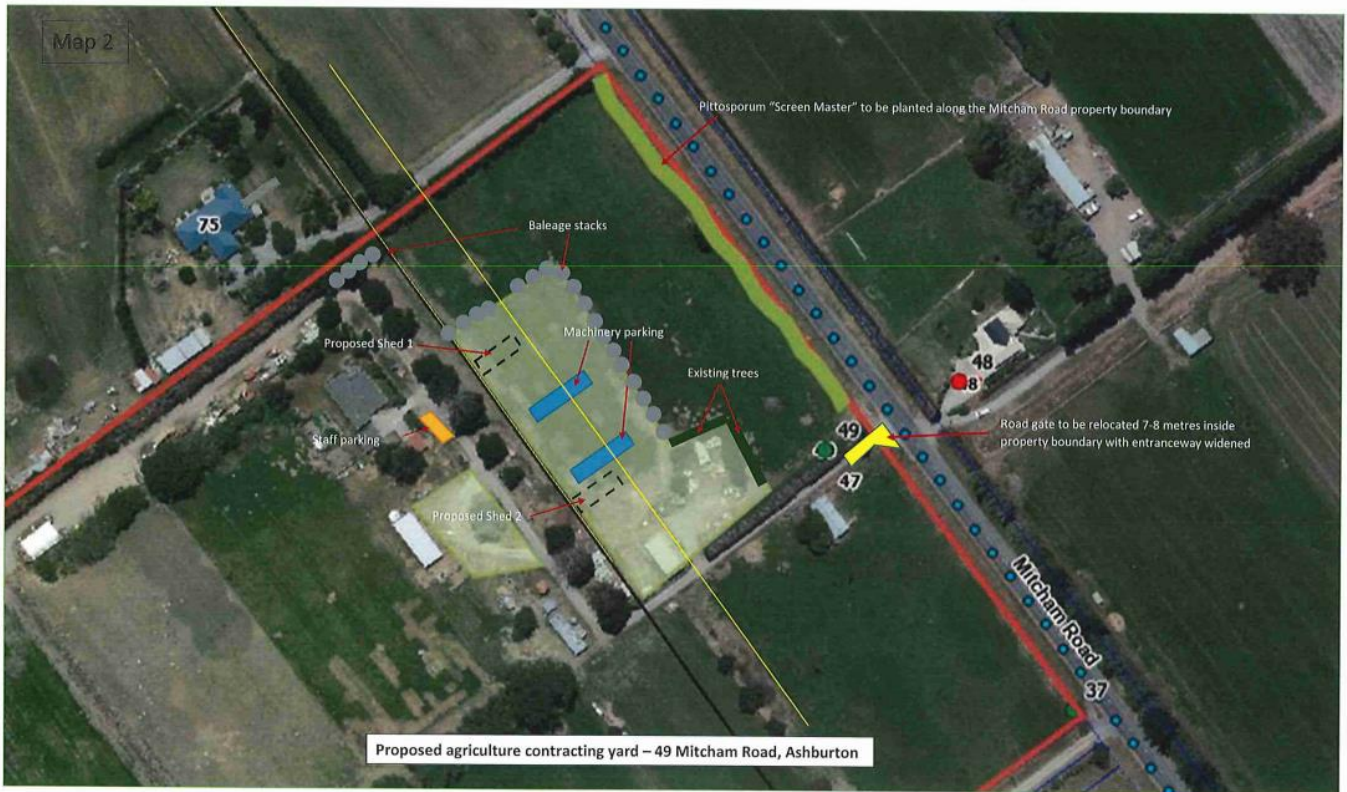
## Consultation

- The written approval of four landowners has been submitted as part of the application.

It is noted that subsequent to the lodgement of the resource consent application an updated application was provided for the activity which was prepared by a planning consultant. The updated application provided additional information on the proposal, including updated site plans. It is noted that some aspects of the proposal are detailed in the original application but not in the updated application. This has been discussed with the applicant's consultant and they have confirmed that the two applications should be read in conjunction with one another.







Figures 1 & 2: Application Plans

### 1.1 DESCRIPTION OF THE EXISTING ENVIRONMENT

The application site is located at 49 Mitcham Road which is located on the fringe of Ashburton township. The site is located approximately 450 metres west of the intersection of Mitcham Road and State Highway 1. The site is approximately 10 hectares in area and contains a dwelling, outbuildings and a series of paddocks used for productive purposes. Access to the site is via a vehicle crossing at the midpoint of the sites road frontage.

The site has not been identified as potentially contaminated in the Environment Canterbury Listed Land Use Register.

Activities in the local area are rural and rural lifestyle in nature with the majority of local properties similar in size to the application site.

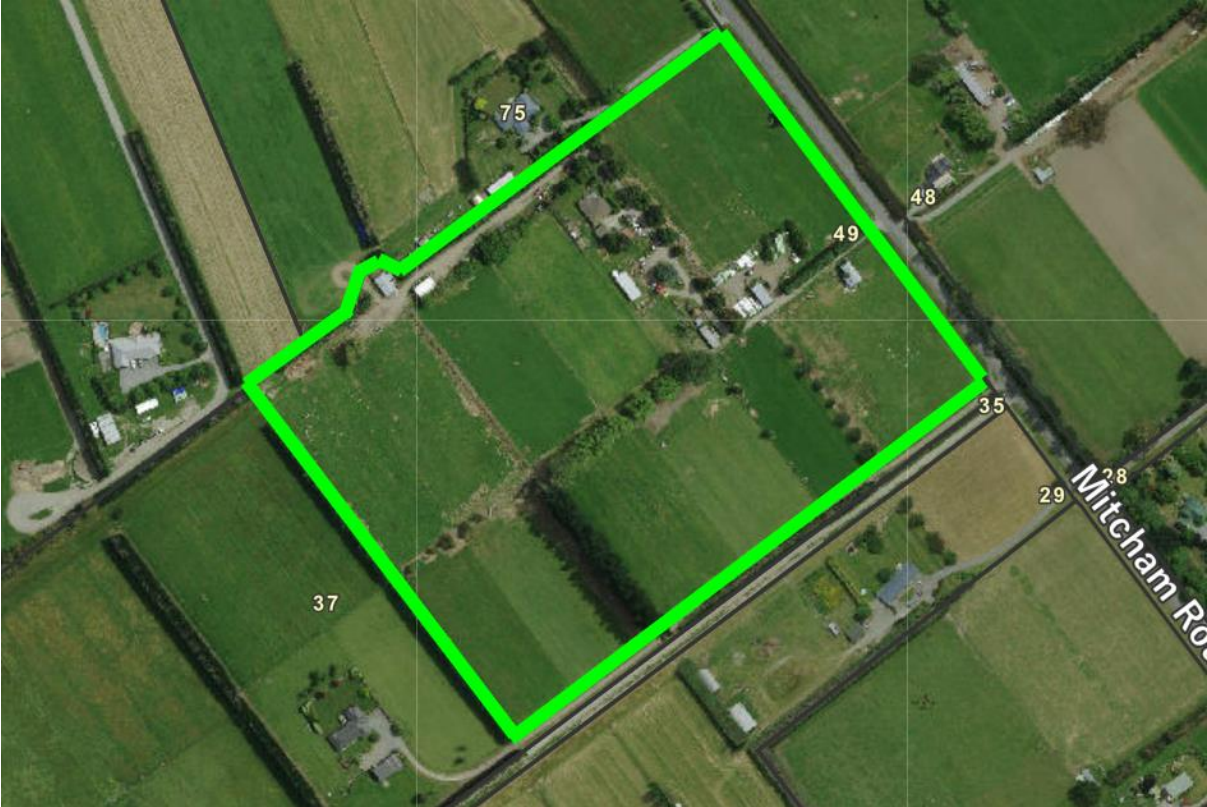


Figure 3: Aerial Photograph of Site



Figure 4: Site Location Plan



## 2.0 PLANNING FRAMEWORK

### 2.1 RELEVANT RULES

The application site is zoned Rural A under the Ashburton District Plan. The proposed activity is considered to fall within the District Plan definition of Rural Service Activity which is defined as follows:

*“means any activity that provides a commercial service to a rural activity such as seed cleaning, rural contractors and grain drying.”*

Resource consent is required for the following reasons.

- Rule 3.8.5(f) (Discretionary Activities) specifies that a rural service activity is a Discretionary Activity. The proposed activity is considered to fall within the definition for Rural Service Activity.
- Noise Standard 11.8.1(a) specifies noise standards for the Rural A zone including night time noise limits of 45 dB (LAeq(1hr)) and 70dB (LAF,max). In order for the activity to operate during night time noise hours the applicant is seeking a non-compliance with these noise standards. Pursuant to Rule 11.6.2 an activity not meeting this standard is provided for as a Restricted Discretionary Activities with respect to noise, with the exercise of the Council’s discretion being restricted to the matter(s) specified in assessment matter in 11.9.

In determining the above, it is also noted that the applicant has not sought resource consent for non-compliances with transport rules and as such the applicant will remain needing to comply with these rules. The proposal also complies with hazardous substance requirements which permit the storage of up to 5,000 litres of diesel in a rural zone.

A designation has been identified as passing through the application site (Designation D85). The designation is for the distribution of water through the Ashburton Lyndhurst Irrigation scheme.



The applicant will require approval from the requiring authority to undertake the proposed activity pursuant to section 176 of the Resource Management Act 1991.

It is also noted that the site has not been identified as within a flood management area and the site has not been identified in the Environment Canterbury Listed Landuse Register.

Overall, the proposal is considered to be a Discretionary Activity.

### **3.0 NOTIFICATION ASSESSMENT (SECTIONS 95A, 95C-95D)**

#### **3.1 PUBLIC NOTIFICATION ASSESSMENT**

##### **3.1.1 Request for public notification (Section 95A(2)(b))**

The applicant has not requested that the application be publicly notified.

##### **3.1.2 National Environmental Standard or District Plan rule requiring or precluding notification (Section 95A(2)(c) and Section 95A(3)(a))**

In terms of s95A(2)(c) and 95A(3)(a) there are no rules in the relevant District Plan, Regional Plan or NES which require or preclude public notification of the application.

##### **3.1.3 Effects on the Environment to be disregarded (Section 95D Assessment)**

###### **3.1.3.1 Effects that must be disregarded for public notification purposes**

- A) Effects on persons who own and occupy the land in, on or over which the application relates, or land adjacent to that land

In this case, it is considered that adjacent land includes the following, properties because they directly adjoin the site, are located immediately opposite the subject site or could be potentially impacted by potential effects from the proposed activity. The effects on these properties have been disregarded for the purposes of public notification assessment.

<b>Table 1</b>	
<b>Address</b>	<b>Legal Description</b>
29 Mitcham Road	Lot 1 DP 563991
35 Mitcham Road	Lot 2 DP 563991
37 Mitcham Road	Lot 2 DP 403730
48 Mitcham Road	Lot 1 DP 358547
75 Mitcham Road	Lot 2 DP 347628
87 Mitcham Road	Lot 1 DP 360842
Ashburton Lyndhurst Irrigation	Designation D85

The location of these properties is illustrated below:



Figure 1: Map showing the subject site in green and the sites termed as adjacent in blue

B) Any effect on a person who has given written approval to the application

The applicant has submitted the written approval of the following parties:

<b>Table 2</b>	
<b>Address</b>	<b>Legal Description</b>
29 Mitcham Road	Lot 1 DP 563991
37 Mitcham Road	Lot 2 DP 403730
70 Mitcham Road	Lot 1 DP 1395
87 Mitcham Road	Lot 1 DP 360842

The location of those parties who have provided written approval is identified below with those parties who have provided written approval being identified with a yellow star:





The written approval of all identified parties has not been obtained.

### 3.1.3.2 Effects that may be disregarded – Permitted Baseline Assessment

The permitted baseline refers to permitted activities on the subject site. In this case it is considered that it is permitted to undertake farming activities on the application site which could realistically include the erection of farm buildings, storage of hay and or balage and the storage / operation of farm machinery to service the site. This would be of a scale based on the size of the application site and would accordingly be of a smaller scale than the proposal, for example one tractor would be required rather than eight.

### 3.1.4 Adverse Effects Assessment (Section 95A(2))

Having regard to the above and after an analysis of the application, the following assessment addresses the adverse effects of the activity on the environment for public notification purposes.

As a discretionary activity the full range of adverse effects must be considered.

#### **Amenity / Character**

Resource consent is sought to establish a rural service activity which is provided for as a discretionary activity in the Ashburton District Plan. This suggests that a rural service activity may be considered appropriate in some instances but will depend on the specific situation. In this instance the application site is in a rural area on the fringe of Ashburton township. The site itself includes various buildings and shelterbelts such that there is a rural character to the site, including a sense of openness, but there are more enclosed spaces to the site as well.

The proposed activity will be located approximately 45 metres back from the roadside boundary, 45 metres from the western side boundary, 115 metres from the eastern side boundary and 220 metres from the southern rear boundary. There are shelterbelts on three sides of the activity which will assist in enclosing or shielding the proposed activity from the side and rear boundaries and the applicant proposes to establish landscaping along the front boundary which will also assist in reducing visibility from the roadside boundary.

The activity will house and undertake activities not dissimilar to rural properties including the storage of farm machinery and hay / baleage but at a greater scale. On the basis of the position of the activity back from the road, plantings and the nature of the activity it is considered that the potential effects of the activity on the wider environment (not including the identified parties in section 3.1.3.1) will be no more than minor.

With regards to the identified parties it is considered that there will be effects on the amenity and character of these landowners. This includes the operation of an activity which is not consistently rural in character or appearance, increased vehicle movements, differences in noise and a frequency of persons on site. It is also noted that these activities will occur during night time hours which will accentuate the impacts of the proposed activity on surrounding landowners. It is considered that this effect will be at least minor.

### **Noise**

The applicant has sought resource consent for a non-compliance with District Plan acoustic rules. Little information is provided as to the scale and type of non-compliance, but it is understood that the non-compliance will be due to the operation of the activity during night time hours (up until midnight during summer months). It is considered that any potential noise effects, both regarding noise as a nuisance and the amenity related effects of noise will be limited to those parties identified as part of section 3.1.3.1 and that depending on the operation of the proposed activity those effects could be at least minor.

### **Transport**

Access to the site is proposed to be via an existing vehicle crossing which will be upgraded to comply with District Plan requirements. As part of this the applicant proposes to seal the first ten metres of the driveway to ensure that gravel etc is not tracked or dragged on to Mitcham Road.

The existing vehicle crossing is considered to be in a suitable location, being a straight piece of road with good sight lines in either direction and well distanced from other vehicle crossings. Provided the vehicle crossing is upgraded in accordance with Council standards to accommodate the site and volume of traffic associated with the proposed activity, any potential traffic related effects will be less than minor.

### **Designation**

A designation runs through the site for irrigation purposes, this includes that the designation passes through the area where the activity will operate from. The applicant has advised that the irrigation system is being upgraded, including the establishment of a pipeline rather than channel, and no buildings or structures will be erected over the pipeline. They consider this will address potential impacts on the designation.

It is considered that the position of the designation and nature of the activity, including the operation of heavy machinery, has the potential to impact the designated irrigation network. On this basis the operator of the irrigation network is considered to be potentially affected by the proposed activity. This is also consistent with the requirements of section 176 of the Resource Management Act 1991.

### **Hazardous Substances**

As part of the proposed activity up to 5,000 litres of diesel will be stored on site in a tank contained within a bunded area. The volume of diesel is compliant with District Plan requirements. That said, as part of the

proposed activity vehicles will be frequently refuelled and serviced and as such there is the potential for fuel spills and contamination to occur. On this basis it is considered necessary to ensure hazard management procedures are put in place to manage and mitigate any hazard related effects from the proposed activity.

### **Summary**

In summary, having assessed the adverse effects of the activity on the environment, I consider that the activity will overall have at a least minor adverse effects on the environment as discussed in section 3.1.4.

### **3.1.5 Do special circumstances exist (Section 95A(4))?**

It is considered that no special circumstances exist in relation to the application.

## **LIMITED NOTIFICATION ASSESSMENT**

### **4.1.1 Is there an NES or District Plan rule requiring limited notification?**

There are no rules in the relevant District Plan/ Regional Plan/NES that would require or preclude limited notification of the application.

### **4.1.2 Are there holder(s) of customary rights order who may be adversely affected by the activity? (s 95(f))?**

No

### **4.1.3 Are there affected persons who the activity will have a minor or more than minor adverse effects on (s 95 (e))?**

It has been assessed as part of section 3.1.4 that there are parties who are affected by the proposed activity and these effects will be at least minor.

### **4.1.4 Limited Notification Assessment Conclusion**

It is considered that this application should be processed with service of notice as not all affected persons have given their written approval to this proposed activity.

## **6.0 Conclusion**

### **Limited Notification**

- The applicant has not requested public notification.
- Pursuant to section 95B of the RMA, this application must be processed with limited notification because there are affected persons. Notice of the application shall be served on those persons who have been identified as being adversely affected (and who have not provided their written approval), as identified in Section 4.1.3.
- Special circumstances requiring public notification do not exist.



## 7.0 Recommendation

### **Limited Notification**

That for the reasons set out below, this application be processed on a limited notification basis, pursuant to Sections 95A-95F of the Resource Management Act 1991.

- i) The applicant has not requested public notification [s.95A(2)(B)]; and
- ii) The effects are less than minor (s.95D)
- iii) There are no special circumstances [s95a(4)]; and
- iv) There are persons considered affected by this proposal (s95e & s95F); and
- v) A request for further information has been responded to and no report has been sought / commissioned.

**Signed:**

  
\_\_\_\_\_  
Stewart Fletcher  
Reporting Planner

**Date:** 22 March 2023

### **Decision:**

The above application LUC22/0107 has been considered under delegated authority and has been determined to be processed without public notice but with service of notice pursuant to sections 95A-95F of the Resource Management Act 1991.

**Signed:**

\_\_\_\_\_  
Ian Hyde  
District Planning Manager

**Date:**

**Signed:**

\_\_\_\_\_  
Jane Donaldson  
Strategy and Compliance Group Manager

**Date:**