

BEFORE THE

**Christchurch City Council Hearing
Commissioner**

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of Resource Consent Application by **Simon Jay and Josie Martin** in relation to RMA/2020/2000 – The Giants House, 74 Rue Balguerie, Akaroa.

STATEMENT OF EVIDENCE BY ISOBEL STOUT

1.0 QUALIFICATIONS AND EXPERIENCE

- 1.1 My full name is Isobel Louise Stout. I am Service Leader - Environmental Science at Pattle Delamore Partners (PDP) which I joined in April 2023.
- 1.2 I hold a Bachelor of Science degree and Post Graduate qualifications in both Public Health and Environmental Health. I am a past President of the New Zealand Institute of Environmental Health and am now a Life Member and Fellow of that organisation.
- 1.3 I was employed at Christchurch City Council in the roles of Environmental Health Officer (6 years) and then Senior Environmental Health Officer for a total of 33 years. I have reported on numerous resource consent applications during my time at Council including giving evidence to both the District Court and the Environment Court on the potential adverse effects of noise and contaminated land as well as electromagnetic radiation, light spill and hazardous substances as appropriate.
- 1.4 Whilst this is not an Environment Court hearing, I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I have complied with it in preparing this evidence and I agree to comply with it in presenting evidence at this hearing. The evidence I give is within my area of expertise except where I state that my evidence is given in reliance on another person's evidence. I have considered all material facts that are known to me that might alter or detract from the opinions that I express in this evidence.

2.0 SCOPE OF EVIDENCE

2.1 This evidence covers my expert assessment for the Christchurch City Council's section 42A report on the notified land use consent referenced RMA/2020/2000, and in particular addresses the potential adverse effect of environmental noise.

2.2 I have read and used the following documents in preparing this evidence:

- i. the application document dated 14 June 2022
- ii. the assessment of noise effects from Marshall Day dated 13 February 2023
- iii. the summary of submissions prepared by Ms Cottam
- iv. the memorandum on transport by ViaStrada dated 19 September, 2022

3.0 EVALUATION OF THE PROPOSAL

3.1 The applicants operate a visitor attraction that comprises several elements including gallery, café and sculptural gardens within and around an historic house subject to a range of existing consents. Under this application they propose to include a new entrance building, a new café building and expanded gardens upon the land at 74 Rue Balguerie. These additions to the current operation at 70 Rue Balguerie will bring visitors closer to some residential boundaries than is the case currently.

3.2 The original application when submitted did not include very much detail regarding the potential for noise from the expanded activity. It is not difficult to imagine that more visitors could mean more noise, but the actual result on the ground is less easy to quantify in the absence of data. A request for further information was made and an acoustic report supplied.

3.3 The Christchurch District Plan at Rule 6.1.5.2.1 sets out noise levels to be met by activities according to the site's zone. In this case the application site is zoned Residential Banks Peninsula as is the immediate surrounding area.

Table 1: Zone noise limits (excerpt from Table 1, Rule 6.1.5.2.1)

Zone of site receiving noise from the activity	0700 – 2200 hrs		2200 – 0700 hrs	
	dB LAeq	dB LAmax	dB LAeq	dB LAmax
a. All residential zones (other than in the Accommodation and Community Facilities Overlay)	50	-	40	65

3.4 These rules apply at the boundary of any site receiving noise from the activity. Where activities exceed the permitted activity standards above, the following apply:

- Activities exceeding by 10 dB or less shall have restricted discretionary status (Rule 6.1.5.1.3).
- Any activity listed in Rule 6.1.5.1.1 P2 that does not meet one or more of the activity specific standards; or not otherwise provided for as a permitted, restricted discretionary or non-complying activity, is discretionary with respect to noise (Rule 6.1.5.1.4).
- Activities exceeding by more than 10 dB are non-complying with respect to noise (Rule 6.1.5.1.5).

3.5 With no specific data to work with, and nearby residents reporting being disturbed by music in particular and other noises coming from the site under the current consent, an acoustic assessment was requested and supplied.

4.0 MARSHALL DAY ACOUSTICS REPORT AND MY RESPONSES

4.1 I agree with the approach Marshall Day used to assess noise generated from the site, whereby a fine, summer’s day was chosen to conduct measurements of sound on site from three locations whilst the site was open for business in its current form.

4.2 It is most important to gain an understanding of the current sound environment before attempting to assess what changes may take place with the addition of more patrons, a new café space and the new entrance structure.

4.3 I further agree that there are three principal noise sources that need to be assessed. The noise from vehicles on the road, the noise from visitors as they assemble at the entrance, disperse throughout the garden and use the café, and the noise from music, café operations and equipment on site.

Vehicles

4.4 Vehicles on the road will produce noise as they park, manoeuvre, stand, come and go (including electric vehicles to some extent). However it is heavy vehicles such as passenger

coaches and large camper vans that are likely to be the loudest noise source even if this is more likely to be for shorter periods of time than the visitors are expected to be on site for.

- 4.5 Rue Balguerie is narrow, currently provides no footpaths for pedestrians (but a new footpath forms part of the proposal) and is a through road to Stoney Bay Road and rural areas beyond. As parking for visitors is restricted to Rue Balguerie and nearby streets and no specific coach stop / park, set down and pick up space exists, the single coach observed during the acoustic survey period pulled in some 80m from the site's entrance. This resulted in an estimated noise exposure from a coach that is parked idling for 5 minutes of 53dB $L_{Aeq15mins}$ at the façade of the affected house. Whilst this is 3 dB over the District Plan level of 50 dB the Plan in this case also requires assessment at the boundary of an affected property which is likely to be a little louder. The transport review by ViaStrada suggests marking a specific coach drop off and standing point immediately outside the new entrance which, together with a coach booking system, will at least confine the majority of the noise to a smaller area. The fact remains that the noise does not comply with the District Plan by a margin that some people are likely to notice.

People noise

- 4.6 The acoustic assessment included a survey of the existing noise environment in the area which included the typical kinds of noises any residential area might expect from passing traffic, birdsong, the breeze in the trees etc. at this time of year the cicadas are prominent. This was found to range from the mid 40's to mid 50's dB L_{Aeq} which is typical of a residential suburb such as this one.
- 4.7 The day chosen for the survey was described in the acoustic report as 'a relatively busy day' being a warm summer's day, midweek in January and so during the school holidays. Some 80 patrons visited over the day with one group of 26 providing the peak numbers in an hour having arrived together by coach. From the results of the principal site location used for noise measurement (MP1 on the external stairs leading from the café, outdoor seating and ticket booth) the daytime District Plan level of 50 dB L_{Aeq} is being met almost exactly with little variation except for some higher levels around 1pm said to be due to wind gusts.
- 4.8 I accept that the measurement was of total sound, that is the background or residual noise that would be in the neighbourhood anyway plus the noise from the activity but it is the total sound that neighbours receive and respond to being particularly aware of sounds that are not typical in a neighbourhood, such as large groups of people.
- 4.9 The application seeks up to 120 patrons per hour which is a manifestly greater number than that day's maximum of 26 patrons per hour that has been directly assessed. I am concerned that the acoustic report contains little or no evidence to demonstrate that this increase in patrons would not result in an increased noise level.

- 4.10 I do support the acoustic report's suggestion that group tours around the gardens not be conducted in order to avoid large groups staying together beyond their initial arrival. This would allow patrons to distribute themselves, and therefore their voices, over a wider area.
- 4.11 The noise measurements taken at the nearest residential boundary (MP2) have not been stated specifically in the acoustic report but were 'generally in the mid-40's dB LAeq'. This is typical of a residential area off the street. Having patrons in this space may not result in noise exceeding the District Plan levels but voices will be audible, which is likely to be noticeable and possibly distracting.
- 4.12 The acoustic report also noted that the music being played from speakers elsewhere in the garden is clearly audible at times at this location (MP2). This feature had been reported by residents earlier and repeated in submissions, and I agree that hearing the same recording on repeat all day would likely be highly annoying for neighbours. I agree with the acoustic report's suggestion that all the speakers be reoriented away from the site boundaries. No new speakers are proposed for the expanded garden area.

Café, operations and maintenance

- 4.13 The café is likely to be a focal point for patrons and the proposal's new café space and layout suggest that greater use of this facility is expected. I agree with the acoustic report's comment that noise from patrons within the café would likely be inaudible off site when all the exterior doors and windows are closed but I would expect patronage to be highest on fine, warm days where doors and windows are likely to be open.
- 4.14 The application lists a 24m² deck area outside the café but that outdoor seating will not be provided. This lack of seating will help reduce the potential for noise from patrons but I am not convinced by the comment in the acoustic report that noise levels are likely to be similar to those measured on that particular day even with doors and windows open, owing to the proposed greatly increased patronage.
- 4.15 The proposal includes the provision of a lift to enable easier access to the deck and café building. A submitter was concerned that this facility would be a source of more noise. The lift would be electrically operated and I agree with the acoustic report that this element would not be audible off site.
- 4.16 Other sources of noise have been raised in submissions relating to the equipment used for maintenance of the gardens and deliveries/rubbish removal from the café. Firstly there is a great range of electric garden maintenance tools on the market and in my opinion no need today for petrol driven machines for routine work. The noise created by construction of the new facilities is covered by the use of the acoustic standard for construction noise, NZS6803:1999, which is quite specific to this temporary construction activity.

4.17 The application states that rubbish collection will be by the Council's kerbside collection service. It is difficult to say if the standard bin sizes will be sufficient, but additional bins can be requested from Council on payment of additional fees. As for deliveries, heavy vehicle transport would not be anticipated and smaller delivery vehicles would be similar to patron vehicles although much fewer in number.

5.0 DOES THE PROPOSAL DEMONSTRATE BEST PRACTICE?

5.1 Not withstanding compliance with the District Plan rules, section 16 of the Resource Management Act 1991 poses a duty on everyone to avoid unreasonable noise.

5.2 The reorienting of the outdoor speakers is a good example of a simple measure to reduce unreasonable noise. Not conducting group tours of the site, scheduling the arrival and departure of coaches and limiting their daily number will also assist to mitigate unreasonable noise. These factors could be made conditions of consent should consent be granted.

5.3 I remain of the opinion however that the maximum patron numbers of 120 per hour is unlikely to comply with the District Plan at all locations and it is much more likely groups of people would form and their voices close to the property boundaries would pose a source of unreasonable noise in a residential environment.

5.4 Using the evidence of the acoustic report that the day chosen for the assessment was truly representative of a 'relatively busy day' with some 80 patrons in total and a maximum group arrival of 26, the assessment demonstrated compliance with the District Plan for the most part. The desire to have up to 120 patrons per hour over the period of 10am to 5pm would allow for 840 patrons over the day. Whilst I accept that this may be a worst case scenario I do not consider this level to be reasonable, even on only one occasion.

5.5 I submit that the key statistic in keeping noise on site at a reasonable level is not the number of patrons per hour but the number on site at any one time. This is also much more practicable to monitor.

5.6 Should the applicant be willing to compromise on this aspect, that leaves the matter of contemplating what maximum level of patronage may be acceptable that either complies with the District Plan noise rules or if not is not an unreasonable effect upon residential amenity.

5.7 I would suggest that the applicant's average of 45 visitors per hour indicates that the maximum total number of patrons on site would be approximately 80. Even at this number, strict compliance with the District Plan may not occur at all times but is much more likely to be reasonable and have less impact on residential amenity.

6.0 POTENTIAL CONSENT CONDITIONS

- 6.1 I been asked to comment on and/or suggest some consent conditions around the control of adverse noise effects should the Commissioner be of a mind to grant consent.
- 6.2 *The maximum number of patrons shall not exceed 80 onsite at any time.*
commentary – the ticketing system should be able to count the number of tickets, either booked in advance or bought on site, and not release new tickets until there are spaces available on site as patrons leave.
- 6.3 *No music of any kind, recorded, amplified or live shall be played at 74 Rue Balguerie. The existing sound system that is at 70 Rue Balguerie shall be reoriented so that it faces away from all neighbouring boundaries and towards the centre of the site.*
- 6.4 *All outdoor maintenance work including but not limited to gardening, mowing, clipping and cleaning where power tools are necessary shall use electrically powered tools.*
commentary - construction of the new facilities is covered by the construction noise standard NZS6803 (1999).
- 6.5 *Coach parties may only arrive with a prior booking. Coaches must use the marked space on Rue Balguerie to drop off and pick up passengers and may only stand for 30 minutes. Coaches may only idle for 5 minutes after arrival and before departure.*
- 6.6 *No more than 5 coaches may visit on any day. Each arrival booking shall allow at least 30 minutes either side, that is 30 minutes before and thirty minutes after, the booking before another booking can be accepted.*This will ensure that there is at least a 30 minute gap between arrivals. For example, should the first booking be at 10 am, the next booking that could be accepted would be at 10.30am but then the next earliest booking would have to be at 11.30am.
- 6.7 *There shall be no outdoor seating facilities for the café and no service outdoors.*
- 6.8 *There shall be no group tours of the site offered. Visitors shall be left to disperse across the site once beyond the entrance facility at will.*

7.0 CONCLUSIONS

- 7.1 The proposal is a for a significant commercial activity in a residential setting. Factors such as the narrow roads, lack of off-street parking, coach parties and the proximity of neighbouring residents place additional risks for unreasonable and possibly non complying noise emissions. In particular it is the noise generated by the anticipated maximum number of patrons per hour that I find the most likely to be unreasonable.

7.2 The potential adverse environmental noise effects of the proposal in its current form are likely to be unacceptable.

A handwritten signature in black ink that reads "Isobel Stout". The signature is written in a cursive style with a large initial 'I'.

Isobel Stout
17 May 2023