

BEFORE THE ASHBURTON DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of applications by **Ashburton District Council**
for:

- Land use consent at 329 West Street to address the non-compliances associated with the replacement and relocation of the air conditioning equipment (LUC25/0028)
- Section 127 Change of conditions 1, 14, 31 and 33 of LUC09/0025 at 329 West Street (LCA25/0007)

**BRIEF OF EVIDENCE OF ALISTER DAVID ARGYLE
ON BEHALF OF JOINT SUBMITTERS**

Dated 29 October 2025

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Introduction

1. My name is Alister David Argyle and I am providing this evidence on behalf of the following submitters, who filed a joint (and the only) submission on these consent applications:
 - (a) A D & E J Shearer (124 Wills Street)
 - (b) Haworth House Limited (128 Wills Street)
 - (c) D & D Sauer (130 Wills Street)
 - (d) K Smith (121 Camerson Street)
 - (e) D & N Chilton (123 Cameron Street)
 - (f) C & M Ross (127 Cameron Street)

(Joint Submitters).

Scope of Evidence

2. In my evidence I:
 - (a) Explain why the Joint Submitters have participated in this consenting process and what the Joint Submitters want from this process; and
 - (b) Address aspects of the evidence of Renee Julius.
3. In preparing this evidence I have read the application and the evidence filed on behalf of the Applicant, along with the Section 42 Report. Mr & Mrs Sauer have also read these documents. The other Joint Submitters have read various but not all of the above documents. I have also re-read certain of the documents arising out of the original application:

Involvement of the Joint Submitters

4. The Joint Submitters are very close to and therefore directly affected by what happens on the Art Gallery site. Such of the Joint Submitters as resided in their respective properties, or their predecessors in title, at the time, participated in the original consent process for that reason.
5. The intervening years have not given the Joint Submitters comfort that their original concerns were misplaced

6. Having read the evidence and the Section 42A Report, the Joint Submitters have decided to focus their efforts for this hearing on noise. This is by far our biggest concern. This cannot be surprising because (as noted in the evidence of Ms Julius at paragraph 40), this proposal was Council's "Option 1: North Option" during previous consultation and one of the drawbacks of Option 1 was expressly noted to be:

Neighbours may be more impacted by noise than the 2nd/east option, as the night-time noise level has been modelled by Marshall Day Acoustics at 36-38dB LAeq (1hr) (compared with 32-33dB LAeq(1hr) in the 2nd/east option).

7. The Joint Submitters are very upset to have found out, through this process, the noise levels agreed through the Environment Court mediation they participated in during the original consent process, have never been complied with. Worse still, no one in the Council has done anything about the non-compliant situation for 10 years.
8. It is unclear whether Council knew about the non-compliances and just ignored them, rather than enforcing the consent conditions (particularly, condition 28). Or whether Council did not know because the consent-holder did not provide (and perhaps was not requested to provide) the information that would have shown this.
9. We therefore – and understandably – have little confidence and little trust that the noise levels now proposed, will be adhered to. The Joint Submitters do not want to find themselves in this position again. They therefore seek resource consent conditions that provide:
 - (a) Proactive assurance predicted noise levels will be achieved – e.g. noise modelling after final plant selection and location is complete, but before plant is installed; and
 - (b) Monitoring to prove predicted noise levels are being achieved on an ongoing basis, including:
 - (i) Immediately upon installation; and
 - (ii) Regularly, so any increases in noise emissions are detected early and dealt with swiftly; and
 - (c) Reporting of modelling and monitoring to Council;
 - (d) Council certification at each step and such certification to be regulatory confirmation that noise limits will and are being met (i.e., not just confirmation that the consent holder has provided the required modelling or monitoring reports); and

- (e) Clear specification of what is to happen if the proactive modelling report/s or monitoring report/s show non-compliance. The Joint Submitters request immediate and specific action be set out in the consent conditions, given the experience of the past.

The evidence of Ms Julius

10. There are aspects of Ms Julius' evidence the Joint Submitters feel compelled to comment on.

11. At paragraph 12 Ms Julius says:

Demand on HVAC increases with larger events where heating and cooling systems should be more responsive to increased heat and humidity cause by an increase in occupancy levels. AGHC tenants are currently restricted in the types of exhibitions and loans they can comfortably house and display due to the unpredictability of the ageing plant equipment.

12. The Joint Submitters are not sure whether this means there will be more "larger events" and, in turn, what this means for effects from the site. Clarification of this is essential so the effects of any changes, particularly on noise levels, can be duly evaluated. Given the history of non-compliance, we expect this to be done now at the consenting stage, as opposed to later once all the plant are in place.

13. At paragraph 73 Ms Julius says:

...The acoustic evidence provided by Mr Jon Farren demonstrates that the existing noise levels currently breach the noise limits in condition 28, which in part is a result of the temporary solution which Council has had to install to keep the AGHC operational until it could lodge the Application after February 2025. To ensure the relocated plant can operate effectively, Council is seeking to comply with the noise limits contained in the District Plan rather than the existing limits in condition 28. I think these are compelling reasons why this Application is required.

14. And further at paragraphs 77 and 78:

[77] ... For the reasons outlined in my evidence, it is critical that Council obtains resource consent to relocate the mechanical plant in a timely manner. Council has been unable to obtain this resource consent variation to date due to the restrictive nature of the side agreement and land covenant and the inability to reach agreement with the six neighbours over the past 5 years.

[78] This delay has ultimately impacted the efficient operation of AGHC, curtailed what exhibitions can be offered and financially impacted the district's ratepayers through the need to implement temporary measures until a permanent solution can be consented and constructed following the 10-year anniversary of AGHC opening....

15. I think these statements and the inference they invite to be drawn, are unfair. None of this is the fault of the Joint Submitters or the side agreement. The Council positively and convincingly assured us that the noise limits in Condition 28 could and would be complied with (this is set out at pages 11 and 12 of Mr Boyes' Report). The Council offered to comply with the limits in the existing Condition 28. The problem here is not that the Council had to wait 10 years to make a s127 application. The problem is that Council promised us a level of noise that it has never delivered.

Concluding comments

16. We have endeavoured to take a constructive approach to this case. The Joint Submitters have responsibly sought expert legal and acoustic advice to help them in doing this.
17. The Joint Submitters have made every attempt to ensure their input is helpful, despite feeling very disappointed and let down by the history of non-compliance and that Council ignored their clear preference for the "other" solution, which would have avoided an increase in allowable noise levels from the site.
18. We have not even had an apology from Council for the lack of compliance with the existing resource consent.
19. We want improved consent conditions that ensure compliance, transparency and accountability.

Alister Argyle

29 October 2025