

Auckland Council's role in controlling noise

- ▶ The Resource Management Act 1991 sets out various mechanisms and responsibilities to Councils to manage noise.
- ▶ There are four basic means by which noise can be controlled under the RMA:
 - ▶ 1) Excessive Noise
 - ▶ 2) Unreasonable Noise
 - ▶ 3) Noise Rules in a District or Unitary Plan
 - ▶ 4) Consent or Designation conditions

The RMA and Excessive Noise

- ▶ Excessive noise is the most common type of noise Councils are expected to manage. It includes all party and people noise, and can also include construction noise.
- ▶ If someone complains about excessive noise, Council deals with this by sending a noise control officer (usually contracted security guards) out to perform an assessment.
- ▶ If the officers believe that the noise is excessive, they can issue an Excessive Noise Direction (END), requiring that the noise stop or be reduced to a reasonable level.
- ▶ If an END is not complied with, they can issue fines and confiscate the source of the noise (i.e. take your stereo/speakers/bulldozer, and impound it)

Excessive noise (continued)

- ▶ There are limitations on what can be considered excessive noise:
 - ▶ Cars being driven legally on the road
 - ▶ Trains/trams being operated on the rail network
 - ▶ Aircraft taxiing, taking off, landing, and in flight
- ▶ ARE ALL EXCLUDED FROM THE DEFINITION OF EXCESSIVE NOISE
- ▶ Councils have no power to deal with excessive noise from these sources.

Unreasonable Noise

- ▶ Unreasonable noise is more difficult to define than Excessive noise.
- ▶ It might include noises of unusual characteristics, for example, noise from firearms on a shooting range.
- ▶ If Council receives a complaint about unreasonable noise, it needs to be assessed by a noise expert or specialist. We might engage a qualified acoustic consultant to assist us in making our assessment.

Unreasonable Noise (Continued)

- ▶ If we believe that noise is unreasonable, we can issue an abatement notice under S332(1)(c) of the RMA
- ▶ An abatement notice is a type of legally binding instruction
- ▶ A notice under s322(1)(c) must specify what actions the person/company causing the noise must do in order to make the noise reasonable. The law requires that the officer issuing the notice identifies the 'Best Practicable Option' (BPO) for reducing/eliminating the noise. The recipient of the notice is then required to implement the BPO.
- ▶ Non-compliance with an abatement notice is an offence. A person or company breaching such a notice can be prosecuted.
- ▶ **Unreasonable noise provisions do NOT APPLY to aircraft flying higher than 1,000 ft (in urban areas) or 500ft (in rural areas).** This height control is derived from the Civil Aviation Act and the High Court has ruled that Council noise rules do not have jurisdiction above these altitudes.

Noise Rule in plans

- ▶ Councils can also introduce rules into district or unitary plans specifying noise limits that may not be exceeded.
- ▶ If Council receives complaints, or believes that noise breaches a rule, we usually require noise measurements to check. The devices we need to use require careful management and calibration. They can cost anywhere in the range \$5,000-\$40,000 per device depending on what type of noise they are intended to measure.
- ▶ If noise rules are breached, we can issue an abatement notice, issue an instant infringement fine, or in an extreme case, prosecute.
- ▶ **Noise rules in District and Unitary Plans do NOT APPLY to aircraft flying higher than 1,000 ft (in urban areas) or 500ft (in rural areas).** This height control is derived from the Civil Aviation Act and the High Court has ruled that Council noise rules do not have jurisdiction above these altitudes.

Conditions of Consents and Designations

- ▶ The final means by which noise effects may be managed is through the conditions set out in Resource Consents and Designations.
- ▶ These conditions are typically applied to activities in mixed use environments which may not comply with the permitted noise levels specified in plans for urban zones.
- ▶ The most commonly used conditions list noise levels which the consented activity must not exceed at the boundary of affected property(ies) for specified days/times.
- ▶ Where there is a likelihood that the consented/designated activity may exceed noise levels at the boundary of affected property(ies):
 - ▶ a condition may be imposed requiring the installation of an acoustic fence; and
 - ▶ further conditions can be imposed which require the consent holder/requiring authority to produce a report confirming that the activity complies with the stated noise limits.

Conditions of Consents and Designations

- ▶ Where it is not feasible to mitigate external noise levels generated by activities in mixed use environments, conditions are often applied which specify internal noise levels for buildings that must not be exceeded
- ▶ To comply with the specified internal noise levels, further conditions may be imposed which require the installation of noise mitigation measures.
- ▶ These noise mitigation measures can include:
 - ▶ the erection of acoustic fences along the boundaries of affected properties, or;
 - ▶ the installation of mitigation measures within the affected building e.g. the use of installation materials and ventilation systems that enable habitable rooms to be occupied without the need to open windows or external doors.

Summary

- ▶ RMA provisions and enforcement tools for excessive noise are not available to control aircraft noise
- ▶ Unreasonable noise and noise rules in plans have no jurisdiction above the 500ft/1000ft altitude applicable under the CAA (ruling of the High Court)
- ▶ Rules/conditions of designations that set noise limits for altitudes exceeding the 500ft/1000ft limits contradict the High Court ruling. This creates a very confusing situation which limits the ability of Councils to effectively enforce noise limits above the applicable altitude
- ▶ Rules/conditions relating to airport activity (take-offs and landings from the airport) flying below the CAA altitudes are enforceable using Part 12 RMA tools.
- ▶ Rules/conditions can require the implementation of noise mitigation techniques. These are also enforceable through Part 12.

Aircraft noise: the Civil Aviation Authority role

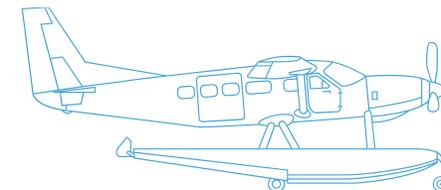


Brigid Borlase – Principal Policy
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Regulatory structure for noise abatement



Minister of Transport	Director of Civil Aviation
Can make rules for noise abatement	Enforces the Act and Rules
Civil Aviation Act s.29B	Civil Aviation rules Part 21 & 93

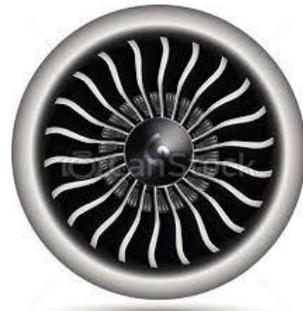


Existing noise rules

CAR 21:

Certification of parts and products

Technical standards for noise emissions for specific aircraft



CAR 93:

Special aerodrome traffic rules and noise abatement procedures

Rules for operating in the vicinity of airports



Purpose of Part 93 rules



Special rules for aerodrome traffic: **Auckland**, Wellington, Christchurch, Paraparumu, Ardmore, Matamata.

In place to manage noise **while preserving aviation safety:**

Airspace regulation

Aircraft operations

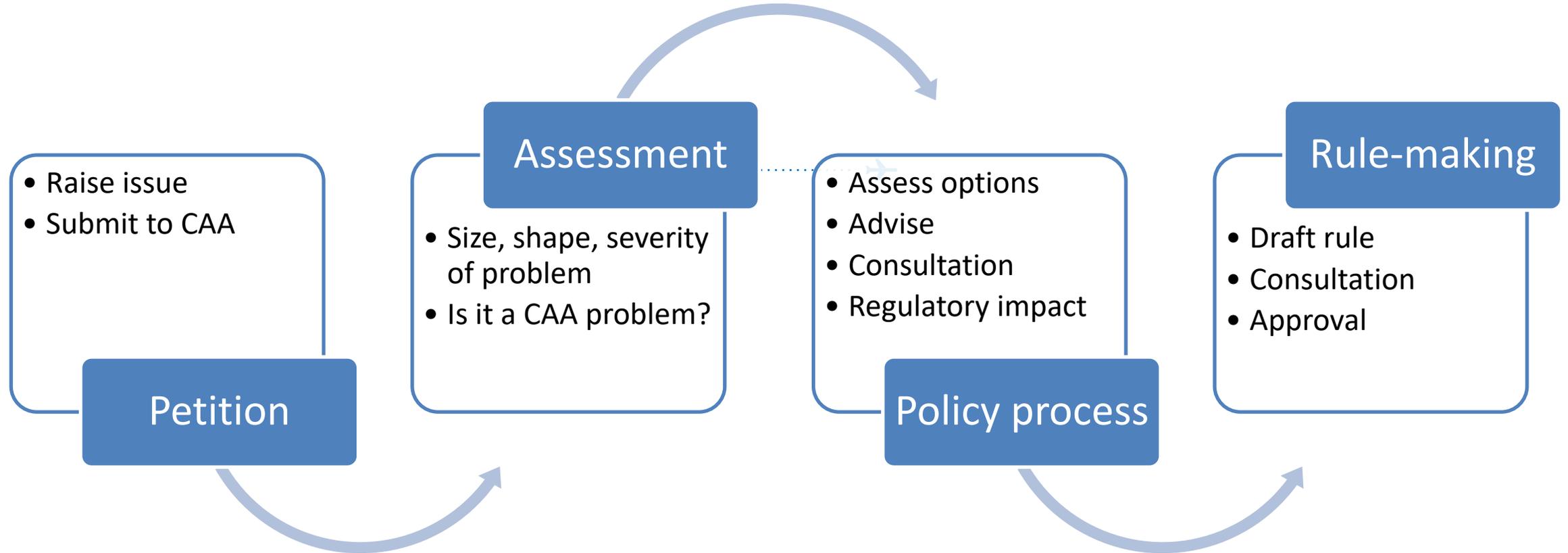
What Part 93 does

- Defines noise abatement procedures: →

*Means **inflight** procedures prescribed for the purpose of abatement of noise within the vicinity of an aerodrome*

- Sets departure and arrival noise abatement procedures
- Sets the noise abatement area and related procedures
- Establishes the use of runways between 11pm and 6am

Changes to rules



In summary...



The CAA certainly does have a role in dealing with noise exposure in the vicinity of airports.

That role is intended, however, to support local government when necessary by assessing whether operational procedures or airspace changes may be possible to balance flight safety, airport utilisation and noise exposure in the event that the desired airport utilisation cannot be achieved within existing or projected noise exposure limits in the regional plan.

