

Noise rules and enforcement in the Auckland City Centre

13 June 2022 - David Frith & Duffy Visser



BE THE HOW.
WHAKAMAUA KIA TINA!



Introductions

- **David Frith - Team Leader Compliance Response – Noise**
 - Leads an in-house team to deal with technical noise issues
 - Manages noise control contractors
 - Previously lead the Northern Compliance Investigations Team for Auckland Council (RMA & Building Act)

- **Duffy Visser – Noise Specialist**
 - Technical adviser to Compliance Response Noise team
 - Carries out staff training, noise assessments and provides advice
 - Approval of Construction Noise & Vibration Management Plans
 - Qualified Environmental Health Officer and Member of the NZ Acoustical Society

Noise Control at Auckland Council

- **How does the Council carry out Noise Control ?**
 - How the law applies – exemptions & exceptions
 - Contractor Noise Control Officers
 - Internal noise team
 - Excessive vs Unreasonable noise ?
- **What rules apply in the City Centre ?**
 - Zoning under the Auckland Unitary Plan
 - Rules covering both noise emitter and residents
- **Lodging a noise complaint - how does that work ?**
 - How to get the best result from a complaint

Things I can't get into tonight...

- **Auckland Transport's policies around road works**
 - AT have considerable latitude for making decisions about carrying out work at odd hours under Unitary Plan rules.
- **Potential changes to Unitary Plan rules**
 - This is a specialist area which my team and I are not involved in. (Plans & Places team within Council deal with this)
- **Site specific issues**
 - Happy to discuss how the process works, but need to avoid potential privacy issues.

Noise Sources we do not resolve

Aircraft flyovers	Auckland International Airport / Civil Aviation Authority
Boats on the water (excludes docked boats)	Harbourmasters Office
Bus parked and idling	Bus company
Car mufflers and engine noise	Police
Car stereo /engine noise when car is moving	Police
Cell phone towers	Spark / Vodafone / Two Degrees
Electricity pylons	Vector / Transpower
Fire or smoke alarms	FENZ or the owner of the building
Motorway works	NZTA
People drunk, violent, disorderly or offensive; domestic disputes	Police
Public demonstrations	Police
Rail maintenance or construction	Kiwirail
Train and railway crossing noise	Kiwirail
City Rail Loop	CRL complaints resolution team

Excessive Noise and the Resource Management Act 1991

326 Meaning of excessive noise

- (1) In this Act, the term **excessive noise** means any noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person (other than a person in or at the place from which the noise is being emitted), but does not include any noise emitted by any—
 - (a) aircraft being operated during, or immediately before or after, flight; or
 - (b) vehicle being driven on a road (within the meaning of section 2(1) of the Land Transport Act 1998); or
 - (c) train, other than when being tested (when stationary), maintained, loaded, or unloaded.
- (2) Without limiting subsection (1), **excessive noise**—
 - (a) includes noise that exceeds a standard for noise prescribed by a national environmental standard; and

Noise Enforcement

Complaint of Excessive Noise (s.327 RMA):

- A noise control officer (usually one of our contractors – a licensed security guard, warranted for noise control) will visit the property, subjectively assess the level of noise and, if, in his/her opinion, the noise is excessive, will issue a notice called an excessive noise direction.
- Assessment is made on basis of volume, tonal quality (e.g. heavy bass or similar) and time of day/night.
- Complainant must not be a person in the same place as the noise source
- The notice is valid for 72 hours and, if any further complaints are received within the 72 hour period and the noise is again deemed to be excessive, then the officer will either seize (with Police) the noise making equipment or issue a non-compliance notice. Police have advised that noise control is not a priority for them.
- A \$500 infringement fine can be issued on the evidence of the non-compliance notice or alternatively, the noise makers could be prosecuted and can be liable upon conviction to a fine not exceeding \$10,000.
- Used reactively for party noise, alarms and construction outside permitted hours.

Excessive noise direction

Section 327 of the Resource Management Act 1991



163453

Incident Number:

To: The occupier or any other person who appears to be responsible for causing the excessive noise:

Name (where known):

Date of birth:

Address:

An Auckland Council Enforcement Officer has received a complaint that excessive noise is being emitted from or within the above mentioned place. An investigation has been made and in the opinion of the enforcement officer, the noise is excessive.

You are hereby directed to immediately reduce the noise being emitted from the premises or within the vicinity of the place at the above address to a reasonable level for a period of _____ hours from the day/time of this notice.

This direction also binds every person who is, or ought to be, aware that it has been issued.

Failure to comply with this direction may result in the council taking further action including seizing your equipment; issuing you with an infringement notice with a fee of \$500; or prosecuting you.

Date: _____ Time of issue of direction: _____ am/pm

Enforcement Officer Signature: _____

Enforcement Officer ID No: _____

Receipt of direction:

Note: See reverse of this document for further information

Important privacy information:

The personal information that you provide in this form will be held and protected by Auckland Council in accordance with our privacy policy (available at aucklandcouncil.govt.nz/privacy and at our libraries and service centres) and with the Privacy Act 1993. Our privacy policy explains how we may use and share your personal information in relation to any interaction you have with the council, and how you can access and correct that information. We recommend you familiarise yourself with this policy.

Signature(s): _____

Print name: _____

Noise control seizure notice



103810

Sections 323 or 328 of the Resource Management Act 1991

Incident Number:

Date: _____ Time: _____ am/pm

From address: _____

Owned / Occupied by: _____

DOB: _____ Police incident number: _____

As a result of non-compliance with an excessive noise direction, or where an excessive noise direction was unable to be given because there was no person at the above address, or the occupier could not reasonably be identified and there was no other person who appeared to be responsible for causing excessive noise, an Enforcement Officer has seized the item(s) that are contributing to or producing the excessive noise as listed below:

Seized Equipment

Type	Make	Serial Number

Note: All items are stored at the owner's risk and responsibility will not be accepted for broken, malfunctioning or damaged goods.

The seized property will be held by Auckland Council for 6 months and will be disposed of after that time.

Enforcement Officer name: _____ Enforcement Officer ID: _____

You may apply to reclaim impounded equipment by phoning 09 301 0101

The council will return your equipment only if:

1. It is satisfied that the return of your property is not likely to lead to a resumption of the emission of noise beyond a reasonable level; and
2. You pay the council's costs of up to \$450 in cash.

When collecting your equipment please bring with you some acceptable identification, e.g. passport, drivers licence and a copy of the seizure control notice.

Receipt for Seized Equipment

Signature(s): _____ Print Name: _____

Noise Enforcement.

Excessive noise: (S.327 RMA)

- For a one-off noise issue in a residential property this system can be highly effective. There are potential problems where there are habitual offenders and repeated behaviours causing excessive noise.
- The Excessive Noise Direction (END) notice is only valid for 72 hours and expires after that time.
- If further complaints are received outside the 72 hours, a further END must be issued, and that needs to be breached before there can be firm enforcement action taken.
- Short duration or intermittent nuisance noises can be problematic. The law requires the noise control officer to hear and assess the noise as excessive before taking action.
- Where there are ongoing confirmed noise issues, contact with landlords is helpful as landlords can issue notices under the Residential Tenancies Act.
- For serial offenders with confirmed ongoing noncompliance, abatement notices can be used or potentially prosecution.
- Expectations can need managing in these situations. Multiple visits can be needed as some noise makers are determined and persist in adverse behaviours. Police assistance can be needed. Removal and non-return of noise making equipment can be a valuable tool.

Noise Enforcement.

Unreasonable Noise : Unitary Plan Rules & RMA 1991

- The Auckland Unitary Plan is Council's primary document for allowing activities to be carried out within its district. (Available on the Auckland Council website)
- Different areas are zoned according to anticipated land use, and rules are provided setting out, amongst other things, permitted noise levels within each zone.
- Section 16 of the RMA places a duty on persons not to allow emission of unreasonable noise from their premises.
- The noise levels permitted by AUP rules are generally considered to be reasonable for that area. If noise is found to be significantly over these levels, enforcement action under the Resource Management Act can follow.
- A graduated enforcement approach is used...

Noise sources Council Noise Compliance Officers investigate

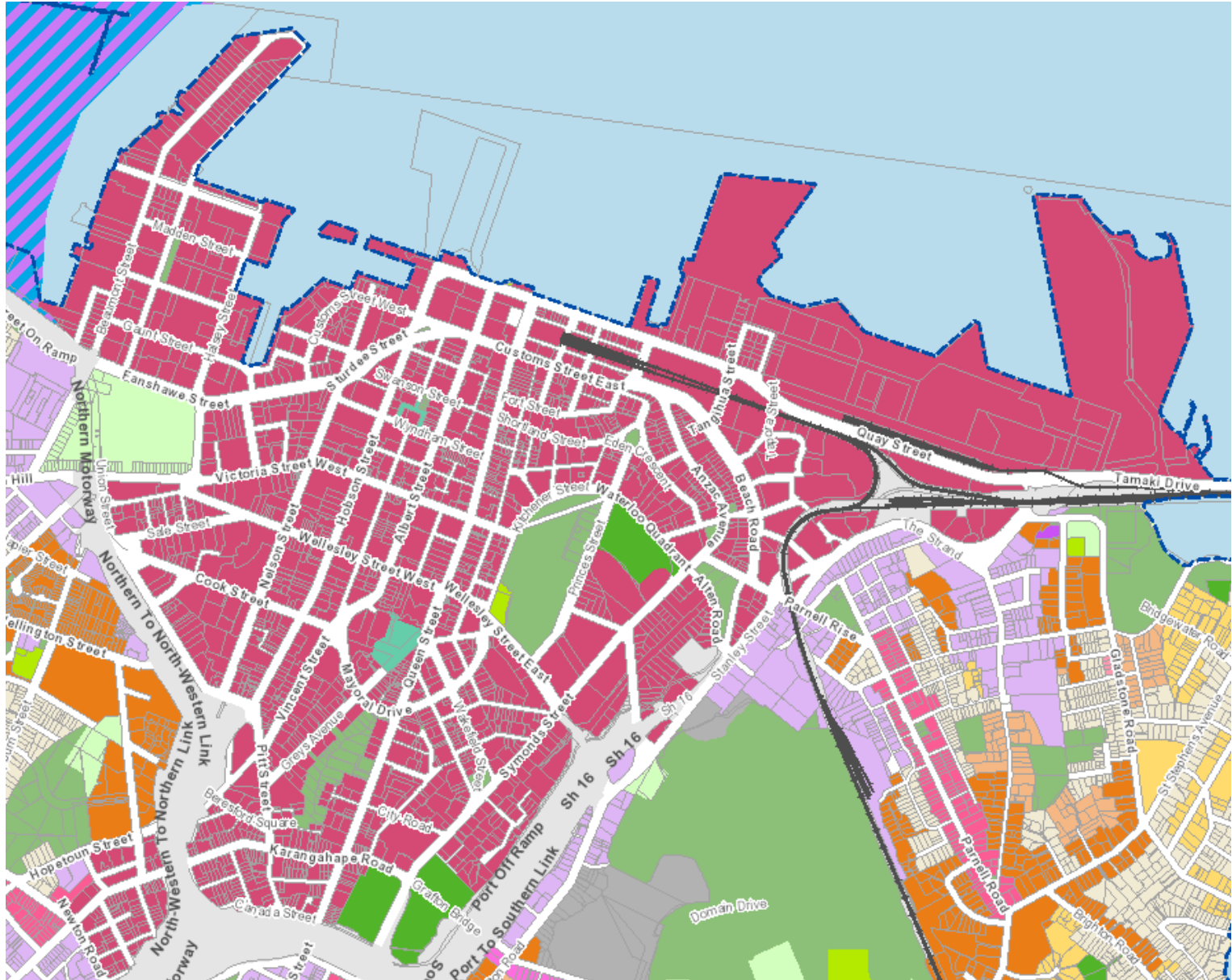
- **Industrial** – factories and manufacturing
- **Construction** – building sites, demolition, maintenance
- **Vibration from construction activity** – Excavation, pile driving
- **Events**– public events, concerts
- **Mechanical noise** – heat pumps, pool pumps, fans and ventilation
- **Commercial** – bars, nightclubs, ventilation systems, deliveries and collections.

n.b. Noise non-compliance information regarding licensed premises is shared with the Auckland Council Alcohol Licensing team.

Noise in the City Centre

- The City Centre contains a widely varying range of activities, often with differing wants and needs.
- The background noise levels in the City Centre are often higher than in other areas of the city.
- The restrictions on noise in the Auckland Unitary Plan are legally enforceable, but evidence of the breach is needed. Enforcement action is not possible where the noise of concern does not significantly exceed the background level.
- The noise rules for the City Centre are a “2-way street” – they place limits on noise emitters, but also place a requirement on City Centre properties for acoustic insulation of “Sound Sensitive Spaces”
- Under AUP rules, noise is generally measured 1 meter from the façade of the affected building. (Residential apartments without acoustic insulation may have difficulty with overnight noise levels)

Auckland – “Business - City Centre Zone”



Noise Rules – Auckland Unitary Plan

Table E25.6.8.1 Noise levels in the Business – City Centre Zone, Business – Metropolitan Centre Zone, Business – Town Centre Zone or the Business – Mixed Use Zone

Time	Business – City Centre Zone	Business – Metropolitan Centre Zone	Business – Town Centre Zone	Business – Mixed Use Zone
7am - 11pm	65 dB L _{Aeq}	65 dB L _{Aeq}	65dB L _{Aeq}	65dB L _{Aeq}
11pm – 7am	60dB L _{Aeq} 65dB at 63 Hz L _{Aeq} 60dB at 125 Hz L _{Aeq} 75dB L _{AFmax}	60dB L _{Aeq} 65dB at 63 Hz L _{Aeq} 60dB at 125 Hz L _{Aeq} 75dB L _{AFmax}	55dB L _{Aeq} 65dB at 63 Hz L _{eq} 60dB at 125 Hz L _{eq} 75dB L _{AFmax}	55dB L _{Aeq} 65dB at 63 Hz L _{eq} 60dB at 125 Hz L _{eq} 75dB L _{AFmax}

(2) The 63Hz and 125Hz octave band limits do not apply to fixed mechanical plant.

Rules for Noise Sensitive Spaces - AUP

E25.6.10. Noise levels for noise sensitive spaces in the Business – City Centre Zone, Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone, Business – Neighbourhood Centre Zone, Business – Mixed Use Zone, Business – Heavy Industry Zone or the Business – Light Industry Zone

- (1) **Noise sensitive spaces must be designed and/or insulated so that the internal noise levels do not exceed the levels in Table E25.6.10.1 Noise levels for noise sensitive spaces in the Business – City Centre Zone, Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone, Business – Neighbourhood Centre Zone, Business – Mixed Use Zone, Business – Heavy Industry Zone or the Business – Light Industry Zone below:**

Noise Sensitive Spaces – AUP rules

Table E25.6.10.1 Noise levels for noise sensitive spaces in the Business – City Centre Zone, Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone, Business – Neighbourhood Centre Zone, Business – Mixed Use Zone, Business – Heavy Industry Zone or the Business – Light Industry Zone

Unit affected	Time	Level
Bedrooms and sleeping areas in the Business – Local Centre Zone and in the Business – Neighbourhood Centre Zone	Between 10pm and 7am	35dB LAeq 45dB at 63 Hz Leq; and 40dB at 125 Hz Leq
Bedrooms and sleeping areas in the Business – City Centre Zone, Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Mixed Use Zone, Business – Heavy Industry Zone or the Business – Light Industry Zone	Between 11pm and 7am	35dB LAeq 45dB at 63 Hz Leq and 40dB at 125 Hz Leq
Other noise sensitive spaces	At all other times	40 dBA LAeq

Permitted noise levels

Construction work within the CBD	
Monday to Friday 6.30am to 10.30pm	75 dB LAeq
Saturday 7am to 11pm	80 dB LAeq
Sunday 9am to 7pm	65 dB LAeq
All other times	Some construction work is permitted in the CBD at night, but the permitted level is subject to land use and duration.

Construction work in residential areas	
Monday to Friday 6.30am to 7.30am	Low level noise activities permitted (arrival, preparation for work)
7.30am to 6pm	75 dB LAeq
6pm to 8pm	70 dB LAeq
Saturday 7.30am to 6pm	75 dB LAeq
Sunday and public holidays	Noisy construction is not permitted

Construction work in commercial and industrial areas

- permitted at any time, depending on what's nearby
- generally not permitted at night near residential activities, hospitals, hotels, hostels, accommodation, and other noise sensitive activities
- may also depend on resource consent conditions or permits.

Home, vehicle and garden maintenance

The construction and maintenance noise levels may be exceeded where the noise is associated with normal residential household activities, such as lawn mowing, or occasional home handyman work undertaken at reasonable times.

This exemption does not apply to contractor and commercial activities, such as work on construction sites and projects.

We assess all construction and maintenance noise complaints on a case-by-case basis.



Contact details

If you require any further information, please phone our 24 hour call centre on 09 301 0101, or write to:

Auckland Council
Private Bag 92300
Victoria Street West
Auckland 1142
enquiry@aucklandcouncil.govt.nz

Construction noise

A guide to noise control



Tips on lodging a complaint...

- Complaints need to be called through to the **Auckland Council contact centre (09)301-0101**
- Provide the operator as clear an address of the noise source as possible, this helps ensure that the officer assesses the correct problem. The City Centre can be busy, other noises start and the officer can have problems identifying the noise
- We will need to know your address – to take effective action, we have to assess the noise at the point where it is being received. **(Complainant confidentiality is a priority – details are not released even under official information request !)**
- If it is an “excessive noise” situation and the noise is continuing after an hour, call again for an update, or if needed, a re-attendance. (We know that noise can go up and down – no problem re-attending if it needs it !)

Tips on lodging a complaint...

- Access to secured apartments can be an issue, the NCO might need some assistance getting in to make the assessment.
- Don't underestimate the ability of the body corporate or property manager to help with problem neighbours. There are provisions in the Residential Tenancies Act available to landlords where ongoing disturbance is being caused.
- When excessive noise starts and is likely to keep going, don't endure it all evening and then ring late. Having an NCO visit early, and hopefully serve notice might save a miserable evening.
- Remember that if an "Excessive Noise Direction" notice is served, that it lasts up to 72 hours. If noise resumes within that time, the options of seizure of equipment or imposition of fines are available. If you need to call again, please do !

Cautionary tale – An app doth not an expert make...



Mobile phone noise meter apps are readily available on line. Unfortunately all the ones we have seen are sadly inaccurate, usually measure the wrong units and seriously mislead users about whether they comply or not.

Questions/ Discussion