

Christchurch International Airport Protection Bill

Member's Bill

Explanatory Note

The proposed bill seeks to resolve two currently conflicting positions by:

- Ensuring the continued operation and growth of Christchurch International Airport (CIAL) as a 24 hour, 7 day international airport.
- Ensuring that aircraft noise generated by the above operation of CIAL cannot be used as a reason to prohibit development around the airport outside the 55 dBA LDN contour.

Hon Clayton Cosgrove

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The Parliament of New Zealand enacts as follows:

1. Title

This Act is the Christchurch International Airport Protection Act **2009**.

2. Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3. Purpose

The purpose of this Act is—

- (a) to recognise and protect the ongoing viability and growth of the Airport as an infrastructure facility of national, regional and sub-regional significance:
- (b) to protect the Airport from curfews due to the need to mitigate reverse sensitivity effects associated with aircraft noise, from people living in proximity to the Airport:
- (c) to provide for limits on the extent of restrictions against urban development on grounds of aircraft noise that are able to be included in district plans prepared under the Resource Management Act 199, for land affected by aircraft noise, lying between the 50 and 55 Ldn dBA noise contour.

4. Interpretation

For the purposes of this Act, unless the context otherwise requires,—

aircraft noise means noise from takeoffs and landings and the overflying of commercial aircraft, and does not include the noise from ground running or engine testing of aircraft using the Airport

air noise boundary means the boundary of an area around the Airport identified in a District Plan as the location for noise monitoring of the Airport's compliance with an Ldn 65 dBA noise limit, and includes an area of Noise Sensitive Land within which the predicted noise exposure from aircraft noise will be sufficiently high as to require the inclusion in a district plan of appropriate land use controls or other measures to avoid, remedy or mitigate any adverse effect on the environment, including effects on community health and amenity values

Airport means—

- (a) the Christchurch International Airport at Harewood in Christchurch being an area of approximately 700 hectares which includes runways, airport buildings and surrounding land used for airport support services; and
- (b) bounded in the north by McLeans Island and Jessons Roads, to the west by Pound Road, the east by Russley Road and extends southwards to Grays and Ryans Roads

District Plan has the meaning given in section 2 of the Resource Management Act 1991

Land Information Memorandum has the meaning given to it under section 44A Local Government Official Information and Meetings Act 1987

Ldn is a value representing the day/night sound level in decibels (re 20 micropascals) over a 24 hour period (from midnight to midnight) with the addition of 10 dB to night-time levels during the period from 10pm to 7am, to take account of the increased annoyance caused by noise at night; the day/night level being based on an average day over an extended period of time

Minister means the Minister of Transport

New Zealand Standard means NZS 6805:1992 or any replacement thereof

noise contour means a boundary around the airport comprising Noise Sensitive Land, being land within which the projected noise exposure from future aircraft operations will be at or exceed the specified level, and where the Noise Contour is based upon the Day/Night Sound Level (Ldn) predicted in accordance with New Zealand Standard NZS 6805: 1992 “Airport Noise Management and Land Use Planning”

noise-sensitive activities means—

- (a) residential activities other than those in conjunction with rural activities:
- (b) education activities including pre-school places or premises, but not including flight training, trade training or other industry related training facilities:
- (c) travellers accommodation except that which is designed, constructed and operated to a standard to mitigate the effects of aircraft noise on occupants:
- (d) hospitals, healthcare facilities and any elderly person housing or complex

noise sensitive land means land lying within the noise contours where noise sensitivities are regulated under a District Plan depending upon the predicted level of noise exposure from aircraft noise

outer control boundary means the boundary of an area around the Airport identified in a District Plan as an area of Noise Sensitive Land where new Noise Sensitive Activities are to be discouraged.

Regional Council means the Canterbury Regional Council

Territorial Authority means a territorial authority as defined in section 5 of the Local Government Act 2002, within which the Noise Sensitive Land is located.

5. Resource Management Act 1991 not to apply

- (1) No provision of the Resource Management Act 1991 can be used and no action can be taken, that would limit the operation and future growth of the Airport as a 24-hour, 7-day international airport on grounds relating to abatement of aircraft noise.
- (2) For the avoidance of doubt, section 9(8) of the Resource Management Act does not apply and section 16 of that Act may not be applied with regard to aircraft noise except to the extent provided for under this Act.

6. Noise-Sensitive Activities within the 65 dBA Ldn Contour

- (1) The airport noise boundary is to be set in the District Plan at the 65 dBA Ldn contour.
- (2) A District Plan is to prohibit new noise-sensitive activities within the 65 dBA Ldn noise contour, in accordance with the recommendations for land use planning controls contained in the NZ Standard.

7. Noise-sensitive activities between the 55 and 65 dBA Ldn contours

The outer control boundary in a District Plan is to be set at the 55 dBA Ldn contour in accordance with the recommendations contained in the NZ Standard.

8. Noise-sensitive activities outside the 55 dBA Ldn contour

- (1) A District Plan can not regulate noise-sensitive activities for the purpose of mitigating the adverse effects of aircraft noise on land lying outside the 55 dBA Ldn contour, except for the purpose of setting such standards for the mitigation of effects on amenity due to annoyance, as are considered appropriate in terms of relevant provisions of the Resource Management Act 1991.
- (2) For the avoidance of doubt, a District Plan must not identify annoyance from aircraft noise at noise level exposures less than 55 dBA Ldn as a restraint on urban development of that land.
- (3) Subject to **subsection (1)**, a Territorial Authority may include provisions in a District Plan that prescribe a standard of acoustic insulation for all new noise-sensitive activities and all additions to such activities between the 50 dBA Ldn noise contour and the 55 dBA Ldn noise contour in accordance with the New Zealand Standard.
- (4) For the avoidance of doubt, nothing in this Act otherwise limits the powers of a Territorial Authority in respect of the contents of a District Plan prepared under Part 5 of the Resource Management Act in respect of land—
 - (a) affected by constraints pertaining to development of land not related to the control of the effects of aircraft noise; or
 - (b) between the 55 and 65 Ldn dBA contours.

9. Land Information Memoranda to contain notation

- (1) All Land Information Memoranda for land within the 50 dBA Ldn contour must include the following:
 - (a) the predicted level of exposure to aircraft noise:
 - (b) the provisions of this Act, and the consequent lack of provision under the Resource Management Act 1991 to seek redress or abatement against the Airport:
 - (c) any requirements under the District Plan for mitigation of aircraft noise.
- (2) For the avoidance of doubt, Land Information Memoranda must note where properties fall within the 50, 55, or 65 dBA Ldn noise contour.

10. Modelling of noise contours

- (1) The 50, 55, and 65 dBA Ldn noise contours must be modelled every 10 years, or earlier if there is a significant change in Airport operating procedures that might cause the noise contours to change.
- (2) The noise contours must be modelled by the Airport in accordance with the NZ Standard.
- (3) The noise contours arrived at by **subsection (2)**, as well as the inputs and rationale for their inclusion, must be subject to independent verification by the Regional Council and Territorial Authorities prior to inclusion in any district plan.

- (4) Following approval under **subsection (3)**, the contours must be submitted to the Minister for final approval.
- (5) Following the completion of the processes set out in **subsections (1) to (4)**, the noise contours must be included in the relevant district plans in accordance with Schedule 1 of the Resource Management Act 1991.

11. Ongoing monitoring

- (1) Nothing in this Act affects the obligation of District Councils to monitor compliance with any provision in its District Plan designed to secure controls of noise from overflying aircraft at the air noise boundary in accordance with the New Zealand Standard.
- (2) The Council must report to the Minister as necessary regarding whether—
 - (a) additional measures are necessary for the mitigation of noise from airport operations; and
 - (b) whether re-modelling of the noise contours before the specified time is warranted.

12. Other noise issues subject to other statutes

- (1) Despite **section 5**, noise from activities not specifically dealt with by this Act will remain subject to the provisions of the Resource Management Act 1991.
- (2) For the avoidance of doubt, section 16 of that Act will continue to apply for all noise associated with aircraft activities at the Airport other than noise associated with aircraft takeoffs and landings, and overflying aircraft.

13. Compensation not payable

- (1) No interest in land is deemed to be taken or injuriously affected as a result of that land being included in a noise contour and identified as noise sensitive land.
- (2) No compensation will be paid to meet requirements for mitigation of aircraft noise by provisions included under a District Plan as a result of this Act.
- (3) This provision does not apply where the land is affected by a designation included in the District Plan for Airport purposes in accordance with the Resource Management Act 1991, in which case the provisions of Part 8 of that Act, and the Public Works Act 1981, will apply.

14. District Plan rules

Subject to **sections 6, 7, 8, and 10**, in order to achieve the purpose of this Act, a Territorial Authority may include rules in a district plan in accordance with Part 4, and as provided for under Part 5 of the Resource Management Act 1991, for the control of aircraft noise; and to avoid, remedy or mitigate the effects of aircraft noise on the health and amenity of people living in the noise contours.

15. Transitional provisions

- (1) Provisions relating to the noise-contour modelling procedure set out in **section 10** must be complied with, within two years of the date of this Act coming into force.
- (2) Until the process set out in **subsection (1)** is completed, all provisions in existing District and Regional plans apply as though this Act had not been enacted.