



MINISTRY OF TRANSPORT
TE MANATŪ WAKA

Reviewing Airport Bylaws under the Civil Aviation Act 2023

Ministry of Transport protocols

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Preface

These Protocols describe, for the Ministry of Transport (Ministry), what is best practice when the Ministry considers bylaws that we are consulted on under s236 of the Civil Aviation Act 2023. The document will be a 'living' document, being updated as we enhance or change our practices.

This protocols document is intended to be used as a guide for reference and not taken as a substitute for the provisions of the Civil Aviation Act 2023 or relied on as legal advice.

Who this document is for

This document is prepared for the Ministry staff involved in reviewing airport bylaws under the Civil Aviation Act 2023.

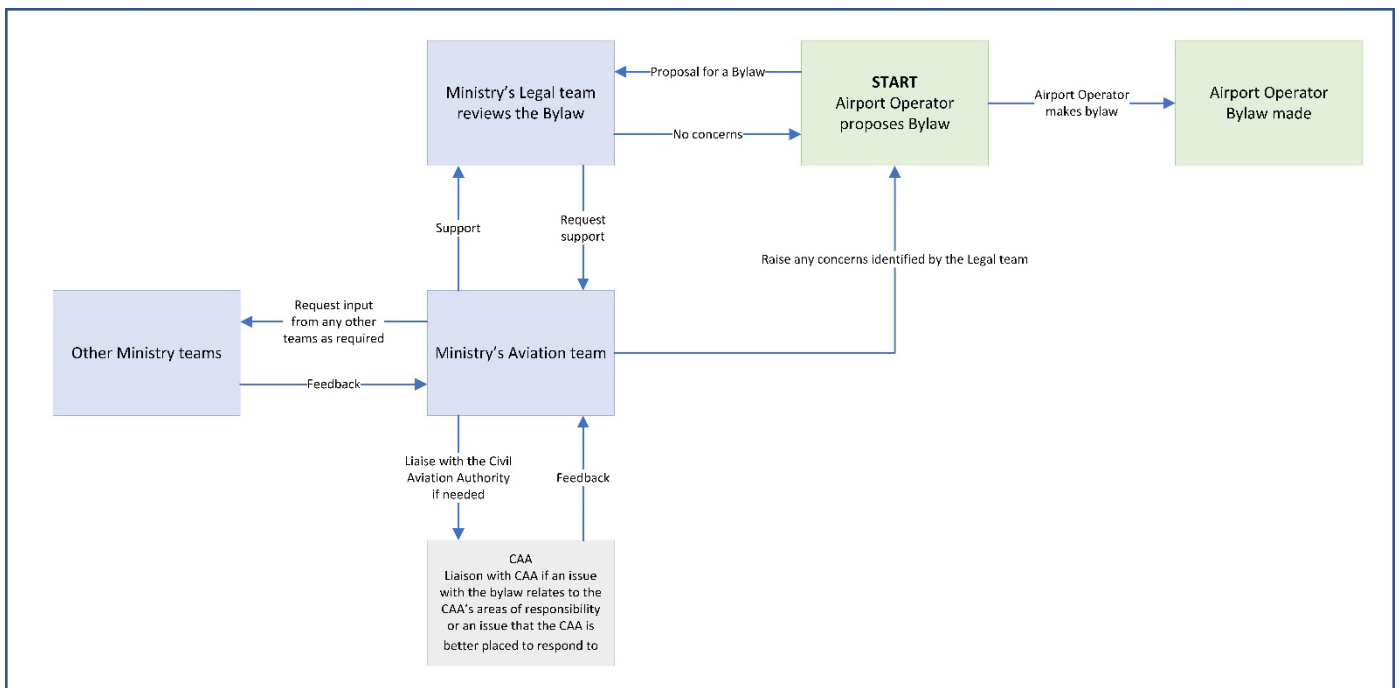
It may also be of interest to aviation sector participants

Airport bylaws consultation

- 1 An airport operator may make bylaws for the effective management of the airport. The Civil Aviation Act 2023 (the 2023 Act) requires airports to consult substantially affected customers, and the relevant government agencies that the operator considers appropriate, on their bylaws.
- 2 They must consult the Civil Aviation Authority (CAA), the Secretary for Transport (the Secretary), the New Zealand Police, any government agency operating at the airport that may be impacted by the proposed bylaw and any other person substantially affected by the proposed bylaw.
- 3 The 2023 Act retains airports' ability to make bylaws but streamlines the Ministry's role. The Ministry's role will change from assisting to get the bylaw approved, to giving feedback to the airport operator about their proposed bylaw.

What is the Ministry's role?

- 4 The Ministry's role is to review bylaws received by the Secretary to identify and advise airport operators about any issues or concerns with the bylaw.
- 5 If necessary, the Ministry will advise the Minister of Transport (the Minister) about concerns with a bylaw and recommend next steps. The Minister has the power to amend, replace, or disallow the bylaw under [section 238](#).
- 6 A flowchart below illustrates the process of airport bylaws consultation under the 2023 Act. The process is described in detail in the following sections of these protocols.



What are the roles and responsibilities of the Ministry teams?

- 7 The team responsible for Civil Aviation Act regulatory functions will:
 - 7.1 acknowledge receipt of the bylaw as follows:

I am writing to thank you for your letter of [date] and acknowledge, on behalf of the Secretary for Transport, receipt of the above bylaw, which you have provided as required by section 236 of the Civil Aviation Act 2023. We will come back to you with any comments or feedback on the bylaw. We will update you within 20 working days.
 - 7.2 The Ministry's Legal team will review the bylaw (focus areas identified below) and respond directly to the airport operator if there are no concerns with the bylaw.
- 8 The Ministry's Aviation team will:
 - 8.1 work with the Ministry's Legal team to:
 - 8.1.1 seek input from any other teams as required
 - 8.1.2 liaise with the Civil Aviation Authority (CAA) if needed
 - 8.1.3 raise any concerns identified by the Legal team with the relevant airport operator
 - 8.2 try to reach a solution with the relevant airport operator without the need for Ministerial involvement (for example the airport operator may accept that there is a defect and agree to amend the bylaw)
 - 8.3 in the event an airport operator makes the bylaw without taking the Secretary's feedback into account, brief the Minister, should ministerial action under [section 238](#) appear necessary to resolve the concern.

What matters should the Ministry consider in reviewing bylaws?

- 9 The focus of the Ministry is a legal assessment of whether the bylaw is consistent with the empowering provisions and associated other legislation, including:
 - 9.1 does transport legislation give the airport operator authority to make the bylaw, and, if so which legislation is the most appropriate (s22AB Land Transport Act 1998 or s235 Civil Aviation Act 2023)?
 - 9.2 are any offences and penalties or other remedies available on breach of the bylaw consistent with the empowering and other legislation?
 - 9.3 Is the bylaw unreasonable or undesirable in so far as it relates to or may affect traffic?

Traffic

- 10 The legal team’s assessment will check the bylaw is not “unreasonable or undesirable to the extent that it relates to or may affect traffic”.
- 11 The 2023 Act reduces operators’ scope to make bylaws about traffic:
 - 11.1 Airport operators can still make bylaws about pedestrian or vehicular traffic (s235(e) in the 2023 Act) but, unlike the 1990 Act, they can only do this for places that are not a road as defined in s2(1) of the Land Transport Act 1998.¹ (There is an expectation that they will use Land Transport Act bylaw-making powers in respect of these roads – they are a “road controlling authority” under that Act.)
 - 11.2 In effect, this limits their bylaw-making power to areas with no public access, such as airside areas or some parking facilities.
- 12 The Ministry does not have any traffic experts on staff, so we cannot do our own technical analysis of how the proposed bylaw might impact traffic.
- 13 If the proposed bylaw appears to relate to traffic, we will check that it is within scope of the Civil Aviation Act (e.g. it does not affect a public road), and that the airport operator has:
 - 13.1 considered the traffic implications of the proposed bylaw, and
 - 13.2 consulted people who could be affected.
- 14 If in doubt, we will ask the airport operator to provide information to show why the proposed bylaw is not unreasonable or undesirable to the extent that it relates to or may affect traffic.

Liaising with the CAA

- 15 We will liaise with the CAA about giving feedback on a draft bylaw if we identify an issue with the bylaw that relates to the CAA’s areas of responsibility or an issue that the CAA is better placed to respond to.

¹ **road** includes—

- (a) a street; and
- (b) a motorway; and
- (c) a beach; and
- (d) a place to which the public have access, whether as of right or not; and
- (e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and
- (f) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment.

Document Control

Document Information

This table describes this version of the document.

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This table provides a history of changes to this document.

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1.2		

Approved by

Name	Role	Date
Siobhan Routledge Director, Aviation	Senior Responsible Owner (on behalf of the Civil Aviation Act Implementation Governance Group)	12.09.2024

Distribution List

This table describes the people who have received this document.

Group/Team
This document is publicly available on the Ministry website.

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