



MINISTRY OF TRANSPORT
TE MANATŪ WAKA

Regulatory airport spatial undertakings

Guidance for airports and agencies

December 2024

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Preface

This **guidance for airports and agencies** has been prepared ahead of the Civil Aviation Act 2023 coming into force from 5 April 2025. It should be read along side the **Regulatory Airport Spatial Undertakings operational policy** document.

Civil Aviation Act implementation programme

December 2024

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Introduction

Purpose of this document

- 1 This sets out the Ministry of Transport's (Ministry's) expectations and recommendations about how to develop, maintain, and review Regulatory Airport Spatial Undertakings (RASUs). RASUs are required of some airport operators under the Civil Aviation Act 2023 (the Act).
- 2 This document can be read in conjunction with the Ministry's RASU operational policy which can be found at www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/regulatory-airport-spatial-undertakings-rasus

Who the document is for

- 3 This document is for:
 - Airport operators that have government agency space requirements.
 - Government agencies that have legislated space requirements at airports.
- 4 It may also be of interest to:
 - Substantial customers of airports (for example, Airlines).

Regulatory Airport Spatial Undertakings overview

- 5 Government policy objectives and airports' commercial operations and planning processes are not always aligned. RASUs aim to encourage and support greater coordination between government agencies, airports, and aviation participants.
- 6 Airports provide critical infrastructure for the aviation system that connects New Zealanders with each other and our country to the world. Airport companies need to operate commercial enterprises that are sustainable, profitable and attract demand. Government agencies need space in airports to deliver services that help ensure the border is safe; aviation is secure; immigration is operating effectively; harmful organisms are prevented from entering the country; and New Zealanders are healthy. Customer experience and efficient passenger facilitation is important to airport companies, government agencies and others who operate out of airports.
- 7 RASUs are an important part of planning to ensure airport border operations are fit-for-purpose. The RASU is a document that describes current and known future requirements that are or will be built into airports' capital and master planning processes and pricing cycles.
- 8 The RASU regime is designed to align with and complement existing airport planning processes and pricing cycles. RASUs describe rather than replace existing engagement and contractual arrangements for space between an agency and an airport and do not replace agencies regulatory controls. RASUs are also not a substitute for the existing pricing

consultation process between airports and airlines or information disclosure requirements under the Commerce Act 1986.¹

- 9 While it is a new regulatory requirement, we want to minimise the additional regulatory burden on airports. See the “Transition to the 2023 Act” section to see options for aligning the timing of the RASU with existing planning and pricing cycles.
- 10 The initial RASUs should be submitted to the Ministry of Transport by 1 October 2025 to ensure they can be assessed by 5 January 2026.

What is a RASU?

- 11 A RASU is a document required by the Act that some airport operators will provide to make a binding undertaking with the Secretary for Transport (the Secretary) about how they will meet and continue to meet government agencies’ space requirements.
- 12 RASUs describe all of the existing legislated space requirements and known future requirements from all the relevant government agencies at an airport, allowing for greater coordination, transparency and efficiency for airports and the government.
- 13 Airport operators must consult relevant government agencies and substantial customers, (for example, airlines) as they develop their RASU and seek agencies’ endorsement of the RASU.
- 14 Airport operators must then provide their RASU to the Secretary who can accept it or refer it back to the airport operator, specifying any matters that must be addressed before the undertaking is resubmitted. RASUs are enduring documents that must be reviewed at least every five years.
- 15 Once a RASU has been accepted, it can be enforced by the Secretary.
- 16 RASUs do not override an agency’s legislation including its ability to implement and enforce its own legislation in relation to its space requirements and obligations at airports.

What is a “space requirement”?

- 17 Section 218 of the Act defines “space requirement” as:
 - a requirement under legislation for an airport operator to provide space or amenities for a relevant government agency to carry out or exercise functions, powers, or duties at an airport, including—
 - a a requirement under section 37 of the Biosecurity Act 1993 to make arrangements, facilities, or systems available:
 - b a requirement under section 385 of the Immigration Act 2009 to provide or maintain operating areas, accommodation, facilities, buildings, equipment, or storage:

¹ Since 2010, Auckland, Wellington and Christchurch airports have been subject to information disclosure regulation under Part 4 of the Commerce Act 1986 (which regulates markets where there is little or no competition). Airports must disclose a range of information annually and at each five-yearly price-setting event.

- c a requirement under section 70 of the Customs and Excise Act 2018 to provide or maintain operating areas, accommodation, facilities, buildings, equipment, or storage, or to store goods:
 - d a requirement under the Civil Aviation Rules ("the rules") to make areas, facilities, or systems available for the provision of aviation security services by Aviation Security Service (AvSec):
 - e a requirement under the Health Act 1956 for Health New Zealand to undertake any functions or duties set out in that Act.
- 18 The Ministry considers that the following are not space requirements for the purposes of RASUs:
- Arrangements between a government agency and a business that is not an airport operator (for example, if a corporate jet business has a licence for a customs-controlled area within their premises at an airport)
 - Temporary, ad-hoc arrangements (for example, if government agencies are present at a regional airport for just a few days, to service non-scheduled flights bringing visitors to a festival)
 - Arrangements located outside an aerodrome as defined in section 5 of the Act (for example, an industrial precinct next to an aerodrome owned by an airport operator).

Which agencies are “relevant government agencies” for RASUs?

- 19 The Act requires the Ministry to list “relevant government agencies” on the Ministry website. See www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/regulatory-airport-spatial-undertakings-rasus
- 20 The agencies that are currently able to require space at an airport are:
- Ministry for Primary Industries
 - Ministry of Business, Innovation and Employment (Immigration)
 - New Zealand Customs Service
 - Civil Aviation Authority (including AvSec).
- 21 The definition of “space requirement” in section 218 of the Act also includes “a requirement under the Health Act 1956” and the Ministry of Health has been included as a “relevant government agency”. While there are no legislated requirements currently in place, we recommend airport operators consult the Ministry of Health and Health New Zealand on their RASUs to ensure any future changes to their legislation can be reflected in RASUs.
- 22 Other government agencies (for example New Zealand Police) and State-Owned Enterprises (for example Airways) operate at airports but cannot impose ‘legislated’ space requirements, so are not “relevant government agencies” for RASUs.

What are RASUs for?

- 23 The purpose of a RASU is to ensure that airport operators can show how they will meet their regulatory obligations to provide space for agencies under civil aviation and border legislation. RASUs will:
- provide government agencies with space requirements at airports assurance that their current and future infrastructure needs can be accommodated.
 - give airports confidence to plan for and price future infrastructure requirements and changes in a more coordinated, efficient and transparent way.
- 24 RASUs will promote ongoing government-airport cooperation at New Zealand's airports, to ensure government outcomes are given appropriate weight when considered alongside airports' commercial and planning needs.
- 25 Government agencies are expected to work closely with airport operators so that airports understand and can meet their respective space requirements. RASUs ultimately aim to improve coordination of how space requirements are planned and provided.
- 26 Although agencies' space requirements have an impact on how passengers move through an airport terminal, the Act does not require RASUs to specifically address passenger facilitation. RASUs focus on space requirements for government agencies. While passenger facilitation can have an impact, it is only one of several factors that influence the passenger experience through the airport.

Who has to make a RASU?

- 27 An airport operator must make a RASU if there are one or more space requirements in relation to an airport; or when one or more "relevant government agencies" have notified an airport operator that they intend in the future to impose one or more space requirements.²
- 28 If there is no space requirement then no RASU is required.
- 29 We expect the following airports to submit a RASU:
- Auckland International Airport Limited
 - Wellington International Airport Limited
 - Christchurch International Airport Limited
 - Queenstown Airport Company
 - Dunedin International Airport Limited
 - Invercargill Airport Limited
 - Hamilton Airport (Waikato Regional Airport Limited).
- 30 If you are an airport operator and are unsure about whether you must provide a RASU, please get in touch with us (see 'Contact Us' section).

² Civil Aviation Act 2023, s 241

How long does a RASU last for?

- 31 There is no required term for a RASU, but airport operators must review their RASU at least every five years. For example, a RASU may be drafted as an enduring document and reviewed every five years. They can be reviewed more often if an agency requests this. See the “Reviewing a RASU” section for more details.
- 32 A RASU remains in place until it is varied or replaced. See the “Varying or replacing a RASU” section for more details.

How do RASUs link to other requirements on airport operators?

- 33 The requirement to develop a RASU is one of several requirements on airport operators in the Act, including airport registration.
- 34 For more information about airport registration, see www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/airport-operator-registration

Roles within the RASU regime

Who	Role
Airport operators	<ul style="list-style-type: none"> • Develop a RASU and submit it to the Secretary. • Engage with agencies to ensure agency space requirements are as accurate as possible. • Consult substantial customers and seek endorsement from relevant government agencies. • Self-monitoring of the RASU once it is in effect. • Comply with a RASU that has been accepted by the Secretary. • Review the RASU at least every five years • Keep other relevant parties informed and attempt to resolve any issues through discussion as a first step.
Government agencies with space requirements	<ul style="list-style-type: none"> • Understand changes to space requirements as a result of forecast changes. • Provide clear metrics and justification to support their space requirements. • Coordinate with other agencies to provide feedback on draft RASUs. • Endorse RASUs. Agencies must not unreasonably withhold endorsement. • Collaborate with each other on future space requirements and optimise space where appropriate. • Provide their space requirements to airports in a timely manner for inclusion in RASUs • Keep other relevant parties informed and attempt to resolve any issues through discussion as a first step.

Substantial customers of airport operators ³	<ul style="list-style-type: none"> • Provide feedback when consulted by airport operators about their draft RASUs.
Border Executive Board (BEB) ⁴ Deputy Chief Executives' (DCEs') group	<ul style="list-style-type: none"> • Help to coordinate agencies' feedback on RASUs to airport operators. • Help to facilitate resolution of any issues that may arise (DCEs); DCEs can escalate to the BEB as required.
Ministry of Transport / Secretary for Transport	<ul style="list-style-type: none"> • The Ministry oversees and administers the RASU regulatory regime. • The Secretary has several roles within the regime, including: <ul style="list-style-type: none"> • accepting RASUs • receiving reviews of RASUs • issuing direction orders and taking enforcement action if required • updating the airport register

Principles for agencies and airports

- 35 We recommend that agencies and airport operators consider these principles when working with each other to develop and carry out their RASU functions. The RASU process (and the end product) should:
- be developed with cooperation and coordination between airport operators and agencies
 - efficiently, and effectively deliver aviation security regulatory activities, biosecurity, customs, health and immigration regulatory outcomes
 - take into account interdependent legislation such as the Health and Safety at Work Act 2015
 - take a long-term view of our aviation system
 - maintain our international reputation and comply with necessary international requirements
 - provide transparency and certainty about investment to airports, agencies and substantial customers
 - consider cost recovery and impacts on other airports' delivery
 - support appropriate passenger, cargo and trade facilitation
 - treat space requirements in a systemic way (i.e. recognise what happens at one airport has impacts on the system)
 - identify and reflect agreed key expectations and assumptions, for example, anticipated passenger volumes
 - treat confidential information appropriately.

³ Not all operators at the airport will meet the criteria of substantial customer, such as regional airlines or Airways, but may be impacted by the content of a RASU, airports are encouraged to consult all customers who are potentially impacted.

⁴ The Border Executive Board has been established under the Public Service Act 2020 to deliver an integrated and effective border system and is hosted by the New Zealand Customs Service. See: <https://www.customs.govt.nz/about-us/border-executive-board/about-the-border-executive-board/>

Developing a RASU

When to develop a RASU

- 36 Airport operators must take all reasonable steps to ensure that their RASU is provided to the Secretary and accepted before the end of the nine-month period beginning with:
- a the date a space requirement arose
 - b the date the relevant government agency notified the airport operator that it intends to impose a space requirement.⁵
- 37 Airports that have an existing space requirement on 5 April 2025 (the day the Act comes into force) will need to take reasonable steps to submit their RASU to the Secretary by 1 October 2025 to ensure sufficient time for the Ministry to process and accept it (provided it meets the requirements) before 5 January 2026.

Transition to the 2023 Act

- 38 The RASU regime is designed to be enduring but the transition into the regime will require a unique and more inclusive process.
- 39 The creation of the initial RASUs, particularly the description of baseline requirements for agencies, will require agencies to coordinate to ensure that the RASUs are appropriately benchmarked for the future. It is important that baseline requirements are described accurately at the beginning, to ensure that any future airport terminal development can account for these needs.
- 40 To transition into the new regime, the Border Executive Board (BEB) Secretariat will coordinate agency space requirements for each relevant airport based on a common, consistent and transparent methodology. This work will also contain contextual, generic information to accompany the specific requirement. This should present an all-of-sector view on:
- what agencies are trying to achieve at the border
 - how border and security agencies currently work together at airports
 - individual legislative frameworks and requirements that agencies have (border and security outcomes)
 - important environmental factors to consider (for example health and safety)
 - site typology (for example the types of spaces required and where spaces can and what cannot be shared between agencies).
- 41 For the initial RASU, agencies may refer to current requirements as “baseline” requirements. Agencies are expected to provide baseline space requirements and any known future requirements to individual airports as early as possible for airports to review and start incorporating into the initial RASU documents. They should collaborate as much as possible

⁵ s 242

to find efficiencies in their adjacent spaces and should be aware of the limitations of existing sites when developing base requirements.

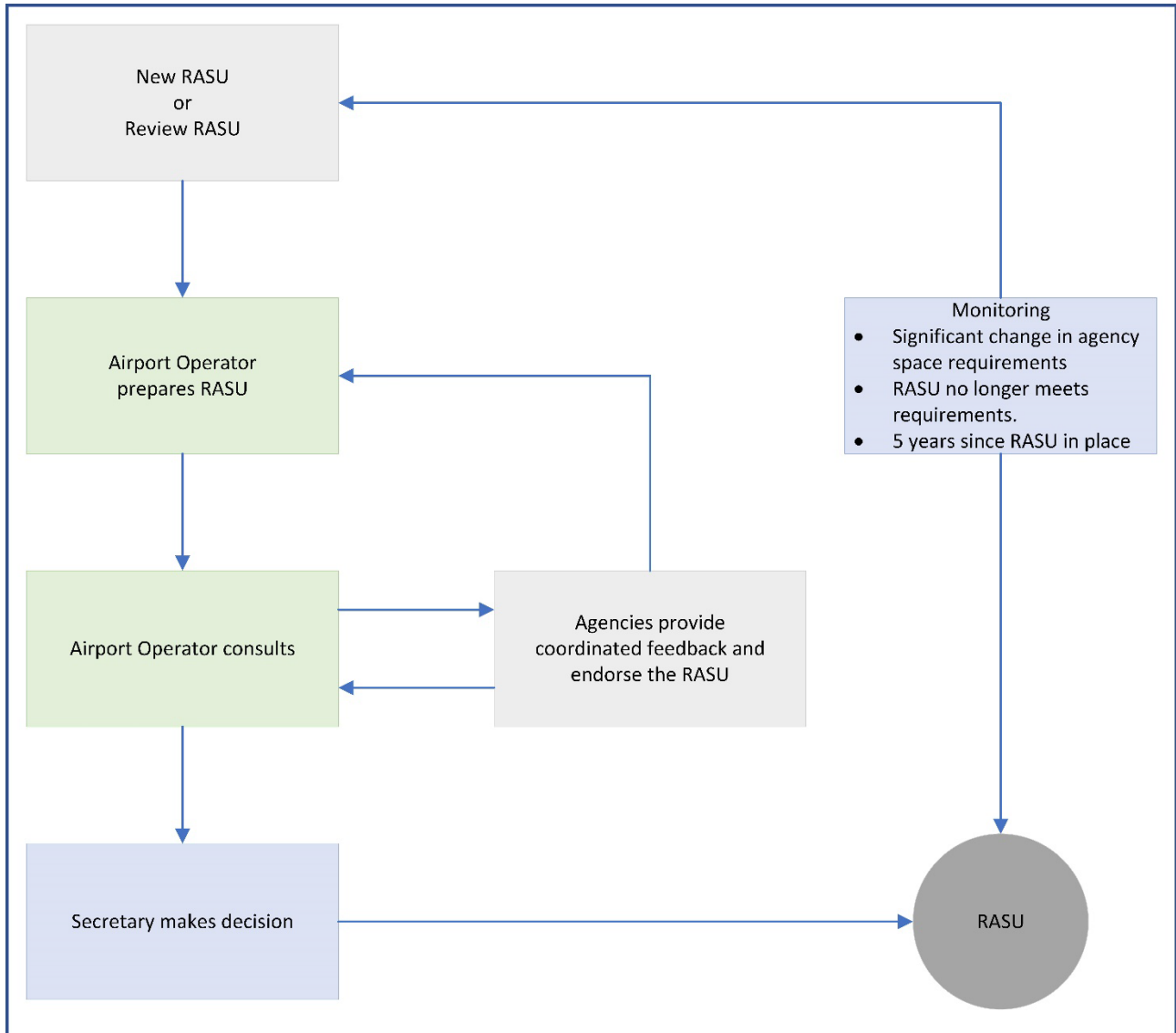
- 42 Airports should provide agencies with information (for example, forecasts) to help them accurately calculate their space requirements now and into the future and avoid the need for unscheduled reviews.
- 43 In developing the initial RASU, airports can align the timing with their existing planning and pricing cycles. This may involve signalling an early review of the RASU to align with existing processes. Airports are best placed to decide when this may be. The Ministry can assist with advice on this.
- 44 Developing the initial RASUs should be a collaborative process to ensure both airports' and agencies' needs are met and the RASU document is as relevant and accurate as possible.
- 45 We recommend that the RASU is set at the right level of prescription to ensure it does not constrain opportunities to improve future space requirements or result in the need to review the RASU more frequently than necessary.
- 46 From 5 April 2025, the Ministry will process the initial RASUs in the order that they are received. To ensure that the Secretary can consider the RASU before the due date of 5 January 2026, we encourage airport operators to submit it as early as possible. We also encourage airports and agencies to work together before the Act comes into force, so that everyone has enough time and capacity to develop the RASU and ensure a smooth transition into the regime.
- 47 In the future, we expect that differing review dates and processes will mean that airport operators will submit RASUs and subsequent reviews and replacements at different times.

Recommended process

- 48 This section describes the recommended process for developing or reviewing a RASU in addition to the transitional information provided above.
- 49 See also the checklist of RASU requirements in Annex 1.

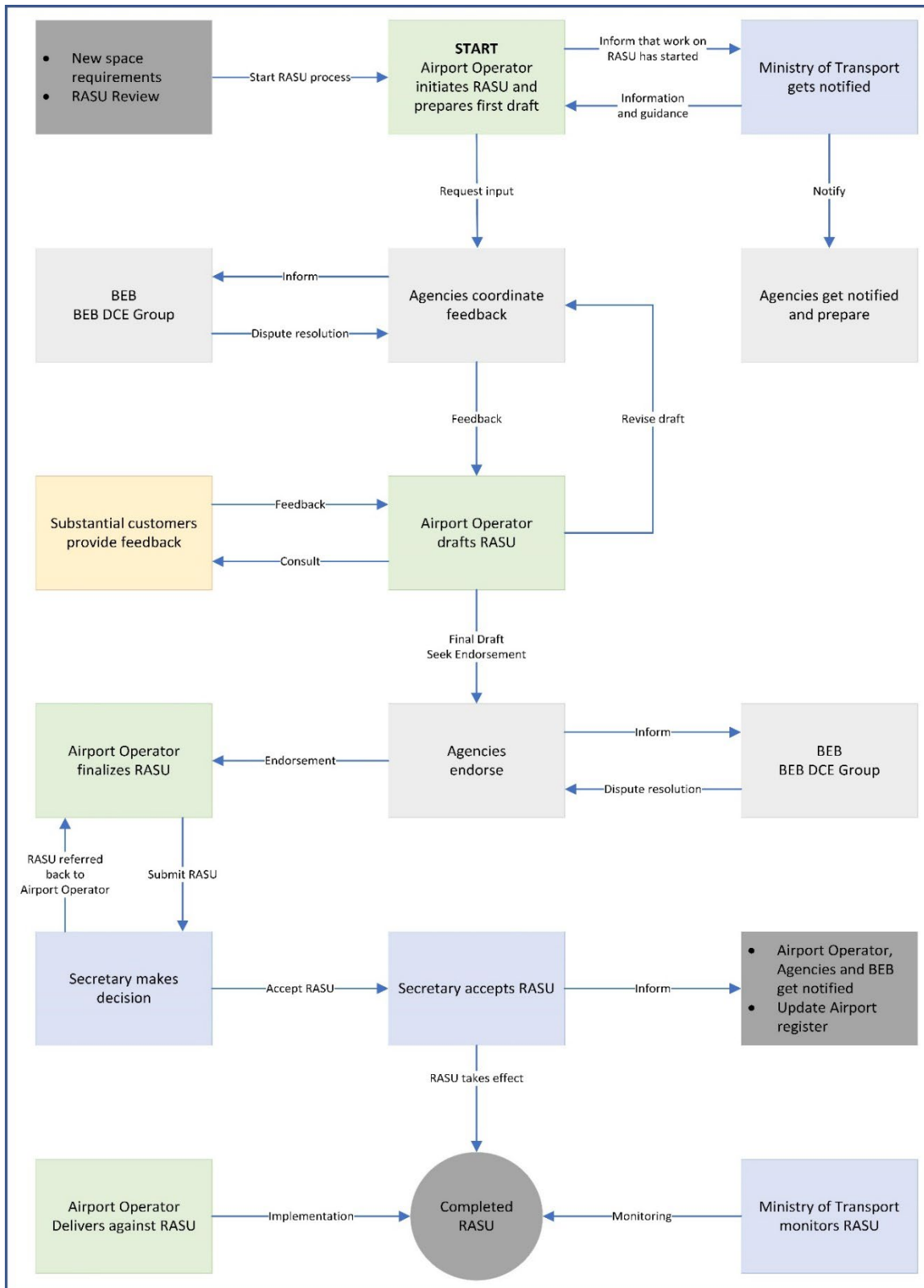
RASU process overview

The flowchart below illustrates an overview of the process for developing or reviewing a RASU. This process is described in detail later in this section.



Detailed RASU process

The flowchart below illustrates a detailed process for developing or reviewing a RASU. This process is described later in this section.



Initiation

- 50 The airport operator will inform the Ministry that they are starting work on their RASU.
- 51 The Ministry will:
- provide the airport operator with any information and guidance they need
 - inform relevant government agencies, so they can prepare to provide coordinated information about their space requirements to the airport operator.

Development

Airport operator requests information

- 52 The airport operator will request information about space requirements from the relevant agencies.
- 53 To support consistent and well-informed space requirements from agencies, we recommend that airport operators share key assumptions and inputs with relevant agencies at the beginning of the RASU development process. We recommend that all relevant government agencies are provided with:
- forecast volume data listed for at least the five-year period that the RASU is intended to cover
 - information about any plans to change or develop airport infrastructure
 - any other information known to the airport that could affect agencies' space requirements at that airport.
- 54 The airport operator must involve any of the “relevant government agencies” [see earlier section “Which agencies are “relevant government agencies for RASUs?”] that have a space requirement at the airport, or that have notified the airport operator that they intend in the future to impose a space requirement at the airport (and have not withdrawn that notification).
- 55 The relevant government agencies will vary from airport to airport, and a RASU for an airport with one relevant government agency will look different to a RASU for an airport with multiple relevant government agencies.

Agencies provide information

- 56 Agencies will give airport operators information about their current and future space requirements, according to their own legislation.
- Agencies should be consistent and predictable in their communications with airports on draft RASUs. Agencies are also expected to collaborate as much as possible, particularly in providing current requirements to airports for the initial RASUs (see “Transition to the 2023 Act” for more detail).
 - We encourage agencies to work together right from the start of the RASU development process, for example by using consistent assumptions and coordinating their input. This will make it easier to meet their coordination obligations later.

- We expect agencies to be mindful of the commercial and cost impacts of ‘new’ space requirement on airports and discuss these with the airport if formally requesting any additional space. As these costs will be ultimately borne by airlines or airlines on behalf of passengers, we encourage airlines to be included in this engagement. Note that new space requirements will follow existing processes between agencies, airports and airlines, and the RASU will describe the agreed outcome of these processes.
 - Annex 3 provides a checklist for agencies to consider when providing their input to airport operators.
- 57 For clarity, space requirements can cover existing requirements already being met as well as any future known requirements.
- 58 The airport operator will prepare a draft RASU. For more information on what this should contain, see the section below “What RASUs must cover” and the checklist in Annex 1.
- 59 The Ministry is not involved in the development process but may request updates on progress.

Consultation and endorsement

- 60 The Act⁶ requires airport operators to make reasonable efforts to obtain the relevant government agencies’ endorsement of a regulatory airport spatial undertaking and consult with substantial customers, before providing the undertaking to the Secretary.
- 61 Airports can outline to agencies a RASU consultation process that aligns with their planning and pricing cycle. Existing engagement and decision-making processes between an agency and an airport should continue and can be enhanced. While the Act does not require agencies to consult directly with airlines about space requirements, we encourage open communication between everyone involved. Where airports, agencies and airlines have existing consultation processes, for example about pricing or changes resulting from new government initiatives, these processes should continue.
- 62 The agencies:
- a must not unreasonably withhold or delay their endorsement; and
 - b must make reasonable efforts to co-ordinate their response.
- 63 Making “reasonable efforts” includes, for example:
- Allowing sufficient time for others to play their part in the process.
 - Discussing their needs and their proposed feedback with each other, so feedback to airport operators is not in conflict. There is no requirement however to provide collective feedback. The BEB Secretariat will support this process and coordination efforts.
 - Being constructive, for example if differences arise, clearly communicating what the issues are, and making and considering alternative solutions.
- 64 If there is no alignment between airports and agencies the BEB DCEs will help to facilitate as resolution.

⁶ s 242(1)

Agencies

- 65 When the draft RASU is ready, the airport operator will request feedback from the relevant government agencies.
- 66 After making any changes required in response to the feedback, the airport operator will seek each agency's formal endorsement of the RASU. Agencies do not collectively endorse the RASU; this is done on an agency-by-agency basis.

Substantial customers

- 67 The airport operator must also consult substantial customers before submitting the RASU to the Secretary. Involvement of substantial customers is a key part of the process. Views of customers such as airlines are important as they ultimately pay for any new agency infrastructure requirements through airport pricing.
- 68 Under section 219 of the Act, a person is a "substantial customer" of an airport:
if the person paid, or was liable to pay, the airport operator an amount—
- a relating to identified aerodrome activities⁷ undertaken during the airport operator's last accounting period; and
 - b exceeding 5% of the total revenue paid or payable to the airport operator in relation to identified aerodrome activities undertaken during that period.
- 69 A person is also a "substantial customer" if they have been authorised in writing to represent, and exercise the powers of, a substantial customer on behalf of a number of persons that in aggregate meet the threshold above. In this case, the person must provide the airport operator with a copy of relevant authorisations.
- 70 The Act's requirement that airport operators must consult substantial customers about RASUs is consistent with similar requirements to consult them about airport charges, capital expenditure plans, and spatial plans.
- 71 It is appropriate to consult substantial customers on RASUs because they are affected by airports' decisions about infrastructure, and in the case of airlines, often bear the cost of infrastructure changes through airport pricing. While not all airlines will meet the criteria of substantial customer, such as a regional airline whose operations may be impacted by the content of a RASU, airports are encouraged to consult all customers who are potentially impacted. This may also include Airways that delivers air navigation services for New Zealand. Airways who have space requirements at some airports is not included in the RASU but may be impacted.
- 72 Airport operators are not required to obtain endorsement from substantial customers.

⁷ "Identified aerodrome activity" is defined in section 218 of the Act.

Submission and finalisation

- 73 The airport operator must submit their final RASU to the Secretary, in accordance with the timeframes in section 242(3). (See the section “When to develop a RASU” and “What to do if issues arise during the development of a RASU”.)
- 74 RASUs can be submitted to the Ministry by emailing them to airports@transport.govt.nz
- 75 The Ministry will acknowledge that the RASU has been received and may ask for more information if required. The Act requires airport operators to provide the Secretary with the necessary information to assist the Secretary in deciding if the RASU complies with the Act.⁸
- 76 If the RASU development process is followed, the RASU includes the required content (including the Ministry’s prescribed requirements), and agencies have endorsed it, in most cases, we expect that the Secretary will accept it. See the section “What a RASU must include” and the checklist (Annex 1) for more information.
- 77 If the RASU is accepted, the Secretary will confirm this and the date that acceptance takes effect with the airport operator.
- 78 The Ministry will then record the RASU’s acceptance in the (publicly available) airport register and notify agencies and the BEB.
- 79 If the RASU does not meet the requirements, the Secretary will:
- Refer it back to the airport operator, specifying which matters need to be addressed before it is resubmitted.
 - The Secretary may request further consultation with an agency or agencies.
 - If substantial changes to the RASU are required, the Secretary will request that the airport operator consult all relevant government agencies on the revised RASU and reconfirm their endorsement, before it is resubmitted. If appropriate, the Secretary may suggest that substantial customers are also re-consulted.
 - Consider the resubmitted RASU using the same criteria as before. The Secretary has the discretion to accept a RASU that has not been endorsed by one or more agencies but will make efforts to encourage endorsement to secure a durable RASU (see section “What to do if issues arise during the development of a RASU” for more detail).

In force

- 80 The RASU is in force from the date it is accepted by the Secretary, or at any later date specified by the Secretary.⁹ The RASU is enforceable from that date.
- 81 See the sections “While a RASU is in effect” and “Reviewing a RASU” for more information.

⁸ s 241(4)

⁹ s 244

What a RASU must include

82 Under the Act,¹⁰ RASUs must:

- a specify the space requirements and relevant government agencies concerned; and
- b specify projects, milestones, and implementation timeframes to meet the space requirements and the related obligations (if any)
- c be made in the manner specified by the Secretary; and
- d comply with any prescribed requirements relating to the content, form, timing, and publication of regulatory airport spatial undertakings.

83 In some cases, agencies' space requirements at an airport could be stable, with no changes anticipated. If the airport operator is already fully meeting the requirements, the RASU does not need to specify any projects to meet them. If agencies' requirements were to change later, the agency could request a review of the RASU.

Prescribed requirements

84 Section 241(3)(d) of the Act allows the Ministry to prescribe requirements for RASUs.

85 The prescribed requirements under this section are that a RASU must:

- briefly describe how the airport operator will maintain and monitor the RASU through its term, and how it will be reviewed
- indicate when the airport operator plans to review the RASU (which can be no later than 5 years after the RASU's intended start date)
- specify who the "substantial customers" (defined in s219 of the Act) of the airport are and show evidence that they have been consulted.¹¹
- confirm:
 - whether the RASU has been endorsed by all the relevant government agencies that have space requirements at the airport, or that have notified the airport that they will impose¹² a space requirement in the future; and
 - the name and role of the person from each agency who endorsed the RASU
- specify:
 - the name and role of the person who approved the document for the airport operator
 - the date it was approved, and
 - contact details for a person at the airport who will be the ongoing contact person for the RASU

¹⁰ s 241(3)

¹¹ s 242(1)

¹² s 241(1)(b)

- clearly indicate any parts of the RASU that the airport operator considers are commercial in-confidence
 - be readable and clearly presented.
- 86 Airport operators may present this information in a way that is convenient for them – there is no set format or template.
- 87 However, the RASU should be accessible and easy to understand. If a RASU is substantially based on a capital plan or other pre-existing document, we encourage airport operators to provide a cover letter to summarise that document and direct the Secretary to the required content.
- 88 Section 241(4) of the Act states that airport operators must provide the Ministry with any information required by the Secretary to assist in deciding whether the RASU complies with legislative requirements. This may include the airport operator providing the Ministry with any data or information used to develop the RASU.

Recommended content

- 89 We recommend airport operators include the following information in a RASU. This content is not required by the legislation, but we encourage it as it will support high quality and durable RASUs.
- 90 We recommend including:
- Key inputs and assumptions, for example the source of passenger and growth forecasts, and the assumptions, constraints, and parameters that the agencies have used to determine their space requirements. If the current infrastructure limits the optimal space an agency requires to carry out its functions, any process or opportunity to optimise that space over time.
 - Conditions, indicators or agreed tolerances, where known, that will be monitored and that will result in a significant change and trigger a review.
 - Processes to build flexibility into the RASUs to minimise the chance they will need to be reviewed and replaced before their planned review date. This could include:
 - a commitment to ongoing open communication and transparency so that issues can be identified early
 - processes to manage any issues that come up during the RASU's term
 - acknowledgement of the challenge and opportunity of evolving technology and processes
 - processes to handle short-term changes (for example, emergencies or other extraordinary situations).
 - Any significant feedback from agencies or substantial customer consultation.
- 91 The Ministry does not expect RASUs to be modified if an emergency or other extraordinary situation requires temporary changes to space for agencies at an airport.

What to do if issues arise during the development of a RASU

- 92 We expect government agencies and airport operators to work constructively, collaboratively and openly to meet their respective needs through a RASU. There may be times when airport operators and agencies need to be flexible and accommodating to achieve mutually beneficial outcomes.
- 93 If an issue arises during the development of a RASU, the first step is to discuss it to attempt to resolve the issue.
- 94 If the issue remains, airport operators and/or agencies may raise the issue with the Ministry. The Ministry may:
- facilitate discussions between the airport operators and relevant government agency or agencies about the issue
 - provide factual information and guidance about the legislation, and the Ministry's expectations and approach
 - escalate the issue to Deputy Chief Executives, and/or Chief Executives, of the relevant government agencies
 - ask the BEB to assist member agencies in resolving the issue (note that the BEB can't direct Crown entities, so it will work through the Ministries of Health and Transport when interacting with Health New Zealand and the Civil Aviation Authority respectively)
 - The BEB includes the Secretary for Transport. The BEB is not an adjudicator, but a facilitator whose aim is to help the parties reach agreement.
 - if the issue relates to possible non-compliance with legal requirements, apply the Ministry's compliance and enforcement approach (covered later in this document).

What the Ministry will do if there are issues preventing endorsement

- 95 Section 242(1) of the Act requires airport operators to "make reasonable efforts to obtain relevant government agencies' endorsement" - it does not require endorsement.
- 96 However, if the Secretary were to accept a RASU that had not been endorsed by all the relevant government agencies, the RASU may not be workable or effective, and it is more likely that an agency or agencies would trigger a review early in the term of the RASU.
- 97 If a RASU has not been endorsed by all relevant government agencies, the Secretary may refer the RASU back to the airport operator for more consultation and take some or all of the steps outlined in paragraph 94 above.

What it means to "unreasonably withhold or delay endorsement"

- 98 We consider that it would be unreasonable for an agency to withhold endorsement of a draft RASU if, for example:
- the space commitments detailed in the RASU meet and will continue to meet the requirements provided by the agency under its own legislation; and

- the draft RASU meets the Act's requirements and the Ministry's expectations as set out in this document.

While a RASU is in effect

Monitoring by airport operators and agencies involved in the RASU

99 The goal of monitoring is to ensure the overall performance and health of each RASU, and the regime as a whole. Airports' and border agencies' cooperation and active participation in this process are crucial for ensuring that the RASUs meet their intended purpose. We encourage openness and transparency throughout this process.

100 As an airport operator, you are encouraged to undertake:

Self-monitoring

- monitor your own RASU as you are most familiar with your situation.
- regularly review your RASU to ensure it is operating as intended. This should be part of your self-monitoring plan.

Compliance

- Keep track of key dates and ensure compliance with the requirements of the Act.
- The Ministry will send reminders of due dates and guidance to assist you.

Communication

- Regular and open communication with agencies and substantial customers about the progress of your RASUs is encouraged.
- Actively check in with agencies about how the projects and milestones referenced in your RASU are tracking. This will help keep everyone informed and aligned.
- Keep each other well informed about any possible changes or developments that could affect the RASU, especially in the lead-up to a scheduled review.
- We encourage agencies to plan at the outset how they will monitor the RASU and their requirements within it during its term.

Complaints and concerns

- If there are any complaints or concerns about compliance with a RASU, we encourage participants to discuss and try to resolve these in the first instance. If still unresolved, the Ministry will follow up and respond to those involved [See Enforcement of RASU requirements section].

Annual check-in

- The Ministry will check in with agencies and airport operators annually to discuss the RASU to ensure everything is operating as intended and answer any questions an airport operator may have.

Feedback and data collection

- We have established a feedback form and a RASU email address to collect regime performance data from stakeholders.

- You can submit your feedback through [insert email address].
- We will also send out the feedback form annually for your response.
- We will use this monitoring information to report on and improve the regime.

Enforcement of RASU requirements

- 101 The responsibilities on airport operators to develop and review RASUs are enforceable. A RASU itself is enforceable once it has been accepted by the Secretary.¹³
- 102 The Ministry will take a proportionate response to manage the RASU regime in a way that encourages willing compliance by airport operators and cooperation between agencies and airport operators.
- 103 The Ministry uses a range of tools to support, encourage and require airport operators to comply with the RASU requirements in the Act, and with the accepted RASUs. The enforcement process will be case-by-case depending on the circumstances.
- 104 The Ministry's approach may include:
- providing information and resources to make it easy to comply
 - discussing any compliance issues with the airport operator
 - facilitating discussions between the airport operator and relevant agencies
 - writing to the airport operator to formally request that they comply
 - issuing a direction order
 - court action, if a direction order is not complied with.
- 105 The Ministry's approach to compliance and enforcement will take into account:
- the potential impacts and risks of the non-compliance, including impacts on and risks to the objectives of the RASU regime and the wider Act
 - the airport operator's motivations, capability and patterns of behaviour (for example whether there is a pattern of non-compliance)
 - the public interest
 - the Ministry's operating environment
 - any other factors that may have contributed to the non-compliance.
- 106 The Ministry will inform relevant agencies as appropriate when considering enforcement action, and about the outcome of any action.
- 107 Agencies remain responsible for enforcing their own space requirements through their own legislation. If an agency is considering taking this step, we encourage them to inform the Ministry and other agencies.

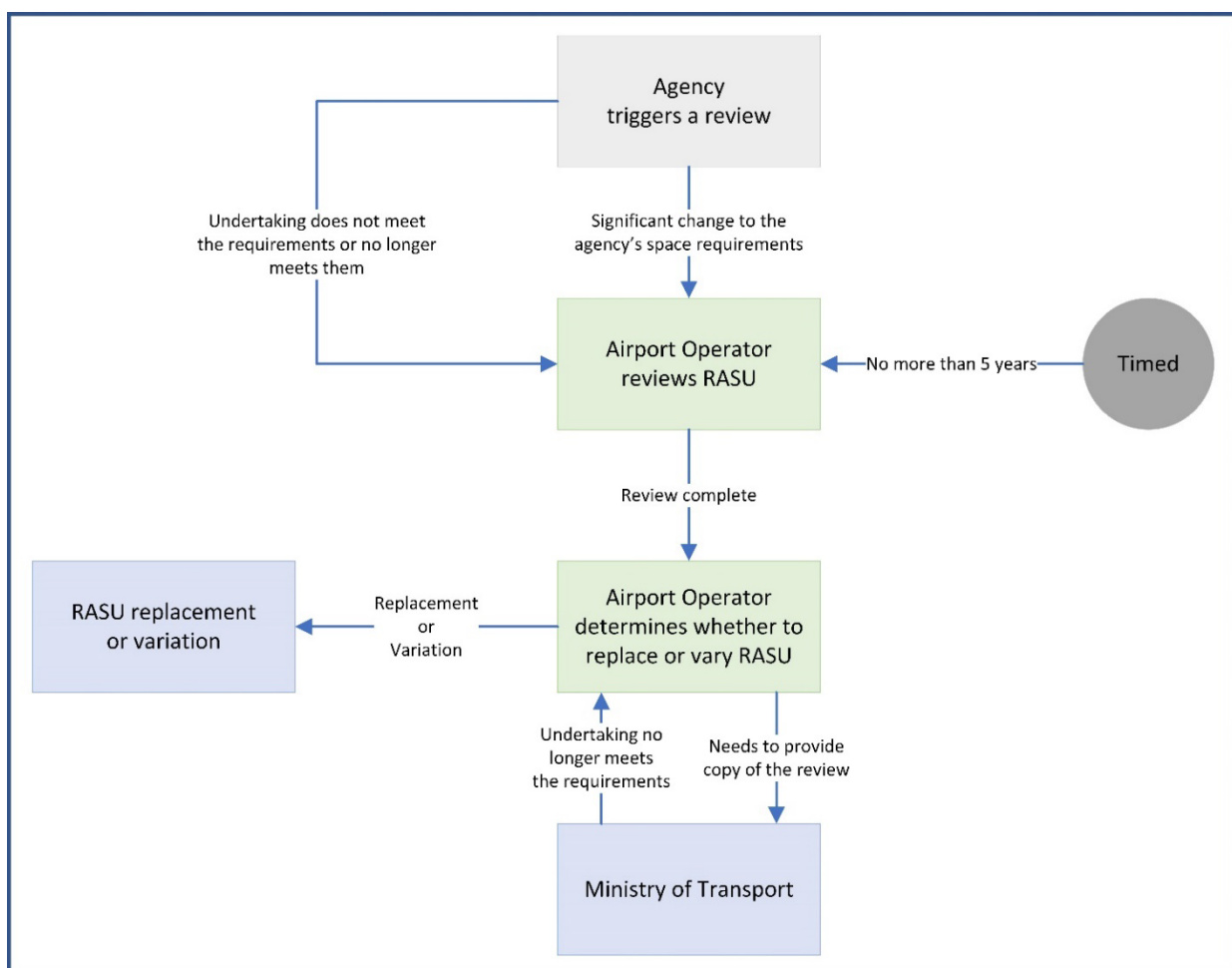
Direction orders

- 108 If an airport operator is not complying with legislative requirements, the Secretary may consider issuing a direction order.
- 109 A direction order is a legal instruction to comply, and it can be enforced by the Courts.
- 110 The process for issuing a direction order is set out in the Act. The Secretary will follow the Act's requirements in sections 247-248 about the process for and contents of a direction order.
- 111 For more information on the Ministry's approach to monitoring, compliance and enforcement, see our operational policy document at www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/regulatory-airport-spatial-undertakings-rasus

Reviewing a RASU

Detailed RASU review process

The flowchart below illustrates a detailed RASU review process which is described in detail later in this section.



When does a RASU have to be reviewed?

112 Under the Act an airport operator must review their RASU:

- if notified by a relevant government agency:
 - that there has been or is proposed to be a significant change to the agency's space requirements or
 - the undertaking does not meet the requirements or no longer meets them.
- in any case, at interval of no more than five years

What does “significant change” mean?

113 Each airport is different, and government agencies will have different requirements at each airport.

114 Examples of significant change include:

- Increase or decrease in passenger volumes against forecast, or passenger volume below or above what was expected
- unexpected or unplanned end of life for screening technology that requires replacement and changes the space
- introduction or repeal of a government policy that changes the way agencies operate or the equipment they use.

115 We recommend that the RASU clearly document the assumptions, constraints and parameters the government agencies use to determine their space requirements. Conditions which cause a significant change could be documented where known (see also RASU overview: recommended content).

116 Not all circumstances that may cause a significant change will be known at the time a RASU is developed and undertaken. Meeting regularly with agencies to discuss what is affecting operations and space requirements will help operators and agencies anticipate any changes.

Recommended contents of a RASU review

117 We recommend that airport operators outline the reason for the review (even if the review is triggered by a change in agency requirements), the space requirement, what the significant change is, or how the undertaking does not meet the requirements or longer meets them. This will help the Secretary understand why the review is taking place.

118 We also recommend that airport operators consult and engage with the relevant government agencies during the review process. This is good practice and builds on the collaborative approach that airports and government agencies are expected to take. It will also help if, as a result of the review, a variation or replacement undertaking is needed.

119 A RASU continues to be in place following the review, until it is varied or replaced.

Submitting a review

120 Reviews can be submitted to the Ministry by emailing to airports@transport.govt.nz

Varying or replacing a RASU

121 If the airport operator determines that they can no longer meet the requirements within the existing RASU, airport operators will need to either:

- vary the RASU; or
- provide a replacement RASU.

122 A variation or replacement RASU follows the same process for developing a RASU (refer above).

123 A variation or replacement RASU can be submitted to the Secretary by emailing it to airports@transport.govt.nz

Exemptions

124 An exemption gives legal permission for the airport operator to not comply with a specified legal requirement for a specified period of time.

125 We expect airport operators to comply with requirements in the Act. Where this isn't possible, reasonable, or practicable, airport operators may apply to the Secretary for an exemption under section 251 of the Act for some or all of the requirements relating to RASUs.

126 Any exemption from RASU requirements has no impact on other legislation requiring airport operators to provide space for government agencies. Airport operators must still comply with other laws.

What an exemption application needs to cover

127 Exemption applications must:

- come from an eligible person (i.e. an airport operator required by section 241 to develop a RASU)
- state the provision in the Act the airport operator is requesting an exemption from
 - the Act only allows exemptions from sections 241, 242, or 245
 - these relate to the requirement to make a RASU, the timeframe to make a RASU, and reviewing a RASU
- explain the reasons why the airport operator wants an exemption
- note any actions the airport operator proposes to take to minimise/mitigate any negative impacts of an exemption (if granted)
- describe any impacts the exemption (if granted) would have on the main purpose, and additional purposes, of the Act
- describe the results of consultation with relevant government agencies

- describe any other consultation that has taken place, for example with substantial customers
 - clearly identify any information that the airport operator considers is commercial in confidence.
- 128 The Ministry's operational policy on RASUs sets out how the Ministry will assess exemption applications. The RASU operational policy can be found at www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/regulatory-airport-spatial-undertakings-rasus

Where to go for more information

Related documents

- The Ministry's operational policy on RASUs. See www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/regulatory-airport-spatial-undertakings-rasus
- Civil Aviation Act 2023
www.legislation.govt.nz/act/public/2023/0010/latest/whole.html#LMS49346
- Ministry of Transport website. See www.transport.govt.nz/area-of-interest/air-transport/air-transport-regulatory-information/airports/regulatory-airport-spatial-undertakings-rasus

Contact us

Get in touch for more information on RASU at airports@transport.govt.nz

Annex 1: RASU checklist

If possible, provide a summary page/contents page that highlights the key information.

Ensure that the RASU is readable, concise and clearly presented.

- Does the RASU specify the space requirements and relevant government agencies concerned?
- Have the projects, milestones, and implementation timeframes to meet the space requirements and the related obligations (if any) been specified?
- Does the RASU describe how it will be maintained, monitored and reviewed?
- Has a date when the airport operator plans to review the RASU been indicated (which can be no later than 5 years after the RASU's intended start date)?
- Does the application specify who the "substantial customers" of the airport are, show evidence that they have been consulted, and briefly describe their feedback and the airport operator's response to that feedback?
- Does the RASU confirm that it has been endorsed by all the relevant government agencies that have space requirements at the airport, or that have notified the airport that they will impose a space requirement in the future?
- Does it specify the name and role of each person who endorsed the RASU for their agency?
- Has the name and role of the person who approved the document for the airport operator, and the date it was approved been specified?
- Does it include contact details for a person at the airport who will be the contact person for the RASU?
- Have any parts of the RASU that the airport operator considers are commercial in-confidence been indicated?
- Does the application appropriately reference relevant sections of the Act? Does it point to information within any supporting documents?

Annex 2: Forecast information

The following forecast data will be beneficial for border agencies to understand their future space requirements at specific airports:

- Overall summary of forecasted passenger numbers – year on year growth and assumptions behind them including (future routes, load factors, aircraft used, market expansion, etc.)
- Peak period forecast
- Peak hour passenger numbers
- Design hour rate*
- Passenger segmentation forecasts
- Design day flight schedules
- Baggage forecast (per passenger ratios and checked vs carry-on)
- Air cargo activity forecast
- Air Transport Movement forecast and breakdown (Commercial Passenger, Commercial Freighter or All-cargo, General Aviation; Military etc)

* If the design hour rate method (IATA recommended) is not used, outline what design definition has been used, for example busy day, average day of peak month etc.

Annex 3: Checklist for agency input to enable airports to draft RASUs

Ensure that information supplied to the airport is clearly presented and is made available to airports in a reasonable timeframe following analysis of airport forecasts.

- Are current space requirements referenced in other documentation or agreements?
- Have functional requirements been specified in other documentation or agreements?
- Are baseline space requirements being provided by the airport currently?
- Has the agency considered review or audit findings that are relevant to space requirements?
- Has the agency signalled future requirements, for example major equipment changes or upgrades, major events, passenger facilitation changes, regulatory change?
- Has the agency had access to and considered airport forecasts in relation to passenger (including peak hour passenger numbers), cargo, all airport transport movement?
- Has the agency provided clear justification (including resourcing assumptions) where there is (or will be) a shortfall of space provided based on forecasts?
- Has the agency provided the date for delivery of future space requirements, and any time pressures the agency faces in its need for more space?
- Does the space provided (years 1-5 inclusive) enable the agency to meet its health and safety obligations?

Document Control

Document Information

This table describes this version of the document.

Document Name	Regulatory Airport Spatial Undertakings- Guidance for airports and agencies
Author	Civil Aviation Act Implementation Programme- Ministry of Transport
Owner	Ministry of Transport
Version Number	1.1
Date Created	03.12.2024
Date Distributed	18.12.2024

Revision History

This table provides a history of changes to this document.

Version No.	Date	Summary of Changes
1.2		

Approved by

Name	Role	Date
Siobhan Routledge Director, Aviation	Senior Responsible Owner (on behalf of the Civil Aviation Act Implementation Governance Group)	03.12.2024

Distribution List

This table describes the people who have received this document.

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

Regulatory Airport Spatial Undertakings

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agencies

December 2024

transport.govt.nz



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New Zealand Government