
Guidelines for the establishment of temporary restricted airspace

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1. Objective

1.1 This document outlines the criteria used to determine whether an application for temporary restricted airspace falls within Civil Aviation Rule (CAR) 71.151 requirements.

2. Background

2.1 The aviation industry has expressed concerns regarding how temporary restricted airspace has been designated. Normally temporary restricted airspace has been designated at the request of the NZ Police, although the NZ Fire Service and the Department of Conservation have also made requests. Guidelines and policy regarding the consistent designation of airspace is necessary.

3. Airspace legislation

3.1 Section 28 of the Civil Aviation Act 1990 (**the Act**) provides the Minister with the power to make Civil Aviation Rules. Section 29A of the Act allows the Minister to make rules for the classification, designation, special use, prohibition, and the restriction of airspace and things affecting navigable airspace.

3.2 Civil Aviation Rules (CAR) made pursuant to Section 29A of the Act are:

- (a) Part 71 *Designation and Classification of Airspace*; and
- (b) Part 77 *Objects and Activities Affecting Navigable Airspace*.

3.3 CAR Part 71, Subpart D, sets out the Director's considerations when designating special use airspace. Civil Aviation Rules 71.151 and 71.153 relate specifically to temporary restricted area. These rules are detailed in Appendix A.

3.4 Staff employed in the CAA Aeronautical Services Unit have delegations from the Director to designate airspace.

4. Justification for restricted airspace

4.1 In order for the Director to make a decision to designate restricted airspace area (incorrectly called a 'no fly zone' by the media) every request must be accompanied by the specific reasons and justification for such a request. The designation of restricted airspace has **often** been made on the grounds of preventing media access to an accident or incident scene.

4.2 New Zealand media are governed by the provisions of the Broadcasting Act 1989. The CAA has no mandate to judge what is appropriate or not to be broadcast. The imposition of airspace restrictions solely for media exclusion is not consistent with the criteria under CAR 71.151.

4.3 Modern television camera systems are able to shoot close-up footage from thousands of metres away so the effectiveness of restricting immediate airspace access is questionable. Television cameras have also been carried in emergency services aircraft.

5. Dimensions of restricted airspace

5.1 CAR 71.151 requires the Director to ensure that each portion of special use airspace designated is as small as practicable consistent with the activities for which the

area is required. The need for restricted airspace must be justified and if necessary, a lesser volume of airspace than that requested could be designated if the request is excessive.

5.2 Particular care must be taken to minimise the effect of any airspace designation on the safe operation of aircraft, and in particular within controlled airspace. Unless impractical to do so, restricted airspace should not be designated within control zones unless the relevant air traffic control (ATC) unit is specified as the Administering Authority. In effect, this 'empowers' the ATC unit to restrict aircraft movement for reasons other than aviation safety and efficiency, which they are required to do under their Part 172 certificate.

6. Guidelines on the establishment of temporary restricted airspace

6.1 An application for the designation of temporary restricted airspace is assessed in regard to the following (the relevant Act criteria is in brackets):

- there are a number of aircraft involved in a major **fire fighting, search and rescue** or **civil defence** operation and it is likely the presence of other aircraft will affect the safety of the operation (*for safety within the civil aviation system*)
- there is a major accident involving **radioactive, toxic or explosive materials** that could endanger aircraft (*for safety within the civil aviation system*)
- there is an incident involving **firearms** that could endanger aircraft (*for safety within the civil aviation system*)
- there is a major **aviation event** involving a large number of aircraft and/or significant aerobatic activity that could endanger other aircraft in the area (*for safety within the civil aviation system*)
- there is concern regarding the security of a **Head of State or equivalent** requiring additional protection (*in the interests of national security*)
- there is a concern that aircraft activity could inhibit the movement of emergency services to an **accident or incident** site, including civil defence action (*in the public interest*)
- there is a major **police operation** that requires aircraft activity to be restricted (*in the public interest*)
- there is a **large public event** that requires aircraft activity to be restricted due to a possible adverse affect on the event (*in the public interest*)
- A **conservation operation** (such as a marine stranding) requires the intrusion of aircraft to be restricted due to a major and significantly adverse affect on the operation.

6.2 With an accident or incident scene, the designation of temporary restricted airspace can only be justified when there are additional circumstances which meet the requirements of CAR 71.151 such as the presence of other aircraft (including media helicopters) inhibiting emergency services providing assistance or disturbing objects on the surface necessary to be protected for investigation purposes. There is no justification to designate airspace where an applicant may gain a commercial advantage (especially if the applicant indicates a desire to charge people to enter and operate within the area), unless there are compelling safety reasons.

6.3 A designation of a temporary restricted airspace is promulgated by NOTAM (Notice to Airmen) to airspace users and, if time permits, through the CAA's notification service to Aeronautical Information Publication subscribers. The ATC unit providing air traffic services in the area should also be notified directly.

7. Procedures for Applicants

7.1 Applicants requesting temporary restricted areas must ensure they provide the following information:

- a) specific justification for request;
- b) the location and requested dimensions, horizontal and vertical of the affected airspace;
- c) the proposed time or duration of activity;
- d) the proposed Administering Authority and their contact details (this restricted area 'gatekeeper' does not have to be an aviation entity).

7.2 Requests for temporary restricted areas are to be made to the CAA's Aeronautical Services Unit.

7.3 Contact can be made with the CAA or the RCCNZ as follows:

- (a) CAA Aeronautical Services Unit – airspace@caa.govt.nz ;
- (b) CAA main switchboard (24 Hours) – 04 560 9400;

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Appendix 1

71.151 General

(a) The Director may designate special use airspace under this Subpart if the Director considers such airspace is necessary—

- (1) in the interests of safety or security within the civil aviation system; or
- (2) in the interests of national security; or
- (3) for any other reason in the public interest.

(b) The Director must ensure that each portion of airspace designated under this Subpart is as small as practicable consistent with the activities for which the area is required.

(c) Airspace designated by the Director under this Subpart must be identified by an alphanumeric designator that is not being used to identify any other portion of airspace designated under this Part.

71.153 Restricted areas

(a) The Director may—

- (1) designate a portion of airspace as a restricted area to restrict the activities of aircraft within that area —
 - (i) within the territorial limits of New Zealand; and
 - (ii) within the territorial limits of another ICAO Contracting State in the Auckland Oceanic Flight Information Region upon request by that State; and
- (2) impose conditions under which—
 - (i) aircraft may be permitted to fly within that restricted area; and
 - (ii) the administering authority responsible for the restricted area must operate.

(b) The Director must—

- (1) specify the type of activity for which each restricted area is designated; and
- (2) specify the administering authority responsible for each restricted area; and
- (3) identify each area by the ICAO nationality letters of the applicable State followed by the letter “R” followed by a number.

(c) The administering authority responsible for a restricted area—

- (1) must manage—
 - (i) the entry of aircraft into the restricted area; and
 - (ii) the operation of aircraft within the restricted area; and
 - (iii) the exit of aircraft from the restricted area; and
- (2) if the restricted area is designated as being made active by NOTAM, must at least 24 hours before the restricted area is to become active, give to the New Zealand NOTAM Office notice of that restricted area becoming active, except that in the case of emergencies less than 24 hours notice may be given; and
- (3) may, within any conditions imposed by the Director under paragraph (a)(2)(ii), impose conditions under which an aircraft may be operated within the restricted area.