

10 September 2024

[REDACTED]

[REDACTED]

Tēnā koe [REDACTED]

Thank you for your request to the Department of Conservation, received on 23 August 2024, in which you asked for:

“... the disclosure of what legislation DOC are relying on to ban drone flights over DOC land.”

And:

“If DOC have reference to the legislation they are reliant on to make an order stopping drones flying over DOC Land this is an OIA request to be advised of the said legislation.”

We have considered your request under the Official Information Act 1982. All the information requested is publicly available on the websites referred to, and your request could be declined under section 18(d). However, a detailed response to your request is set out below.

The Civil Aviation Act 1990 (CAA 1990) applies to all civil aviation in New Zealand. You may view the CAA 1990 on the New Zealand Legislation website: [New Zealand Legislation](#)

Drones, or unmanned aerial vehicles, or remotely piloted aircraft, come within the definition of “aircraft” in section 2(1) of the CAA 1990:

“aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth”

As part of the Crown, the Department of Conservation is bound by the CAA 1990: section 3.

You have referred to section 97(2) CAA 1990, which states (my emphasis):

“97 Nuisance, trespass, and responsibility for damage

- (2) No action shall lie in respect of trespass, or in respect of nuisance, by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, weather, and all the circumstances of the case is reasonable, so long as the provisions of this Act and of any rules made under this Act are duly complied with. ... “

Parts 101 and 102 of the Civil Aviation Rules are made under Part 3 of the CAA 1990 and impose Rules to control unmanned aircraft in New Zealand airspace. You can find the Civil Aviation Rules applicable to drones on the Civil Aviation Authority website:

[Drones | aviation.govt.nz](https://www.caa.govt.nz/drones)

Part 101 sets out the rules for unmanned aircraft, including drones. This includes a requirement that operators get the consent of property owners before they fly over a property. If drone operators comply with this requirement in the Civil Aviation Rules, then applying section 97(2) CAA 1990 the drone operator will be immune from any action in trespass, or in nuisance in relation to the consented property.

If drone operators are unable to comply with the Part 101 Rules, they can apply to be certificated under Part 102. This may require additional measures to be put in place to operate a drone safely over property without the property owner's consent.

Some areas of New Zealand are Restricted Airspace under Part 71 of the Civil Aviation Rules. These include areas which are restricted for wildlife protection. A full list of restricted areas and who to contact if you wish to operate an aircraft within a restricted area is available here:

[1 05 NZANR Part 71 Restricted Areas R.pdf \(aip.net.nz\)](#)

The Department of Conservation (Department) administers public conservation lands on behalf of the Crown. Before any person can operate a drone above public conservation lands, then in accordance with the Civil Aviation Rules and the CAA 1990, they require consent from the Department. The Conservation Act 1987, Marine Mammals Protection Act 1978, National Parks Act 1980, Reserves Act 1977, and Wildlife Act 1953 all apply the CAA 1990 definition of "aircraft".

The Conservation Act 1987 requires all aircraft taking off or landing on conservation areas to have a concession unless certain limited exceptions apply: section 17ZF. This applies to all aircraft irrespective of whether the aircraft is being used recreationally. If a person has obtained a concession, this covers the consent to operation of drones over conservation areas required by the Civil Aviation Rules. In addition, for gazetted wilderness areas there is a specific prohibition on motorised aircraft, including drones, taking off, or landing, or hovering, in those areas unless certain exceptions apply: section 20.

It is an offence to operate an aircraft illegally in a national park when required to remove it by a ranger: s60(2)(b) National Parks Act 1980. If a person has obtained a concession they will not be operating illegally. There is a prohibition on motorised aircraft taking off or landing, or hovering, in wilderness areas within a park unless certain exceptions apply: section 14.

Some National Park Bylaws require an authorisation to land or takeoff in an aircraft in the relevant park, or hover over any part of a park:

- Arthur's Pass National Park Bylaws 1981, bylaw 11
- Egmont National Park Bylaws 1981, bylaw 9
- Fiordland National Park Bylaws 1981, bylaw 10
- Mount Aspiring National Park Bylaws 1981, bylaw 10
- Mount Cook National Park Bylaws 1981, bylaw 10

- Tongariro National Park Bylaws 1981, bylaw 12
- Westland National Park Bylaws 1981, bylaw 10

The Nelson Lakes National Park Bylaws 2006, bylaw 13, restrict use of aircraft to certain locations within that park other than for specified purposes.

It is an offence to trespass with an aircraft on any reserve in breach of any prohibition without authority: section 94(1)(l) Reserves Act 1977. Again, if a person has obtained a concession to operate a drone from, to, and over a reserve, they will not be trespassing on the reserve. There is a prohibition on motorised aircraft taking off or landing, or hovering, in gazetted wilderness areas within a reserve unless certain exceptions apply: section 47.

Certain reserves have bylaws in place which limit aircraft use without prior authorisation:

- Huka Falls Scenic Reserve Bylaws 1995, bylaw 8
- Northland Reserves Bylaws 2007, Schedule 1
- Onekaka Inlet Recreation Reserve Bylaws 1995, bylaw 9
- Paynes Ford Scenic Reserve Bylaws 1995, bylaw 8

It is an offence to “take” a marine mammal without a permit: section 9 Marine Mammals Protection Act 1978. “Take” is defined in section 2 and includes herding, harassment and disturbance of marine mammals, including by aircraft. The Marine Mammals Protection Regulations 1992 state conditions applying to aircraft presence and behaviour near marine mammal species, with special conditions applying to protect whales, and dolphins or seals: clauses 18-20.

All Regulations and Bylaws are available on the New Zealand Legislation website by going to the relevant Act and clicking on the “Secondary legislation” tab: [New Zealand Legislation](#)

Other than this publicly available information, the Department does not hold any further information relevant to your request for the legislation DOC relies on to control use of drones on and over public conservation land.

Please note that this letter (with your personal details removed) may be published on the Department’s website.

Nāku noa, nā



Bronwyn Barnard
Acting Chief Legal Adviser
Department of Conservation *Te Papa Atawhai*