

AIRPORTS NEWSLETTER

powered by

Ford Sumner
Lawyers

April 2026

Welcome to Ford Sumner Lawyers' Airports Newsletter

We acknowledge the significant challenges currently facing the aviation sector and commend those airports that are proactively planning and investing in greater operational resilience for the future.

In this edition, we examine the growing role of Battery Energy Storage Systems (BESS) and outline how airports can effectively manage contractual and procurement-stage risks.

We also highlight key areas of aviation regulation requiring proactive attention, including registration as an airport operator under the new Civil Aviation Act, the modernisation of airport bylaws, and securing Ministerial consent for applicable transactions.

Finally, we introduce our new employment law specialist who has joined the Ford Sumner team.

In this edition

- **Charging ahead safely:** Managing key contractual risks with your BESS project.....Page 1
- **Airport registration under the new Civil Aviation Act:** What airport operators need to know.....Page 2
- **Are your bylaws fit for purpose?** An opportunity to modernise airport bylaws under the new legislation.....Page 3
- **Ministerial consent:** Get it in advance, or risk getting nothing at all.....Page 4
- **Introducing Paul Gillespie:** Welcome to our new employment law specialist.....Page 5

Charging ahead safely

Managing key contractual risks with your BESS project

They're increasingly common in New Zealand and around the world and we expect their popularity will only increase with the fuel crisis playing out. Battery Energy Storage Systems, or "BESS", offer airports greater energy resilience and allow them to smoothly integrate renewable energy sources like solar.

But deploying BESS systems also involves complex technical, operational, regulatory, and financial issues, making the contract and procurement phase crucial for mitigating risks.

Here we talk about a few key risks to be aware of, and how you can mitigate them.

Safeguarding against underperformance

BESS technology is advancing rapidly, and suppliers vary significantly in the quality of suppliers' performance guarantees and system reliability varies significantly. As the market expands, it also creates greater potential for lower quality or inadequately designed components to enter the supply chain.

You'll of course be carrying out due diligence on your supplier so that you understand their capacity and capability. But your contract can also mitigate risks through including key performance metrics and warranties.

Contracts need to define performance metrics clearly – this includes the expected energy output, the efficiency of the system, and battery degradation rates over time.

By including explicit warranties and mechanisms such as step-in rights, your contract can protect you if the system underperforms, and ensure the project delivers the operational benefits you intended.

Finally, the contract should require your supplier to verify and certify the performance and safety of the system, so that you have assurance the system meets both contractual and regulatory requirements.

Mitigating supply and delivery risks

The procurement of components for battery systems is a global affair, and there are also relatively few key players, so your contract needs to clearly provide for supply chain and delivery risks. Delays in delivering equipment

can disrupt your project's timelines and your ongoing operational planning.

Contracts should set clear delivery schedules and penalties for delays, while also allowing flexibility to substitute components if necessary.

Operational and maintenance responsibilities

BESS projects require ongoing monitoring, maintenance, and reporting to make sure they perform optimally and safely.

Contracts need to clearly define operational and maintenance responsibilities. As well as stipulating who is responsible for these services, your contract needs to set out how operational data will be reported, and the processes for responding to incidents or system failures.

The contract should also include explicit warranties and insurance obligations in relation to operational continuity, to prevent disputes and ensure there's accountability.

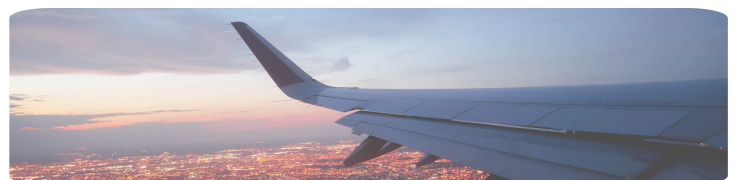
Ensure too that there's a clear interface and transition from the construction contract (depending on the procurement route you take).

Protecting yourself with practical contractual strategies

BESS contracts need to define each party's responsibilities for technology failures, regulatory breaches, and operational challenges, leaving no room for misunderstanding.

Well-structured contracts for major energy projects are more than legal safeguards in the narrow sense. They're also strategic tools for your business that make you more resilient operationally and ensure you comply with regulatory requirements.

If you're working on BESS or other energy projects at your airport, get in touch with [Sarah](#) or [Rebecca](#). We're here to help.



Airport registration under the new Civil Aviation Act

What airport operators need to know

With the new Civil Aviation Act 2023 replacing the longstanding Airport Authorities Act 1966, New Zealand aviation has stepped into a new regulatory era.

For airport authorities, the new legislation presents new compliance requirements but also an opportunity to re-evaluate your bylaws and governance documents to make sure they're modern and fit for purpose.

From airport authority to "airport operator"

The new Act requires existing airport authorities to re-register as "airport operators" so that they maintain their legal status and operating powers. The authorisations system under the old Act is being phased out, and all airports must transition to the new registration regime.

The Ministry of Transport now maintains a public register of all airport operators and the airports they cover, including the name of the operator, the land that's covered, and any Regulatory Agency Spatial Undertakings (RASUs) that apply.

Airports can already register under the Act, and so far, five have completed the registration process.

Your deadline for registering as an airport operator

There was an early registration deadline – 1 October 2025 – for those larger airports that are required to provide space and facilities for agencies such as Aviation Security under a RASU.

All other airports must have their registration completed by **5 April 2030**. If you miss this deadline, your airport will cease to be an airport authority and no longer have authority to operate.

Reducing your compliance risks by registering early

Although the final statutory deadline is still four years away, engaging early in the registration process will reduce your compliance risks and ensures continuity before the old regime is entirely wound up.

It will also put you in a stronger position to manage scrutiny from regulators and allow you more time to make any necessary adjustments to manage the airport under the new regime.

For some airports, early registration will be the most strategic approach. For others, deferring registration may be more appropriate, depending on wider operational priorities and future planning considerations.

How Ford Sumner can help you transition to the new regime

At Ford Sumner Lawyers we have in-depth experience with regulatory compliance in the aviation sector, as well as in advising clients on governance and corporate law.

As aviation specialists we can help you with all aspects of the new legislation, including assisting you to prepare and submit a comprehensive application for registration as an airport operator.

If you've been notified that you'll need to provide space for government agencies' operations at your airport, we can also advise you on the intricacies of providing a RASU that complies with the detailed requirements in the new Act.

If you haven't yet started planning for registration, get in touch with [Sarah](#) or [Jordan](#) to discuss the next steps and ensure your airport transitions smoothly.



Are your bylaws fit for purpose?

An opportunity to modernise airport bylaws under the new legislation

Under the new Civil Aviation Act 2023, airports continue to have the power to make bylaws.

If you register as an "airport operator" under the new Act (see the previous item), your existing bylaws will automatically transition with your registration. However, this shift presents a good opportunity for your airport to review and update those existing bylaws to ensure they are modern, aligned with current operational requirements, reflect your established risk frameworks, and meet the expectations of key stakeholders, including relevant government agencies.

What airport bylaws can deal with

Issues that airport bylaws can regulate include:

- Good airport management, and the efficient use of airport functions and powers.
- Protecting airport property, and precautions to help and assist in protecting people and property from accidents or damage.
- When and how the public can enter and be in the airport.
- Traffic and parking at the airport (but not roads – bylaws relating to roads are governed by Part 3 of the Land Transport Act).

Are your bylaws fit for purpose? (Continued)

An opportunity to modernise airport bylaws under the new legislation

A new consultation process for making bylaws

The Civil Aviation Act requires airports to consult extensively before adopting bylaws – including with the Civil Aviation Authority, the Ministry of Transport, the Police, and any government agencies that operate in the airport.

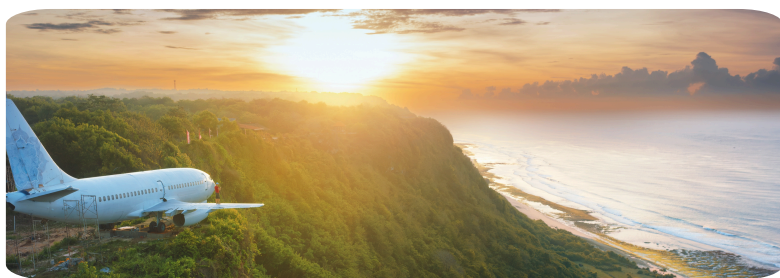
Airport operators that are local councils also have to comply with the consultation requirements in the Local Government Act 2002.

How Ford Sumner can help

In addition to assisting you with reviewing and updating your existing bylaws to ensure they remain fit for purpose, we can also guide you through the new, more comprehensive consultation requirements for airport bylaws, providing confidence that each step of the process is completed correctly.

At Ford Sumner, our team combines specialist aviation expertise with deep experience in governance and corporate law, including the drafting bylaws and complex statutory interpretation.

If you're unsure whether your bylaws or governance documents meet the requirements of the new legislation and today's operating environment, get in touch with [Sarah](#).



Ministerial consent

Get it in advance, or risk getting nothing at all

Airports sit at the intersection of local government, infrastructure regulation, and public law. It's a complicated statutory framework that can sometimes require airports to get special approvals from Ministers or government agencies for certain kinds of transactions.

In this article we cover some of the key potential triggers for Ministerial or other official consent, and the different statutory regimes that come into play.

Our headline messages? Don't assume that a transaction will simply involve ordinary principles of corporate law and governance. And if Ministerial consent is required, assume you'll need it in advance and apply for it early.

If you apply for consent retrospectively, approval will be at the Minister's or agency's complete discretion, and if they reject your request, this could invalidate the underlying transaction.

Airports legislation

The Airport Authorities Act 1966 requires airport authorities to get the consent of the Minister of Local Government (and sometimes the Minister of Transport and/or the Minister of Internal Affairs) before the airport can dispose of the whole or any substantial part of its undertaking, or before it implements certain structural changes, or before it enters into certain transactions.

The policy rationale here is clear: airports are major infrastructure assets that bring significant public-interest concerns into play.

The Overseas Investment Act

An airport's dealings with overseas investors can in some cases trigger a requirement under that Act to get consent for the transaction from the Overseas Investment Office or relevant Ministers.

This includes when airport land qualifies as "sensitive land" – for example, if it adjoins the foreshore, exceeds certain size thresholds, or has other sensitive characteristics – or when the sale of shares in an airport company constitutes the disposal of a "significant business asset".

In those cases, you will need consent from the Overseas Investment Office, and certain applications, particularly those involving sensitive land, require a decision by relevant Ministers.

Failing to get the necessary consents can mean significant legal and commercial risks. Without the consent, either party to the transaction can cancel it with written notice to the other, or the Overseas Investment Office can apply to the courts to cancel it.

Public Works Act

Airports contemplating boundary adjustments, land swaps, or the sale of surplus land need to be aware that consent requirements and other constraints could apply under the Public Works Act 1981.

For example, if you're disposing of land that had been acquired for airport purposes under the Public Works Act but that's no longer needed, you may be required to first offer the land back to the former owner or their successors. There are some exemptions from this, but getting an exemption can in some cases require Ministerial approval.

Similarly, compulsory acquisition processes under the Public Works Act involve Ministerial authorisations at key stages.

Approvals under local government legislation

The Local Government Act 2002 also imposes consent requirements that, while not involving Ministerial consent, nevertheless create an important public-law overlay on top of airport decisions and transactions. For airports, those requirements can significantly affect the timing of transactions and projects and the detailed processes they must follow.

Airports that are council-controlled organisations (CCOs) must operate within the governance framework set by their local authority shareholders. Certain decisions may need shareholder approval, particularly those that are inconsistent with the airport's Statement of Intent, or involve significant acquisitions or divestments, or amount to a "significant transaction".

If the airport is wholly or majority-owned by a local council, the elected members will need to be satisfied that statutory decision-making and consultation obligations have all been met. In some cases – for example, where a transaction alters the nature or scope of the airport's activities – this can trigger amendments to the council's Long-Term Plan or require special consultation processes.

Seeking consent retrospectively – the risks

When you apply for Ministerial approval in advance of a transaction, the Minister's decision is not completely unfettered.

It's constrained by certain administrative law rules made by the courts – for example, the Minister does have to properly consider your request and your arguments in support of it.

By contrast, when you apply for consent retrospectively, the Minister has complete and unrestricted discretion. They're under

Ministerial consent (Continued)

Get it in advance, or risk getting nothing at all

no obligation to even consider your request, and can reject it without giving any reasons (or because they are not empowered to retrospectively approve the request).

That's why it's important to get advice on significant transactions early, as we emphasise in some practical advice for airports below. But, in any case, always assume that where consent is required, it's required in advance.

Staying ahead of consent requirements: Practical steps for airport boards and managers

- **Map the consent triggers early** – At the outset of any significant transaction, such as an asset sale, long-term lease, restructure, lending, or change in ownership, identify all the potential statutory consent requirements.
- **Engage your advisers early** – Public law and local government considerations often intersect with commercial objectives. Obtaining legal advice early in the process to review all aspects of a transaction can provide clarity and help prevent costly delays.
- **Build time into transaction timetables** – Ministerial consent processes can take longer than expected, particularly where there will be policy considerations for the Minister to consider.
- **Document your analysis** – Boards should ensure their papers record their deliberations and decisions on whether consent is required and, if it's not required, why not.

Avoiding having to play catch-up

Playing catch-up after you've realised a transaction required official consent is never a position you want to be in. Taking a proactive and structured approach to identifying potential consent requirements, and to engaging with Ministers when consent is required, is both good governance and essential risk management.

Both [Sarah](#) and [Jordan](#) have experience here, get in touch if you need guidance.

Welcome Paul Gillespie

Meet our new employment-law specialist



We're delighted to welcome [Paul](#) to Ford Sumner as a Principal Lawyer leading our Employment Team. As a senior leader in the firm Paul will work alongside [Jaesen](#), who leads our Litigation and Dispute Resolution Team, and [Sarah](#), who leads our Commercial Team.

Paul brings deep expertise across all areas of employment law – his extensive experience includes leading collective bargaining, working closely with unions, carrying out workplace investigations, restructuring advice, and managing personal grievances and legal claims. He has worked in both the public and private sectors, including roles as a specialist employment lawyer in large complex organisations.

Paul is known for his calm approach and for his ability to manage sensitive workplace issues with clarity and professionalism. Paul's arrival strengthens our ability to support our clients with pragmatic, commercially sound employment advice.

Paul's belief in building strong business relationships grounded in integrity and mutual respect aligns perfectly with Ford Sumner's values. We're excited about the leadership and insight he brings to our firm.

paul@fsl.nz | +64 21 240 0292

About Ford Sumner Lawyers

Ford Sumner is a commercial law firm based in Wellington that services a national and international client base. We are passionate about working with airports. We have a wealth of experience across airport legal matters, including commercial contracts, property, construction, employment, dispute resolution and legislative compliance matters. Please contact us if we can be of assistance to you and your airport.



Sarah Churstain, Partner

An expert corporate and commercial lawyer, Sarah leads Ford Sumner's Commercial Team. Acting for several regional airports, Sarah is an expert in the commercial contracts and regulatory issues that arise in the aviation sector. Sarah's experience includes the full spectrum of issues that arise in the airport legal environment, from airline agreements to property development, including renewable energy projects.

sarah@fsl.nz | +64 21 242 5625



Jaesen Sumner, Partner

An experienced litigator with significant expertise in civil litigation and employment law, Jaesen leads Ford Sumner's Dispute Resolution Team. He has acted for airports over a number of years, advising on a wide range of matters including construction disputes, complex restructures, civil aviation, environmental protection and trespass issues.

jaesen@fsl.nz | +64 21 523 736



Jordan Todd, Senior Associate

Working for our commercial and corporate practice, Jordan has a strong focus on property, company, construction matters. He has particular experience assisting airport clients with large projects, commercial leasing matters and Local Government Act issues.

jordan@fsl.nz | +64 21 981 097



Rebecca Richter, Senior Associate

A construction lawyer advising clients across commercial and residential projects, Rebecca has experience drafting and negotiating construction contracts and providing project advisory support. She also assists with construction disputes, including contract issues, delays, and claims. Rebecca brings valuable international experience from her time practising overseas.

rebecca@fsl.nz | +64 21 192 6582

