



**REVIEW OF AUCKLAND AIRPORT'S 2022-2027  
PRICE SETTING EVENT**

**CROSS-SUBMISSION ON PROCESS AND ISSUES  
PAPER**

**21 February 2024**

## INTRODUCTION

1. This is the New Zealand Airports Association's ("**NZ Airports**") cross-submission in response to the submissions to the Commerce Commission's ("**Commission**") process and issues paper that was released as part of the review of Auckland International Airport Limited's ("**Auckland Airport**") 2022 – 2027 Price Setting Event ("**Issues Paper**").
2. As with our previous submission, NZ Airports has focused its comments on regulatory framework issues raised in the submissions. Auckland Airport will separately submit on the detailed aspects of its price setting event.
3. The NZ Airports contact for this submission is:

[REDACTED]

### Executive Summary

4. Airline submitters have decided to inappropriately use the review process to pursue their regulatory change agenda – mostly by seeking to undermine the reputation and integrity of Auckland Airport. Airports are comfortable for their performance to be objectively reviewed by the Commission. However, a pricing review process should not be allowed to become an unconstrained forum for airlines to make serious assertions about airports' alleged non-compliance with their legal obligations and to submit new information that seeks to re-litigate pricing consultation decisions that they do not like.
5. The fact that airlines oppose an airport's decision is not in itself evidence that the consultation and information disclosure regime ("**ID Regime**") is not working. To the contrary, a key reason why airports have the ability to make decisions following consultation is that lawmakers recognised that airlines have natural short term incentives to oppose investment in capacity.<sup>1</sup> Airports, who have a longer term planning focus, must therefore be able to make final decisions for the long-term benefit of consumers despite airline opposition.
6. To put these issues into context, for this PSE4 period, Auckland Airport's domestic jet charges will increase by an average of \$1.76 per year and its regional charges will increase by \$1.26 per year.<sup>2</sup> This contrasts with increases of up to \$70 or 55% on average domestic airfares out of Auckland Airport following the pandemic.<sup>3</sup>
7. The Commission should be comfortable managing the dynamic between competing incentives and the inevitability of some disagreement between airports and airlines by focusing on its statutory role of objectively summarising and analysing the airport's disclosures and assessing its performance against the purpose of Part 4 of the Commerce Act 1986 ("**Act**").
8. The airline submissions on the Issues Paper revolve around one key objective – to delay and disrupt once in a generation investment in capacity that will clearly be in the long-term interests of consumers. Given New Zealand's current critical infrastructure deficit, it is deeply concerning that an airline that is majority owned by the Government is asking a regulator to

---

<sup>1</sup> Airport Authorities Amendment Bill: Departmental Report and Recommendations, *Report from the Transport Committee on the Airport Authorities Amendment Bill (1996)* (24 April 1996).

<sup>2</sup> See Auckland Airport's PSE4 price setting disclosure.

<sup>3</sup> See Infare, airfare data for Auckland for 2 months to August 2023 compared to the same period in 2019.

stop infrastructure investment – especially when that airline has a recent record of supporting the investment project.

9. It will be important for the Commission to ensure that the review remains focussed and within the bounds of section 53B(2)(b) of the Act. It will need to resist the following airline submissions:
  - (a) Assertions that the ID Regime is not fit for purpose. The airlines' submissions demonstrate that they have chosen not to constructively engage in the Commission's process of analysing the pricing disclosures to assess performance. They are more focused on achieving regime change by any means possible.
  - (b) Calls for a compliance review of Auckland Airport's consultation process. It is not the Commission's role to review the legality of an airport's consultation process under the Airport Authorities Act 1966 ("**AAA**"), and it is certainly not the purpose of summary and analysis under section 53B(2)(b). Regulated airports comply with their consultation obligations. The serious allegations that Auckland Airport has failed to adhere to its legal obligations are unacceptable.
  - (c) That the Commission should undertake a comprehensive review across both the regulated and non-regulated tills at Auckland Airport. This is inappropriate, given that the non-regulated till, evidenced by its very name, has no place in Part 4, let alone the review process.
  - (d) That the potential impact of capex decisions on PSE5 pricing should be considered by the Commission. This would be entirely inappropriate given that no decisions on PSE5 have been made yet, the impacts on PSE5 prices are unknown since they will be set following consultation in the future, and the Commission's statutory obligation is to review the information disclosed by Auckland Airport relating to its PSE4 decisions.
  
10. Regarding specific topics for the review, NZ Airports strongly urges the Commission to note the following:
  - (a) The Commission has established a clear framework for assessing an airport's pricing WACC in relation to the WACC IM. The WACC IM provides important guidance for each airport when setting a pricing WACC and is a starting point for the Commission's assessment of that WACC. However, an airport-specific pricing WACC can depart from the WACC IM when justified and evidenced by the airport. It was appropriate for Auckland Airport to use an updated WACC in its pricing decisions to reflect that using a benchmark WACC IM, which was set many years prior to the pricing decision and that did not incorporate the full extent of pandemic risk, would not provide a fair return. The submissions on WACC demonstrate that airlines do not wish to engage with the Commission's assessment framework and want the WACC IM to be binding on pricing decisions – albeit there is inconsistency between their preferred binding WACC IMs. It is inevitable that there will be differences between the WACC IM and pricing WACC, so the Commission's task in the review is to assess the reasonableness of an airport's justifications for those differences. This assessment must be undertaken against the full range of information the airport took into account at the time of its pricing decisions.
  - (b) Several submissions encourage the Commission to undertake a wholesale review of the capex decisions made by Auckland Airport. Some submitters expressed their interest in assisting the Commission in this exercise, including by discussing their

alternative proposals. Such approaches are outside the proper scope of the review. They would encourage the airlines to provide further information and views that differ from those provided to airports during consultation and / or that were not provided at all.

- (c) The Commission should heed its own warning to avoid considering the choices Auckland Airport ought to have made or what the Commission would have done in its place. It would be difficult for the Commission to undertake such a task even if it had the benefit of extensive time and resources that it does not have for this review. NZ Airports considers that the Commission should instead focus on whether the disclosures show that airports, who have the best expertise on complex long-term airport infrastructure requirements, are using good processes and decision-making frameworks that can provide interested parties with confidence that their capital investment decisions are for the long-term benefit of *all* consumers.

## **SCOPE AND PURPOSE OF THE REVIEW**

- 11. The scope and purpose of summary and analysis is set out under s 53B(2)(b) of the Act. Its purpose is to promote greater understanding of the performance of individual regulated suppliers, their relative performance, and the changes in performance over time. Instead of engaging constructively to facilitate this purpose, the airline submissions on the Issues Paper exceed any reasonable bounds for the review by:
  - (a) asserting that the ID Regime is not fit for purpose, and therefore needs to be changed;
  - (b) calling for a legal compliance review of Auckland Airport's consultation process; and
  - (c) calling for a comprehensive review of both the regulated and unregulated tills at Auckland Airport.
- 12. NZ Airports seeks the Commission's assurance that it will not entertain such submissions, which will only detract from the efficiency and effectiveness of the review.

### *ID Regime*

- 13. Air New Zealand stated that the PSE4 is a "critical juncture" to assess whether the ID Regime for airports is serving its purpose to promote the long-term benefit of consumers within New Zealand.<sup>4</sup> Air New Zealand stated that it:<sup>5</sup>

believes the Commission should exercise its discretion under section 53B(3) of the Act to inquire into and analyse "how effective the information disclosure requirements imposed on the goods or services are in promoting the purpose of this Part" of the Act.

- 14. Furthermore, Air New Zealand stated that:<sup>6</sup>

---

<sup>4</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at page 1.

<sup>5</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at pages 1 – 2.

<sup>6</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at page 4.

The scale of AIAL's capex intentions over PSE4 and PSE5, its refusal to consider alternatives, the resounding customer objections to the extent of the capital programme, the unconscionable resultant price increases, and the scale of the excess profits targeted by AIAL showcase the impotence of the current light-handed regulatory regime.

15. In a similar vein, in its submission, Qantas stated that the "regulatory regime has not worked in this instance" and lists several reasons for that.<sup>7</sup> Given this, Qantas recommended that the Commission ask the following questions:<sup>8</sup>

1. How useful is the information disclosure methodology? What challenges does it present with regards to PSE4 and major capital expenditure?

2. How useful is the Information Disclosure regulatory approach? Do you believe any changes are required?

3. How does AIAL compare and contrast with other airports and are there any other lessons learned from PSE4 that should be applied more widely?

16. The review of Auckland Airport's PSE4 is not a "critical juncture" to assess the ID Regime. This review is a standard summary and analysis process required by the Act (and which is required for all regulated sectors under the Act). The purpose of the review is to assess the performance of Auckland Airport. Instead of constructively engaging in the Commission's process of analysing the pricing disclosures to assess Auckland Airport's performance, the airlines are seeking to circumvent the review for their own commercial interests.

17. NZ Airports acknowledges that section 53B(3) of the Act is a "for the avoidance of doubt" provision to enable the Commission to comment on whether the performance of a regulated entity is consistent with the Part 4 purpose and, in that context, whether the ID Regime is effective. It was included to mitigate the risk that any Commission commentary in that respect would be challenged as going beyond "summary and analysis" of disclosed information. This clarification does not change the position that the focus of summary and analysis reviews is airport performance and not the regime itself.

#### *Consultation*

18. Several submissions make serious allegations that Auckland Airport has failed to meet its legal consultation obligations and / or that consultation is not fit for purpose. For example, Air New Zealand stated that:<sup>9</sup>

As matters stand, AIAL is able to unilaterally determine (and impose) charges as it sees fit in order to fund this excessive investment, subject only to its consultation obligation in the Airports Authority Act – a process that has proven to be woefully inadequate.

19. In addition, Air New Zealand considered it:<sup>10</sup>

---

<sup>7</sup> Qantas Group, *Feedback on proposed review of AIAL's 2022-2027 price setting event* (31 January 2024), at page 10.

<sup>8</sup> Qantas Group, *Feedback on proposed review of AIAL's 2022-2027 price setting event* (31 January 2024), at pages 10 – 11.

<sup>9</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at pages 2 – 3.

<sup>10</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at paragraph [41].

a key flaw that the ID regime does not provide a mechanism for which all key parties must agree at the outset the core assumptions for an inter-generational capex programme of this scale.

20. Qantas stated in its submission that:<sup>11</sup>

a. Suggestions by the Qantas Group were insufficiently explored.

b. The airline industry has had to invest significant sums to demonstrate counterfactual points of view on demand and capex plans when a transparent, responsive and constructive consultation could have delivered that outcome much sooner and much more efficiently.

21. IATA submitted that:<sup>12</sup>

Due to the confidentiality requirement imposed by Auckland Airport, IATA has no visibility of how [asset and cost allocations] are determined and whether they are justified. Feedback received from the airline community points to a consultation approach (or the lack of it) that is inadequate and ineffective. We also understand that the current non-disclosure requirement imposed by Auckland Airport is preventing the airline community from an appropriate consultation process that addresses the concerns directly with the Commission (to the level that is meaningful), unless the information has been disclosed by Auckland Airport.

22. Further, BARNZ submitted that:<sup>13</sup>

With respect to PSE4, AIAL did not respond to submissions on the final consultation paper before making price setting decisions. Further, BARNZ had only just provided substantial material to AIAL as part of the consultation process when AIAL made public announcements about its board's commitment to the capital plan. When a regulated airport ignores its customers submitted views and takes capital investment decisions ahead of concluding price consultation, its customers feel their views are meaningless and price consultation is a sham. Once AIAL had taken decisions on cost, and announced these to the market, material increases to customer prices were unavoidable.

23. In addition, BARNZ stated that Auckland Airport did not give due regard and weight to the views of its customers in setting new charges, which leaves BARNZ members with the impression that the consultative process has been a façade.<sup>14</sup> As such, BARNZ requested that the Commission comment on the consultation process itself.<sup>15</sup>

24. Putting aside the fact that the airline submissions on Auckland Airport's consultation process are unsubstantiated and inflammatory, it is not the Commission's role to review the legality of airports' consultation processes under the AAA. A review of the consultation process is certainly not the purpose of summary and analysis under section 53B(2)(b). As such, the Commission must refrain from engaging in an assessment of the consultation process itself.

---

<sup>11</sup> Qantas Group, *Feedback on proposed review of AIAL's 2022-2027 price setting event* (31 January 2024), at page 10.

<sup>12</sup> IATA, *Feedback on Proposed Review of Auckland Airports 2022-2027 Price Setting Event* (31 January 2024), at page 1.

<sup>13</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph [10].

<sup>14</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph [13].

<sup>15</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph [13].

Auckland Airport and all other regulated airports comply with their consultation obligations as set out in the AAA and clarified by the courts. Giving any airtime to the allegations about Auckland Airport's consultation process will inevitably result in a review process that exceeds any reasonable bounds.

25. NZ Airports notes that Auckland Airport's consultation on major capital projects is a focus of airline concern. NZ Airport understands that the capex project that airlines seek to challenge has been subject to separate consultation for many years (as required by the AAA). It would therefore not be possible for the Commission to fully review the lengthy capex consultation under a process that requires it to focus on the pricing disclosures.
26. The reality is that airlines do not like the obligation to consult. They want negotiate / arbitrate or price control regulation. However, there are very good reasons why the obligation is consultation only, including the fact that airlines have short term incentives that means they are not the best judge of what is in the long-term interests of *all* consumers. Airlines have strong incentives to reduce investment because it increases airport charges and creates additional capacity that can facilitate airline competition. When the consultation obligations under the AAA were enhanced in 1998, the Select Committee considering the Airport Authorities Amendment Bill received the following advice from officials in response to submissions that consultation was insufficient:<sup>16</sup>

The substitution of "negotiation" for "consultation" would give airlines a right of veto over all airport financial decisions because negotiation would require agreement between the parties. This would be a significant departure from the proposed regime because consultation leaves the final decision rights in the hands of the airport company concerned. **Airlines have a conflict of interest in these decisions because their interests lie in minimising the facilities available at an airport, either to maximise their profits by reducing airport charges or to prevent use of the airport by competitors. Minimisation of facilities is not necessarily in the interests of all airport users. Airlines also tend to have short term objectives in contrast to the long term planning horizon of an airport.**

As well, airlines have incentives to attempt to achieve prices or outcomes which discriminate against competitors. Invariably then, it would be difficult for an airport company to negotiate agreement with all of the airlines involved in pricing or capital expenditure decisions, making disputes difficult to avoid.

(emphasis added)

27. The post-pandemic rise in airfares and record profits by airlines in FY23 have demonstrated how lucrative constrained capacity can be for airlines, and, importantly, how costly it can be for consumers. The changes being called for by the airlines simply seek to advance their own commercial interests rather than ensure the future needs of all consumers are met. It should therefore not surprise or concern the Commission that airlines oppose a decision to invest in capacity and argue that it is a sign of regulatory failure. To the contrary, the Commission should expect such disagreement, which was anticipated by lawmakers when the obligation to consult was retained.
28. NZ Airports urges the Commission to look through the airline noise about regulatory failure. It should objectively review the disclosures to seek to ascertain that the regime is in fact working

---

<sup>16</sup> Airport Authorities Amendment Bill: Departmental Report and Recommendations, *Report from the Transport Committee on the Airport Authorities Amendment Bill (1996)* (24 April 1996).

as intended. That is, airports can make investment decisions for the long-term benefit of all consumers despite airline opposition.

29. Finally, IATA and Freightways / NZ Post argued in their submissions that they should be provided with information that they are not entitled to receive (because it is consultation information), or which is already available in the information disclosures.<sup>17</sup> NZ Airports considers that to resolve this confusion, the Commission should provide greater clarity about the purpose and scope of its summary and analysis function and emphasise that interested parties should review Auckland Airport's pricing information disclosures.

#### *Review of regulated and unregulated tills*

30. IATA considered that given many IM metrics are estimated based on the whole business of the entity, there is a need for transparency over the nonregulated till, in addition to the regulated till. IATA stated that it:<sup>18</sup>

supports the intention of the Commission to review both the priced and non-priced activities. Under the dual till regime, the aviation community has had very limited transparency of unregulated/non-aeronautical airport activities. A comprehensive approach to reviewing the airport in its entirety is needed to provide the Commission with a holistic view, leading to a more informed/balanced decision e.g. ensuring that costs and revenues have been appropriately allocated. This will also aid the Commission in detecting market power behaviors and imbalances between supplementary non-aeronautical activities and core aeronautical services; in meeting the purpose of Part 4 of the Commerce Act – to promote the long-term benefit of consumers by promoting outcomes produced in competitive markets.

31. It appears that IATA has misunderstood the distinction between priced and non-priced activities and regulated and non-regulated activities. Any lack of transparency regarding non-regulated activities (ie non-aeronautical) is because they are not regulated. The Act imposes clear limitations on the Commission's ability to require disclosure of information about non-regulated activities and would not allow for the approach suggested by IATA.<sup>19</sup>

32. Air New Zealand also commented on the unregulated till, stating that:<sup>20</sup>

AIAL's till 2 assets generate above market returns because of their proximity to the monopoly airport. Air NZ maintains that an unregulated till 2 at AIAL is not in the best long-term interests of consumers. Under a dual till, commercial profits earned by airports in the commercial till are returned to shareholders, while consumers are left to bear the cost of essential airport infrastructure. For this reason, Air NZ advocated for hybrid till regulation of airports in the context of our Civil Aviation Bill submission.

33. Both IATA and Air New Zealand's statements about the non-regulated till are clearly outside the scope and purpose of the review.

#### *Commission's role*

---

<sup>17</sup> IATA, *Feedback on Proposed Review of Auckland Airports 2022-2027 Price Setting Event* (31 January 2024), at pages 1 – 2, and Freightways and NZ Post *Auckland Airport's 2022 – 2027 price setting event* (22 January 2024), at page 3.

<sup>18</sup> IATA, *Feedback on Proposed Review of Auckland Airports 2022-2027 Price Setting Event* (31 January 2024), at page 1.

<sup>19</sup> See section 53D of the Commerce Act 1986.

<sup>20</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at page 2.



34. The above demonstrates that participants do not have a clear understanding of the limits on the statutory purpose and scope of the Commission's review (or are choosing to ignore those limits). NZ Airports considers that it is incumbent upon the Commission to ensure that it maintains control over an efficient and effective review process, and that participants are informed about the proper bounds of section 53B(2).

### **WACC**

35. As the Commission is aware, the framework for how the WACC IM should be applied in pricing reviews has evolved over time but is now clear. In summary:
- (a) the mid-point WACC IM is a starting point for the assessment of airport projected profitability;
  - (b) while not binding in pricing decisions, the WACC IM provides guidance for each airport when setting a pricing WACC; and
  - (c) the Commission has been clear that an airport-specific pricing WACC can depart from the WACC IM when justified and evidenced by the airport.
36. Auckland Airport's submission explains in detail how its pricing WACC is a well justified departure from the WACC IM.
37. Despite the Commission's efforts over time to establish a clear framework for using the WACC IM in assessments of pricing decisions, the submissions on WACC demonstrate that airlines do not wish to engage with the Commission's assessment framework and want the WACC IM to be binding. For example, Air New Zealand stated that it:<sup>21</sup>

believes that AIAL should have set its PSE4 target return using the 2016 Input Methodologies WACC parameters and using the latest available RFR estimated by the Commission as at the start of PSE4 period (i.e. the April 2022 RFR). This approach is consistent with the general practice used by other airports. On this basis we estimate AIAL's target WACC for PSE4 should be 6.32%. Consequently, by targeting a PSE4 WACC of 8.73%, AIAL is inflating its aeronautical revenues by ~\$230m in net present value terms over PSE4.

38. Qantas noted that:<sup>22</sup>

The WACC claimed is 8.73% as opposed to 8.02% per the recent input methodologies decision.

39. Similarly, BARNZ stated that:<sup>23</sup>

As the Commission notes, AIAL targets a WACC of 8.73% for priced activities over the PSE4 pricing period, significantly above the Commission's midpoint WACC estimate of 1 July 2022 of 6.98%.

---

<sup>21</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at paragraph [17].

<sup>22</sup> Qantas Group, *Feedback on proposed review of AIAL's 2022-2027 price setting event* (31 January 2024), at page 3.

<sup>23</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph [14].

40. BARNZ also stated that the asset and equity beta estimates used by Auckland Airport:<sup>24</sup>
- are significantly higher than the then-prevailing estimates arising from the 2016 IMs. For the record, they are also higher than the values the Commission decided on in the 2023 IM review (0.67 for the asset beta and 0.87 for the equity beta.)
41. It is clear that participants believe that Auckland Airport must rigidly apply the 2016 WACC IM, rather than update parameters in a manner consistent with the IMs in force at the time pricing decisions are made. This not a reasonable approach to ID regulation, and as above, disregards the assessment framework established by the Commission.
42. It was entirely appropriate for Auckland Airport to update an out of date 2016 IM benchmark at the time of pricing (and in a manner consistent with that methodology). In particular, it is important to consider that:
- (a) it is improper to use a WACC IM that is outdated by several years at the time of pricing;
  - (b) the COVID-19 pandemic, which based on data observations and regulatory precedent has clearly altered the forward looking risk profile of airports, exacerbated the need to update the pre-COVID-19 WACC IM; and
  - (c) there may be additional airport specific circumstances that warrant change.
43. The Commission must consider the reasonableness of the pricing WACC decision made by regulated airports at the time of the pricing decisions. It is not sufficient, and does not provide adequate information to interested parties, to simply rely on a comparison between the pricing WACC and the most recent WACC determination at the time of pricing.
44. The above submissions, particularly those from BARNZ and Qantas, demonstrate that it is difficult to mechanically align the pricing WACC to the WACC IM when assessing reasonable returns. It is telling that the airlines each suggest different WACC IMs that Auckland Airport should have used for pricing. The reality is that, as recognised by the assessment framework established by the Commission, the WACC IM can only ever be a starting point for the assessment of returns. It is inevitable that there will be differences between the WACC IM and pricing WACC, so that the Commission's task in the review is to assess the reasonableness of an airport's justifications for those differences.

## **CAPEX**

### *Review of capex decisions*

45. Several submissions made note of Auckland Airport's capex decisions and encouraged the Commission to undertake a wholesale review of Auckland Airport's decisions.
46. Air New Zealand submitted that it believes that now is the time for the Commission to consider the efficiency and affordability of the entire integrated terminal programme.<sup>25</sup> Air New Zealand

---

<sup>24</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph [18].

<sup>25</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at page 4.

also stated that it is ready and willing to discuss its alternative capex proposals with the Commission.<sup>26</sup>

47. Several other submitters called on the Commission to undertake a wholesale review of Auckland Airport's capex proposals. IATA asked whether the Commission has:<sup>27</sup>

independently assessed the design and capital efficiency of the proposed investments? If not, we would suggest this is required, especially given the lack of effective and meaningful consultation with Users to date.

48. IATA stated that it would welcome the opportunity to assist the Commission in its assessment of the infrastructure capital investment efficiency of Auckland Airport against global benchmarks.<sup>28</sup> BARNZ also noted that when discussing depreciation matters, the capital plan, in particular the plans relating to the international and domestic buildings, should be entirely reviewed and significantly reduced to avoid impact to demand for air travel.<sup>29</sup> BARNZ submitted that it will be important for the Commission to assess any demand studies from AIAL, BARNZ, and substantial customers.<sup>30</sup> In addition, similar to Air New Zealand and IATA, BARNZ signalled its willingness to help the Commission in this exercise, by offering to provide its demand studies to the Commission.<sup>31</sup>

49. NZ Airports does not see any possibility of the Commission being able to adopt the airlines proposed approaches without materially compromising the integrity and fairness of the review process because of the following:

- (a) It would exceed the proper scope and purpose of the review.
- (b) It would encourage the airlines to provide further information and views that differ from those provided to airports during consultation and / or that were not provided at all.
- (c) The Commission is not in a position to fully consider the merits of alternative proposals or second guess airport decision-making. It is impossible, as part of this review process, to properly assess all of the relevant evidence – the Commission will not be able to test the credibility and / or accuracy of new views provided by airlines as part of this process.

50. NZ Airports considers that, for capex, it is within the proper scope of the review to examine whether the disclosures show that airports are seeking to promote the purpose of Part 4 and that good processes and decision-making frameworks, which can provide interested parties with confidence that their capital investment decisions are for the long-term benefit of *all* consumers, have been followed. However, the Commission must heed its own warning and avoid trying to consider the choices it believes Auckland Airport ought to have made or what the Commission or airlines would have done in its place.

---

<sup>26</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at paragraph [54].

<sup>27</sup> IATA, *Feedback on Proposed Review of Auckland Airports 2022-2027 Price Setting Event* (31 January 2024), at page 3.

<sup>28</sup> IATA, *Feedback on Proposed Review of Auckland Airports 2022-2027 Price Setting Event* (31 January 2024), at page 4.

<sup>29</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph [28].

<sup>30</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph at paragraph [33].

<sup>31</sup> BARNZ, *Feedback on proposed review of Auckland Airport's 2022-2027 price setting event* (31 January 2024), at paragraph at paragraph [33].

### *Impact on prices*

51. NZ Airports objects to Air New Zealand's submission that the impact of capex decisions on PSE5 should be considered by the Commission. It is appropriate for 10 year capex plans, as disclosed, to be part of the Commission's summary and analysis, but it cannot consider the impact of those capex plans on PSE5 prices, which is unknown given they will be set following consultation in the future.
52. Despite potential PSE5 pricing not being relevant to this review, Air New Zealand argued that future price increases resulting from Auckland Airport's capital program over PSE4 and PSE5 will:<sup>32</sup>
- fundamentally alter the cost base of airlines operating to and from New Zealand's largest city, resulting in significant increases in the long-term cost of air travel for passengers and goods in New Zealand. As a result, we are deeply concerned that fewer New Zealanders and tourists will be able to afford to travel to, from and within New Zealand.
53. This is a prime example of airline hyperbole in the hope of attracting attention to their calls for regulatory change. Some additional context and facts are:
- (a) Airports have every incentive to grow the number of airlines, routes, and passengers using their terminals. They will not pursue capex projects or price paths that could put such growth at risk. To the contrary, in Auckland Airport's case, accommodating future growth is the very reason for its significant capex programme.
  - (b) Airport charges make up a small portion of the overall airfare.<sup>33</sup> In the case of Auckland Airport's very old domestic terminal where passenger charges are very low, this fact is even more pronounced. The low price now reflects the age of Auckland Airport's assets – while in the future a higher passenger charge will reflect a much higher quality of service.
  - (c) For many or most domestic routes, Air New Zealand has a dominant market position, if it is not a monopoly. It holds 86% of domestic seat capacity in New Zealand. This is well above the largest domestic airline in Australia which has only 61.7% share of the domestic market, which the Australian Federal Government's Aviation Green Paper described as highly concentrated.<sup>34</sup> The lack of competition in the New Zealand market, combined with the dominant airline's severe aircraft constraints, means consumer airfares are likely to go up regardless of increases to airport charges. The Commission should be wary of any dominant market player that seeks to resist or control investment that will benefit the entire domestic aviation network. It would be far more beneficial for the New Zealand (and international) travelling public for airlines to focus on how they can increase efficiency and reduce costs for passengers rather than spending time and effort seeking to halt vital investment in capacity that will clearly provide for the long-term benefit of consumers. Auckland Airport's investment will not make travel unaffordable. What will make travel unaffordable is constrained capacity that provides airlines with the ability to inflate airfares. This risk was demonstrated following the pandemic where airlines hiked

<sup>32</sup> Air New Zealand, *Review of Auckland Airport's 2022 – 2027 Price Setting Event 4 (PSE4) – Process and issues paper: Air New Zealand (Air NZ) feedback* (31 January 2024), at page 1.

<sup>33</sup> NZ Airports Association, *Review of Auckland Airport's 2022-2027 Price Setting Event: Submission on Process and Issues Paper* (31 January 2024), at paragraph [18(b)].

<sup>34</sup> Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *Aviation Green Paper*, at page 26.

domestic airfares out of Auckland Airport by up to 55% on pre-COVID levels – a \$70 increase.<sup>35</sup> In comparison, for this PSE4 period, Auckland Airport's domestic jet charges will increase by an average of \$1.76 per year and its regional charges will increase by \$1.26 per year.<sup>36</sup> Airlines professed concern for the affordability of air travel is not evidenced by their recent history.

54. Overall, the Commission's role under Part 4 in relation to capex is to assess whether airports have incentives to undertake efficient investment for the long-term benefit of consumers. This does not require consideration of how airport investment impacts airlines' profitability. Airlines can and should make strategic commercial decisions based on their operating context. It appears that for domestic services at Auckland Airport a key part of this operating context has been low aeronautical prices for many years, which airlines should have been able to account for in their commercial models. It has been clear for many years that greater investment would be needed in the future to meet long-term demand and consumer quality expectations and that this would result in higher prices. The fact that airlines appear not to have accounted for this future investment while prices were low is not for the Commission to consider in this review.
55. The current airport regulatory landscape, which includes consultation with substantial customers, disclosures based on IMs set by the Commission, and the Commission's review and analysis of those disclosures, is set up to ensure that airports continue to balance all (sometimes competing) stakeholder views to make the right decisions for the long-term benefit of consumers. The airports have a track record of responding when the Commission expresses concerns that decision-making may not be consistent with that objective. The Commission should therefore have confidence that the regulatory regime will continue to encourage airport decisions that are aligned with the long-term benefit of consumers.

---

<sup>35</sup> See Infare, airfare data for Auckland for 2 months to August 2023 compared to the same period in 2019.

<sup>36</sup> See Auckland Airport's PSE4 price setting disclosure.