

6 March 2026

Commerce Commission  
44 The Terrace  
Wellington

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Kia ora –

## Re: Changes to Airport Information Disclosure 2026: Process and Issues Paper

Thank you for the opportunity to respond to submissions from aviation system participants provided in response to the Commerce Commission's (the Commission's) *Changes to Airport Information Disclosure 2026: Process and Issues Paper*.

BARNZ is an incorporated society representing more than 20 airlines that fly to, from and within New Zealand. Our members include Air New Zealand and Qantas Group, who may make independent submissions to this process. BARNZ is able to represent all other member airlines as 'substantial customers' of regulated airports. We participate in airport price consultation for Auckland, Wellington and Christchurch Airports, and we participate in the Commerce Commission's review of Price Setting Events (PSEs) which occur when regulated airports set prices.

Reflecting on submissions from all parties, BARNZ submits that the proposed changes to Information Disclosure as may apply to major airport capex are necessary to deliver confidence in delivery of capital programmes of scale within the existing Part Four framework.

Enhanced transparency in planning major capital programmes, including third party verification, will ensure these major commitments on behalf of consumers are appropriately sized, necessarily efficient, and deliverable. Targeted regulatory oversight as proposed will ensure that consumers are confident that major capital programmes are being delivered as intended, and any variation from original proposals is transparently reported and understood.

If we do not impose changes to the way major capital programmes are entered into and the way in which regulatory oversight is applied to them, we will increasingly find ourselves trying to manage capital programmes of scale which span price periods and within which airport companies will seek commercial advantage from regulatory settings. This will lead - at best - to intractable disputes which make progress against major capital plans difficult. At worst,

it will lead to unnecessary cost imposition on those market participants most exposed to that cost, risking long term detriment to air service delivery to, from and within New Zealand.

If imposed appropriately, as an advance subset of existing disclosure obligations with the addition of an independent verification of capital programme, these changes do not represent substantial change to the way in which Information Disclosure for airports operates today. The Commission will require additional resourcing – which could be accommodated as a levy on regulated airports, or as a fee for major capex application. Even if that fee was sizeable, the regulated returns arising from major capex programmes in perpetuity will allow for even significant levy consideration.

**Better oversight of major airport capex under Information Disclosure is not impossible. Making simple enhancements to Information Disclosure now may avoid costly and complex regulatory changes later. BARNZ urges the Commission to consider proposals carefully, and then to move swiftly to set new requirements so that oversight of major capex might be appropriately applied to the long-term benefit of consumers.**

#### **Timing misalignment – regulatory oversight should come before commitment**

BARNZ agrees with submissions from Air New Zealand and Qantas Group regarding timing misalignment. In a major capex context, timing misalignment reduces the effectiveness of the Information Disclosure regime. This is not because past investment has necessarily been inefficient, but that regulatory scrutiny of major capex should be designed to occur before commercial momentum of programme delivery becomes irreversible.

Auckland International Airport Limited (AIAL) is a very real case study here. As the Information Disclosure regime currently allows, decision to proceed with investment in major capex were taken before consultation was concluded, and well before any Commission review of PSE4 had been undertaken. Regulatory oversight should come ahead of airport spend – not afterwards.

#### **Absence of a finding of inappropriate investment isn't evidential – this question is not asked under current settings**

The airports submit that the Commission has not found examples of inappropriate capital investment. BARNZ submits in response that the current regulatory settings don't allow sufficient or timely examination of that question – and changes to address this is the issue to which we are now responding.

Through this process it has also become apparent that the Commission is not resourced to analyse and publish opinion on *current* information disclosures. If proposed changes to ID for major capex are made, they must account for resourcing of the Commerce Commission to analyse and report on disclosures about major capex as would be annually required- and

to analyse and report on all annual information disclosures for regulated airports. This analysis is key – otherwise interested persons cannot have confidence in regulatory oversight – oversight must be active to be extant.

### Disputes regarding capex have no landing place

Airports submit that disagreement or tension is normal in commercial environments, and this is not a sign the current regime is not working, nor suggestive of the presence of inefficiencies. Respectfully, the point is that this is not a normal commercial environment – it is within the context of monopoly power and whether we have appropriate regulatory settings for major capex. In this context, normal commercial dispute resolution procedures do not exist. Contracts for service do not exist. There is nowhere for disputes regarding capex to be resolved.

Proposals for enhanced regulatory processes for major capex do not introduce formal dispute resolution mechanisms. This might be a better descriptor for mechanisms possible under further regulation such as negotiate/arbitrate. Instead, proposals for information disclosure requirements for major capex simply deliver improved transparency and consumer confidence within the Information Disclosure regime. With proposed changes in place, disputes are less likely to arise as consumers are more likely to have confidence in capital plans size, scope and scale.

In any natural monopoly infrastructure setting, information asymmetry can reduce confidence in investment efficiency. Modest enhancements can strengthen trust in outcomes. Proposals for greater transparency and verification of major capex programmes represents a simple enhancement within the light-handed Information Disclosure regime.

The potential reduction in disputes regarding major capex proposals is an outcome that should not be understated. The ongoing dispute over AIAL's imposed capital costs for its major capital programme has polluted relationships between major carriers and the airport company. It has consumed substantial time from officials and Ministers as each side seeks to set out their position. If there were processes to better examine proposals, and ensure delivery of verified major capex programmes, disputes are unlikely to persist. Regulatory oversight would deliver settings of confidence and trust.

### Capex thresholds may be sized to the regulated asset base – with a financial cap

BARNZ notes that airport stakeholders have proposed major capital programme thresholds be set as a percentage of the regulated asset base. BARNZ is supportive of this approach, and suggests it be enhanced by a dollar value cap. Given some airports are already progressing major capital programmes, regulated asset base values are forecast to increase substantially. AIAL may see a regulated asset base increase from circa 1 to 7 billion dollars

(NZD) to 2032. Set as a percentage alone, major capex triggers may vary substantially between regulated airports and may incentivise growth of the regulated asset base to the point that triggers for major capex programmes are rarely met.

BARNZ submits the Commerce Commission consider major capex triggers as a percentage of the RAB – such as the 20% proposed by airports – or a dollar value of \$1 billion dollars, whichever is met first.

### **CAA reforms are useful - but do not solve the problem**

Airports note that recent Civil Aviation Act (CAA) changes require airports to consult on changes to capital plans above a \$30 million dollar threshold – and that the Commission has not seen whether these changes will result in improvements to consultation processes.

BARNZ observes that we have seen several examples of such consultation requirements since the CAA requirements were imposed. Project changes have been raised for amounts between \$30-\$70 million dollars. However, despite repeated requests, it is still not possible for substantial customers to see progress against total PSE-set capital plans 'in-period' beyond annual information disclosures which are published after the close of each disclosure year. An airport company simply refuses such requests, in our experience to date. The disconnect between new CAA consultation requirements and the capital plan delivery of a PSE is unhelpful.

While changes to CAA requirements deliver better visibility of what might otherwise be called variation requests (and this begs the question as to why such information was not tabled before) airline customers have no ability to verify these varied project costs, and no ability to track progress against major capex plans in real time. The level of oversight provided by the Civil Aviation Act and ID combined is insufficient with respect to major capex.

## Verification of major capex is key to transparency

BARNZ notes that airport company submissions oppose the introduction of an independent verifier for major capital plans. BARNZ submits that the Commission's proposal to introduce an independent verification of major capital plans is the change in the Information Disclosure regime which will have the greatest effect on transparency and trust around the increased charges that accompany a major capital programme. Airports who have proposed efficient and timely investment should not fear an independent verification of major capex proposals. Introduction of an independent verification process – which exists without issue in the regime applying to Transpower – would assist the Commission in assessing information disclosed. This is more efficient than for the Commission to retain specialist skillsets in this area.

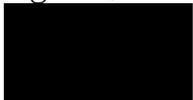
More importantly, the independent verifier allows for proper assessment of capital cost before it is being built. There is no way to pull back from investment cost once build is underway. The right time to formally assess that major capex is ahead of commitment. This is appropriate where proposed spend is likely worth more than a billion dollars and may carry with it impacts on the entire user pays aviation system in New Zealand.

### Final word

BARNZ thanks the Commerce Commission for its thoughtful work and looks forward to its final decisions. The airports and their Airports Association are quite right when they submit that there have been many reviews of airport regulatory settings. These reviews arise because some airport companies continued response to incentive-based regulation has been to relentlessly seek commercial advantage as might arise from regulatory settings. It is time to adjust regulatory settings in response.

The appropriate response is for New Zealand to move airport regulation from incentive-based transparency regulation (only) to a more structured capital governance over essential monopoly infrastructure, as is completely practical within Information Disclosure. BARNZ submits that evolving the light-handed regulatory regime toward a more structured capital governance position for major capex would better serve the Part 4 purpose and better serve New Zealanders.

Regards,



Cath O'Brien  
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Board of Airline Representatives New Zealand