
SUBMISSION BY AIRPORTS COUNCIL INTERNATIONAL (ACI) ASIA-PACIFIC AND MIDDLE EAST

IN SUPPORT OF AUCKLAND AIRPORT AND NEW ZEALAND'S REGULATED AIRPORTS

Targeted Amendments to the Cost of Capital Input Methodologies for Airports — Equity Beta and Related Parameters (Draft Decisions Reasons Paper, 19 May 2026; Project No. PRJ0048830)

To: Commerce Commission New Zealand — Attention: Hristina Dantcheva (c/o infrastructure.regulation@comcom.govt.nz)

Re: Submissions on Airports Cost of Capital IMs Amendments

Executive Summary

ACI Asia-Pacific & Middle East supports Auckland Airport and New Zealand's other regulated airports in this consultation. Our key concern is that the draft decision goes beyond correcting the acknowledged 2023 R-code errors and instead introduces a new methodology that would reduce airport returns below both the current IMs and the Commission's own error-corrected position.

In particular:

- The acknowledged correction would raise the asset beta from 0.67 to 0.71 and the indicative post-tax WACC from 8.54% to 8.82%. The draft decision instead lowers the asset beta to 0.62 and the WACC to 8.25%.
- A process opened to correct an understatement of airport returns should not result in a further reduction in those returns.
- The proposed three-year post-pandemic estimation window excludes the period when pandemic risk was actually reflected in airport share prices. It therefore cannot properly capture pandemic risk as a forward-looking, systematic risk for airports.
- The proposed beta is based on a short window and a narrow comparator sample of eight firms, which makes the estimate more exposed to noise and idiosyncratic events.
- The proposed increase in notional leverage from 23% to 29% appears driven by a small number of firms whose gearing rose sharply during the pandemic recovery. It should be tested against longer-run evidence before adoption.
- The proposed 0.62 asset beta is the lowest of the options modelled by the Commission. Other recognised approaches produce higher estimates, including 0.71 under the corrected 2023 method, 0.69–0.73 under the updated pandemic-adjustment method, and 0.79 using the last two five-year periods.
- ACI submits that 0.71 should be treated as a conservative floor, not a ceiling.
- A cost of capital set below the efficient level risks weakening airport investment, delaying capacity, reducing resilience and ultimately harming consumers through higher fares, lower service quality and constrained infrastructure.

ACI therefore respectfully urges the Commission to reconsider the proposed 0.62 asset beta, give effect at minimum to the corrected 2023 methodology, retain a longer estimation window, preserve an explicit treatment of pandemic risk, re-test the comparator sample, and reassess the proposed leverage assumption against longer-run data.

1. Introduction

Airports Council International (ACI) Asia-Pacific and Middle East, the representative body of airports across the world's fastest-growing aviation regions, respectfully submits this position in support of Auckland Airport and New Zealand's other regulated airports in response to the Commission's draft decision to amend the cost of capital input methodologies (IMs) for airport services.

ACI advocates for the financial sustainability, investment capacity and fair regulatory treatment of its member airports. We offer this submission, together with our global perspective on the treatment of airport cost of capital, in the constructive spirit of assisting the Commission to reach a decision that is robust, internally consistent, and aligned with mainstream finance theory and international regulatory practice.

We submit that the draft decision, in its current form, would reduce the cost of capital available to Auckland Airport and New Zealand's other regulated airports below a level that we consider can be justified, and we would encourage the Commission to reconsider it. A cost of capital set below the efficient level does not, in our respectful view, serve consumers: by weakening the incentive and the financial capacity to invest in resilient, future-ready infrastructure, it works against the long-term interests of consumers that the regime exists to protect. ACI's interest is therefore closely aligned with the statutory purpose.

2. The purpose of the amendment and the direction of travel

It may assist to begin with the basis on which this amendment process was opened. The Commission identified, and accepted, three errors in the R code used to set the 2023 IMs, and committed to the Court to undertake an amendment process to address them (Draft Reasons Paper, paras 1.2–1.4). By the Commission's own analysis, correcting those errors raises the asset beta from 0.67 to 0.71 and the indicative post-tax WACC from 8.54% to 8.82% (Table X2; Attachment B).

One framing point may assist at the outset. The High Court declined the airports' appeal, but it did so applying the "materially better" test in section 52Z — a test under which the airports bore the onus, the record was closed, and the Court was unable, on appeal, to design an alternative IM or itself recalculate the parameters. The Court noted at the time that it simply did not know what the figures would be under different scenarios. None of those constraints applies to the Commission in this process. This is the Commission's own fresh exercise of judgement — the very process the Court contemplated and the Commission committed to — in which the Commission is free to, and indeed must, choose the parameters that best promote the Part 4 and section 52R purposes on the most recent information available to it. The question for the Commission now is not whether an alternative would be "materially better" in the appellate sense, but simply which estimate is the best forward-looking estimate. Several of the observations in the judgment that told against the airports on appeal were a function of the Court's constrained role; they do not bind, and should not narrow, the Commission's own discretion here.

ACI observes that the draft decision does not give effect to that correction. It instead adopts a new method and a new data window that together reduce the asset beta to 0.62 and the

WACC to 8.25% — below both the IMs currently in force and the error-corrected position the Commission committed to deliver. We would gently note the unusual character of this outcome: a process opened to remedy an error that understated returns would, as drafted, conclude by reducing them.

The point is reinforced by the independent expert analysis already on the record. The Competition Economists Group (CEG), whose report identified the errors, found that once the weighted-least-squares step is correctly implemented, the pandemic premium for Auckland Airport’s weekly asset beta rises from the 0.02–0.08 range reported in the 2023 decision to 0.07–0.15 (CEG, 1 April 2024). The direction is unambiguous: correcting the errors increases the pandemic premium, and with it the asset beta and the WACC. Against that background, a draft decision that removes the pandemic premium altogether moves in the opposite direction to the correction that prompted this process.

The High Court’s own record of the effect of correcting the errors is to the same effect. The Court recorded that the straightforward consequence of the corrections was to lift the pre-Covid asset beta from 0.63 to 0.65, the pandemic-uplift range from 0.02–0.08 to 0.07–0.15, and the resulting asset beta range from 0.65–0.71 (from which 0.67 was chosen) to 0.72–0.80, with a mid-point of 0.76. ACI advances 0.71 — the Commission’s own restated figure in Attachment B — as a conservative floor, and notes only that the Court’s recorded figures sit, if anything, higher. We acknowledge the Court’s observation that a mechanically corrected mid-point of 0.76 would sit above the range of reasonable it had before it; but that observation was directed to the limits of the Court’s role on appeal, not to a finding that the corrected figures are wrong. In this amendment process the relevant point is the simpler one the Court did not dispute: the correction the Commission committed to deliver raises airport returns, whereas the draft decision lowers them.

It is also instructive to recall what the Commission’s long-standing methodology produces. When the established 2016 input-methodology approach — a wider comparator sample measured over the most recent two five-year periods — was applied in the 2023 process, CEG estimated an asset beta for New Zealand airports of around 0.81 (Auckland Airport’s own measured asset beta was higher still — in the order of 0.97 on recent data, and around 0.73 averaged over the twenty years to February 2020). We make this point with the caution the High Court expressed in mind: because Auckland Airport is a substantial part of the New Zealand equities market, its individually measured beta is pulled towards unity and is not, on its own, a reliable target for the comparator-set estimate. ACI does not rest its case on Auckland Airport’s own figure. The narrower and more durable point is this: the two methodological choices that most depress the draft figure — narrowing the comparator sample, and ending the estimation window before the pandemic — were each estimated to remove of the order of 0.15 and 0.10 from the asset beta respectively. We highlight this because it shows that the low figure is the product of methodological choices, not of any observed fall in the underlying systematic risk of New Zealand airports.

Table 1 — Indicative WACC outcomes under the three scenarios

Parameter	2023 IMs (in force)	2023 method, errors corrected	2026 draft decision
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Parameter	2023 IMs (in force)	2023 method, errors corrected	2026 draft decision
Asset beta	0.67	0.71	0.62
Leverage	23%	23%	29%
Equity beta	0.87	0.92	0.87
Indicative post-tax WACC	8.54%	8.82%	8.25%

Source: Draft Reasons Paper, Table X2 (indicative post-tax WACCs based on the September 2025 Wellington Airport price-setting market data).

3. The effect on Auckland Airport

The consequences for Auckland Airport are significant. As recently as March 2025 — only a little over a year before this draft decision — the Commission assessed Auckland Airport’s 2022–2027 price-setting event using an asset beta of 0.715 (Draft Reasons Paper, paras 2.16–2.17 and 3.44). The draft decision would now apply an asset beta of 0.62 to the same airport: a reduction of more than 0.09, notwithstanding that there has been no corresponding change in the underlying business risk of Auckland Airport.

A regulated business depends on a reasonable degree of stability in the regulator’s assessment of its risk in order to plan and finance long-lived infrastructure. ACI accepts, with respect, that certainty under section 52R is not a free-standing objective and is subordinate to the long-term benefit of consumers under section 52A, and that the Commission is entitled to revisit its methodology at each review. Our concern is therefore not that the draft departs from precedent as such, but that a movement of this magnitude — from 0.715, used for the same airport little more than a year ago, to 0.62 — arising from a method developed after the relevant price-setting assessment, is unlikely to produce a more accurate forward-looking estimate of systematic risk, which is the section 52A question that matters. The instability is a symptom; the underlying concern is accuracy.

4. Exclusion of pandemic risk from a forward-looking beta

The equity beta in the IMs is intended to be a forward-looking estimate of systematic risk, including the risk of low-probability, high-impact events such as pandemics. The draft decision estimates beta over the three years from 1 February 2023 to 31 January 2026 (paras X5, 3.43) — a window that, by design, excludes the period of pandemic-related volatility (in the Commission’s view) from February 2020 to January 2023 (paras 3.27, 3.30).

ACI suggests that if the period in which pandemic risk actually manifested in airport share prices is removed from the estimation window, the volatility associated with that risk will not be fully reflected in the measured beta. We note, with respect, that this appears to be in tension with the position the Commission itself adopted in 2023, when it agreed with TDB Advisory that a stock’s beta reflects changing perceptions of risk “whether or not such risks actually materialize”, and applied a pandemic uplift so that the parameter would carry that forward-looking risk (paras 3.18–3.19).

The High Court endorsed the use of post-pandemic data to capture revised expectations, while cautioning that placing excessive reliance on a small time series of post-pandemic data available to the Commission raised variance concerns, and that in such circumstances it was reasonable for the Commission to use an alternative approach to account for the impact of the pandemic on the forward-looking asset beta (New Zealand Airports Association Inc v Commerce Commission [2025] NZHC 239 at [235], [195]; para 3.20). Three years remains a comparatively short series. We read the Court’s reasoning as supporting a cautious and supplemented approach to seek to incorporate the impact of the pandemic into the forward looking asset beta, rather than simple reliance on a very short period of post-pandemic data and the removal of any pandemic adjustment. We would therefore encourage the Commission, if it relies on post-pandemic data, to retain an explicit and principled pandemic-risk adjustment, or to use a longer window that spans the pandemic, consistent with its own 2023 reasoning.

We draw the Commission’s attention to what the Court actually decided about pandemic risk, because it bears directly on the present choice. The Court did not treat the pandemic as a transient shock that would average out of the data; it held the opposite. It found that an event such as a pandemic, which changes the information available to capital markets, “will have a systematic impact on the forward-looking values of the asset beta”, and that to the extent the pandemic has informed markets about the likelihood and impact of such events, “that information will lead to an ongoing change to the asset beta set by capital markets for airports in the future” (at [243]). The Court further accepted that the Commission was entitled to recognise that the forward-looking demand-side risk of another pandemic may be partly systematic, and to compensate airports for carrying it; and it held that the difficulty of estimating a pandemic uplift “in the absence of significant post-pandemic data” “does not mean that it should not be undertaken”, the uplift being a legitimate input whose reliability the Commission can reflect in the weight it carries.

These holdings, with respect, sit awkwardly with the draft decision. If pandemic risk is an ongoing, forward-looking feature of the airport asset beta — as the Court has held — then an estimation window that excludes the only period in which that risk was observed in airport share prices cannot capture it. The draft does not carry the pandemic risk forward; it measures a three-year interval in which that risk did not manifest. ACI is conscious that the Court also observed that, by the time of a future amendment, depending on when it occurred, “significant post-Covid data” might allow market data alone to bear the weight, such that a separate uplift “may not” be required. But the Court framed that possibility tentatively (“may”, “perhaps”) and expressly paired it with its variance caution about thin post-pandemic series. Three years to 31 January 2026, on a sample of eight firms, is not yet the deep, settled post-pandemic record the Court had in contemplation. The Court certainly did not suggest that the Commission would have “significant post-Covid data” available when it undertook the amendment process to address the R code errors. Until there is significant data available, the prudent course the Court’s reasoning supports is to retain an explicit pandemic-risk adjustment, or a window long enough to span the event, rather than to rely on a short calm interval as though the risk had been repriced away.

5. Pandemic risk is systematic, and is not “priced in” to a calm-period beta

It is, we understand, common ground among the Commission and most submitters that the risk of pandemics is a material systematic risk for airports. The narrower question is how that risk should be reflected in the asset beta. ACI draws the Commission’s attention to the analysis of CEG on the record, which makes a point of some importance: an asset beta observation does not measure investors’ perception of, or “pricing in” of, future risk; it measures how the market actually moved in response to risk events that occurred during the estimation window. A window from which the pandemic has been excluded therefore does not capture pandemic systematic risk — it captures its absence. The Commission itself recognised in 2023 that the spike in airport betas observed during Covid-19 would be expected to recur in a future pandemic; that being so, a calm three-year window cannot be said to embed that risk.

The weight of independent expert evidence already before the Commission supports retaining either the existing long-run methodology or an explicit pandemic adjustment. Dr Martin Lally — a long-standing adviser to the Commission on cost-of-capital matters — identified the correct (weighted-least-squares) means of giving effect to the adjustment. Oxera advised that the existing approach, based on the two most recent five-year windows, should be retained, and observed that treating the Covid-19 period differently from other episodes of market volatility (such as the global financial crisis) departs from a principles-based approach and increases regulatory risk. Oxera also noted the United Kingdom Competition and Markets Authority’s practice, in the water sector, of declining to exclude Covid-19 data on the basis that the pandemic was predominantly an example of systematic risk. These views, with respect, sit more comfortably with the treatment of beta as forward-looking than does a window that removes the pandemic entirely.

We would add an observation specific to New Zealand. The pandemic-risk exposure of New Zealand airports is, if anything, greater than that of the predominantly larger overseas airports in the comparator set, because New Zealand’s border was among the most tightly and enduringly closed in the world — of the order of 700 days, and longer to higher-risk regions, materially longer than, for example, the United Kingdom. A forward-looking estimate for New Zealand airports should, on this evidence, if anything carry a larger allowance for pandemic risk rather than none.

Finally, we note that the weighted-least-squares (“Flint”) method of adjusting for pandemic risk is not a bespoke New Zealand construct but a mainstream regulatory technique: it was adopted by the UK Civil Aviation Authority for Heathrow and accepted, on appeal, by the UK Competition and Markets Authority as not materially different from recent regulatory practice. The difficulty identified in 2023 was one of implementation, not of principle — and, as noted above, correcting that implementation raises the premium. We suggest that the appropriate response is to apply the method correctly, not to abandon it. This is, in substance, the course the High Court invited: it observed that it would not be unreasonable for the Commission to reconsider the “usefulness of the Flint method, or its particular application” — instancing the regression used and the reliance on Auckland Airport data alone — and, if the method is retained, to revisit the baseline-data and “multiple Covid windows” issue raised by the

airports. The Court also recorded that the airports had not, on appeal, put forward a calculation based on the updated Flint method. That gap can now be closed.

The contrast with the United Kingdom is telling. In response to the pandemic, the UK Civil Aviation Authority raised Heathrow’s asset beta by approximately 0.115 (from around 0.50 to 0.615, an increase of some 23%) and provided further pandemic-related compensation beyond the asset beta. A comparable regulator, looking at the same global evidence, concluded that the pandemic warranted more compensation for airport risk, not less. The draft decision moves in the opposite direction, reducing the asset beta below the level in force. We would also gently observe the apparent inconsistency, noted in the expert evidence, that New Zealand’s energy networks — which faced little or no pandemic demand shock — have been afforded an effective pandemic-related allowance, while airports, by far the most pandemic-exposed regulated sector, are proposed to receive none.

6. Reliance on a single three-year estimation window

The Commission’s standard practice — including in the 2023 IMs for electricity distribution, gas pipelines and Transpower — is to estimate beta and leverage over the last two five-year periods. The draft decision departs from that practice for airports by adopting a single three-year window, and the Commission fairly acknowledges that this “differs from our standard practice of using data over longer periods”.

A shorter window is more exposed to idiosyncratic, firm-specific events and tends to produce noisier estimates. This is the very concern that animated the High Court’s reasoning: the Court accepted that the Commission was entitled to use an alternative approach to a direct post-pandemic estimate precisely because placing excessive reliance on a small time series of post-pandemic data “would raise the same issues of variance” as a too-small comparator set. The Commission’s own figures bear this out: the standard error of the asset beta rises from 0.18 (2007–20) to 0.32 over the post-Covid window on its usual measure, and the Commission concludes that the post-Covid asset beta is “less precise and more uncertain” than the pre-Covid estimate. ACI suggests that a parameter the Commission itself acknowledges to be less precise — and which raises the very variance concern the Court relied on — is a fragile basis for a decision that will influence pricing for several years, and that a longer estimation window would provide a more stable foundation. We note that the existing airport IM relies on a longer run of data.

7. The leverage assumption

The draft decision raises notional leverage from 23% to 29%, calculated as the simple post-Covid average across the comparator set (paras 3.45–3.48; clause 5.1 of the draft Amendment Determination). A higher assumed leverage places more weight on debt and so reduces the WACC. The question, respectfully, is whether 29% reflects a durable, optimal capital structure for airports, or a transient response to the pandemic.

The firm-level data suggest the latter. The increase in the average is driven by a small number of firms whose gearing rose sharply during the pandemic recovery — most notably Hainan Meilan (0.02 to 0.34) and Fraport (0.38 to 0.66) — while several comparators reduced their

leverage over the same period. We note in particular that the one New Zealand airport in the sample, Auckland Airport, deleveraged from 0.23 to 0.14.

Table 2 — The increase in average leverage is concentrated; several airports deleveraged

Comparator firm	Leverage pre-Covid	Leverage post-Covid
Hainan Meilan International Airport	0.02	0.34
Fraport	0.38	0.66
Beijing Capital International Airport	0.27	0.42
Aéroports de Paris	0.25	0.40
AENA	0.28	0.18
Flughafen Zurich	0.22	0.16
Airports of Thailand	0.15	0.05
Auckland International Airport	0.23	0.14
Comparator-set average	0.23	0.29

Source: Draft Reasons Paper, Table 3.7 (asset beta and leverage estimates pre- and post-Covid by firm).

It is difficult to reconcile a decision to raise the notional leverage applied to New Zealand airports to 29% with the fact that the New Zealand comparator moved in the opposite direction. ACI accepts that the High Court confirmed the Commission may exercise judgement in setting a forward-looking notional leverage, and is not obliged to adopt a simple average over any particular window ([255]–[256]); we do not suggest that 29% is impermissible as a matter of method. The concern we raise is one of reasonableness rather than method: a forward-looking estimate should reflect a durable, optimal capital structure, and a figure driven by a handful of firms whose gearing rose sharply in the pandemic recovery — against the trend of the one New Zealand comparator — invites the question whether it is durable or transient. ACI would therefore encourage the Commission to test the 29% figure against a longer run of data, and to confirm and disclose its sensitivity to the few firms driving the increase, before adopting it.

8. The comparator sample

The 2023 comparator set was derived by starting from 24 candidate firms identified by CEPA and applying screens for illiquidity, negative leverage and market comparability, reducing the set to nine. For this draft decision the Commission re-uses that same set (now excluding the delisted Sydney Airport, leaving eight firms), while estimating beta over an entirely new window.

ACI observes that liquidity and leverage screens are window-specific: whether a firm trades liquidly, or carries negative leverage, depends on the period examined. As the Commission has, for the purpose of estimating beta, set aside the pre-Covid and pandemic data as no

longer the relevant window, there is, we suggest, a strong case for re-applying the selection screens to the window now in use, and disclosing the result. This is the point on the comparator set that has the most force in this process, because it does not ask the Commission to prefer a larger set as such — it asks only that the screens be applied consistently with the window the Commission has itself chosen. We would also gently note that a three-year window combined with a sample of only eight firms is doubly exposed to idiosyncratic events. We recognise the High Court’s observation that a larger comparator set is not always to be preferred, and that the choice involves a genuine trade-off between comparability and the noise of a small set ([194]– [196]); ACI does not contend that size alone is decisive. Our point is the narrower one that the Court left open: that an eight-firm set measured over three years carries a degree of estimation variance that warrants either a longer window or a broader set as a stabiliser, particularly when setting returns for the comparatively small New Zealand airports.

There is a further point of substance, well documented in the expert evidence already on the record. The screens used to narrow the comparator set (from a universe of around two dozen firms to eight) are, in the airports’ submission, largely unrelated to systematic risk, and the resulting sample is weighted towards large, multi-national airport groups whose systematic risk is materially lower than that of the comparatively small, route-concentrated New Zealand airports. The expert evidence is that, with one possible exception, the overseas airports retained in the sample operate in lower-risk environments — higher capacity utilisation, larger scale, greater passenger diversity, lower passenger volatility and, in some cases, lower-risk regulatory regimes — and have consistently shown lower measured asset betas than Auckland Airport, the nearest available comparator for New Zealand airports. When CEG instead applied criteria relevant to systematic risk — such as the number and diversity of routes served — the resulting comparator samples produced asset betas in the range of 0.82 to 1.08, well above the 0.62 in the draft decision.

ACI does not suggest that any particular narrow sample should be adopted; our point is that the present sample is unlikely to be a good proxy for the systematic risk of New Zealand airports, and that this consideration points towards a higher asset beta, not a lower one. We make this point conscious that the High Court was not persuaded, on appeal, that a set selected to predict Auckland Airport’s own historic beta was the right yardstick ([204], [207]); we therefore put it not as a predictive test against Auckland Airport, but as a question of whether the retained firms share the route concentration, scale and demand volatility that drive New Zealand airports’ systematic risk. On the expert evidence, they largely do not. As a reasonableness matter, the asset beta for New Zealand airports would also be expected to exceed that of a very large, capacity-constrained hub such as Heathrow, whose systematic risk is lower; yet the draft decision sets New Zealand airports at approximately the same asset beta that the UK regulator reached for Heathrow after adding a pandemic uplift.

9. The alternatives available to the Commission

The Commission has helpfully set out, in its own paper, several alternatives. The updated pandemic-adjustment method yields an asset beta range of 0.69–0.73 (Attachment C); the error-corrected 2023 method yields 0.71 (Attachment B); the average of the pre- and post-

Covid periods yields 0.64 (para 3.40); and the average of the last two five-year periods yields 0.79 (para 3.42).

Table 3 — The adopted asset beta is the lowest of the options the Commission modelled

Approach considered by the Commission	Asset beta	Source
Average of the last two five-year periods	0.79	para 3.42
2023 method with R-code errors corrected	0.71	Att. B
Updated pandemic-adjustment method (range)	0.69 – 0.73	Att. C
Average of pre- and post-Covid periods	0.64	para 3.40
2026 draft decision (post-Covid window only)	0.62	para 3.43

Source: Draft Reasons Paper as cited. Ranges shown where the Commission reports a range.

Each of these applies a recognised, previously-endorsed method, and each produces a higher asset beta than the 0.62 in the draft decision. ACI’s preferred position is a long-run, wider-sample estimate that retains a forward-looking pandemic-risk adjustment; we would observe, however, that even the Commission’s least-preferred alternative establishes a clear floor for the asset beta well above 0.62, and we would encourage the Commission to give these alternatives renewed weight.

We add that there is no time pressure that requires the Commission to settle on a thin-window estimate now. The 2023 IMs remain in force pending the outcome of this amendment process, and — as the High Court noted — no airport price-setting event is due until 2027. The Commission therefore has the room the Court contemplated to incorporate the most recent market data and to apply a robust, fully-reasoned method, rather than to rely on a three-year interval it acknowledges to be less precise. ACI suggests that the long-term interest of consumers is better served by taking that time than by adopting, under no deadline, the lowest of the estimates on the table.

10. Investment, capacity and the long-term interest of consumers

The Part 4 purpose requires that suppliers have incentives to invest in replacement, upgraded and new assets (section 52A(1)(a)), and the input methodologies also promote certainty for suppliers and consumers (section 52R). ACI suggests that both are engaged here, with the investment-incentive purpose to the fore. A movement in the assessed asset beta from 0.715, used for Auckland Airport little more than a year ago, to 0.62 — produced by a method developed for this decision and acknowledged to be less precise — is the kind of change that investors and lenders notice, and an allowed return set below the efficient level bears directly on the incentive and capacity to commit long-lived capital.

That concern is not hypothetical. In the 2023 process, infrastructure investors with direct exposure to New Zealand airports cautioned that departures from the established, principled approach harm incentives to invest and increase regulatory risk, and that the consistent application of a broad, stable methodology is part of what has earned New Zealand its reputation as a predictable place to invest in long-lived infrastructure. ACI shares that

perspective. Auckland Airport, like its peers across our region, is being asked to commit capital to resilient, future-ready infrastructure over multi-decade horizons; the regulatory return is central to its ability to do so on terms that serve consumers over the long term. We encourage the Commission to weigh the predictability of the regime, and the investment signal it sends, alongside the point estimate itself.

This connects directly to the long-term interest of consumers, which the regime exists to protect. ACI Europe’s commissioned research (SEO Amsterdam Economics, 2017) found that capacity-constrained airports are associated with materially higher air fares, because excess demand allows airlines to raise prices — a fare premium the study estimated at around €2.1 billion a year across congested European airports, rising to a projected €6.3 billion by 2035, equivalent to of the order of NZ\$10–NZ\$18 per return journey. The study’s conclusion was that it is the consumer who ultimately pays for insufficient airport capacity. A cost of capital set below the efficient level makes exactly this outcome more likely, by discouraging the timely capacity investment that keeps fares down and service quality up.

We would make one further observation, because it bears on how competing submissions should be weighed. The interests of airlines and of the travelling public are not aligned in the setting of the airport WACC. A lower regulated return benefits airlines in two ways: it lowers the price they pay to use airport capacity, and, by discouraging investment in new capacity, it can raise the fares they are able to charge passengers at a more congested airport. In economic terms, this can allow airlines to capture scarcity rents: the higher fares that arise when constrained airport capacity, rather than superior airline efficiency or service quality, becomes the binding factor in the market. Passengers, by contrast, bear both the higher fares and the reduced service quality. There is, moreover, no assurance that a lower airport cost of capital would be passed through to passengers in lower fares at all. ACI submits that the long-term interest of consumers is served by a cost of capital that is sufficient to sustain investment, not by one set at a level that, while attractive to airlines, risks under-funding the infrastructure on which passengers and the wider economy depend.

11. Reasonableness of the proposed estimate

ACI suggests that the proposed 0.62 asset beta does not sit easily with the available cross-checks. As noted above, comparator samples constructed using criteria relevant to systematic risk indicate asset betas well above the draft figure. Independent sector data point the same way: published industry estimates place air-transport asset betas at around 0.66 for Australia, New Zealand and Canada (and around 0.76 globally), comfortably above general utilities. A regulated airport would ordinarily be expected to sit above a pure utility on the risk spectrum, not below the lower end of the airport range.

Table 4 — The proposed asset beta sits low against the available cross-checks

Reasonableness cross-check (asset beta)	Indicated asset beta	Source
Comparator samples using criteria relevant to NZ systematic risk	0.82 – 1.08	CEG (2023)
Damodaran air transport — global	0.76	Damodaran

Reasonableness cross-check (asset beta)	Indicated asset beta	Source
Damodaran air transport — Australia/NZ/Canada	0.66	Damodaran
2026 draft decision (for comparison)	0.62	para 3.43
Damodaran general utilities — global	0.45	Damodaran

Sources: CEG (2023) comparator analysis; A. Damodaran sector beta data; Draft Reasons Paper, para 3.43. Damodaran figures are indicative sector averages.

ACI would also caution against undue reliance on RAB (regulatory asset base) multiples as a cross-check. The extensive regulatory experience canvassed in the 2023 process — including decisions and analysis by the Australian Energy Regulator and others — establishes that such multiples are highly sensitive to assumptions and are confounded by non-regulated activities, making them an unreliable guide to the adequacy of the allowed return. The point is well illustrated by the analyst estimates for Auckland Airport, which ranged from approximately 1.3 to 1.9 — a spread that itself demonstrates the fragility of the measure. This is a particular concern for airports, whose aeronautical regulatory asset base differs materially from the whole-of-business enterprise value that drives such multiples.

12. International and comparative perspective

ACI’s global vantage point may assist the Commission in placing the draft decision in international context. Two observations are relevant.

First, comparable regulators have generally retained long-run estimation windows and explicit risk treatments rather than excluding the pandemic. In its H7 final decision for Heathrow (March 2023), the UK Civil Aviation Authority set an asset beta in the range of 0.44–0.62, and the appropriate treatment of pandemic-related systematic risk — including whether an uplift to the asset beta was warranted — was a central and carefully debated feature of that determination. The Commission for Aviation Regulation in Ireland (December 2022) likewise set an asset beta range of 0.59–0.61 within a notional leverage framework (para 3.52). While these decisions were made soon after Covid, the methodological point is, with respect, the more telling one: these regulators did not adopt a short, post-pandemic-only window that removes pandemic volatility from the measured beta.

Second, the post-pandemic recovery has not eliminated airport-sector risk. Industry analysis continues to show that the sector’s cost of capital rose with higher interest rates and that returns have recovered only slowly (e.g. IATA–McKinsey, “The Aviation Value Chain”). ACI suggests that treating three relatively calm years as evidence that pandemic risk has been permanently repriced downward may understate the risk that the airports’ own investors and financiers continue to price.

ACI would be pleased to provide the Commission with further detail on relevant international determinations and on how leading regulators have balanced recent market data against the need to preserve a forward-looking treatment of low-frequency, high-impact risk.

13. Conclusion

ACI Asia-Pacific & Middle East supports Auckland Airport and New Zealand's other regulated airports in this consultation. We recognise and welcome the Commission's commitment to correcting errors in the 2023 IMs. Our concern is that the draft decision, as presently framed, goes considerably further than that correction: it adopts a new and bespoke method that reduces airport returns below both the status quo and the error-corrected position, on the basis of a short window the Commission acknowledges to be less precise and that excludes the pandemic risk the parameter is intended to capture. That last point is the heart of the matter. The High Court has held that pandemic risk is a systematic, forward-looking feature of the airport asset beta that markets will continue to price ([243]–[244], [248]); a calm three-year window cannot carry a risk it does not observe. This is a question under section 52A of which estimate is the best forward-looking one — a question the Commission is now free to answer afresh, unconstrained by the appellate limits that shaped the judgment. The weight of independent expert evidence, the established long-run methodology, the comparator evidence and comparable international practice all point towards a higher asset beta — and, ultimately, towards the timely investment in capacity on which the travelling public depends. For these reasons, ACI urges the Commission to:

1. reconsider the proposed 0.62 asset beta. At a minimum, the Commission should give effect to the error correction it committed to deliver (asset beta 0.71; indicative post-tax WACC 8.82%), which ACI suggests should be treated as a floor rather than a ceiling; the established long-run methodology and the comparator evidence on the record point to a materially higher figure;
2. retain a long-run estimation window consistent with its standard practice across regulated services, rather than a single three-year window;
3. preserve a forward-looking treatment of pandemic risk, by retaining an explicit and principled pandemic-risk adjustment where post-pandemic data is used;
4. re-apply the comparator-selection screens to the estimation window actually relied upon and disclose the result, and consider a longer window or broader comparator set to reduce the estimation variance of an eight-firm, three-year sample; and
5. re-examine the 29% leverage assumption against a longer run of data, to confirm that it reflects a durable optimal capital structure rather than a transient, firm-concentrated post-pandemic response.

ACI and its members would welcome the opportunity to discuss this submission with the Commission and to assist further as the process moves to cross-submissions. This is a public submission and may be published in full.

Contacts

For any clarifications, supporting information, or further engagement regarding this submission, the Commission is invited to contact:

Mr. Stefano Baronci

Director General, ACI Asia-Pacific and Middle East

Email: [REDACTED]

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