

Targeted Amendments to the Cost of Capital Input Methodologies for Airports – Draft Decision, 19 May 2026

Cross-submission from NZ Airports

Overview

1 NZ Airports welcomes the opportunity to respond to submissions made on the Commerce Commission's draft decision on targeted amendments to the cost of capital input methodologies for airports. This cross-submission responds to the arguments raised in submissions from airline operators and their advisers, and will also highlight points in other submissions that align with NZ Airports' submission.

2 NZ Airports' position is set out in its initial submission. Every corrected or independently derived approach to estimating the asset beta produces a result in the range of 0.71 to 0.79. The Commission's draft decision produces 0.62.

3 Airline submissions have introduced arguments for even lower figures. Their intended effect is to position the Commission's 0.62 as a middle ground rather than the outlier it actually is. None of the airline arguments independently derives an asset beta from first principles. They seek an ad hoc and unjustified change to the comparator sample. By contrast, the 0.71–0.79 range is supported by independent analyses using different methodologies, data windows and starting assumptions, all converging on the same conclusion. That degree of independent convergence is not something the Commission can set aside by observing that 'reasonable experts differ'.

4 The Commission needs to recognise what the evidence, independently and repeatedly derived, shows the beta to be.

5 NZ Airports asks the Commission to correct the specific window and methodological errors identified in its initial submission and this cross submission, and to set the asset beta at no lower than 0.71 – the floor supported by the Commission's own corrected arithmetic. This is the minimum necessary to restore the certainty an input methodology is required to provide, and to bring the Commission's treatment of airports back into line with the evidence, and with its own concurrent practice elsewhere in Part 4.

Submissions on the scope of the process

6 Wellington Airport's submission recounts the expectations set by the Commission to the High Court: that it would use the 2023 IM as the starting point; it would fix the R code errors; and it would take into account new evidence reasonably available.

7 The draft decision does not meet the first two commitments. The Commission has rejected the methodology it vigorously defended in court. Rather than correcting the R code errors within the established framework, it has abandoned the 2023 IM starting point, discarded the Flint adjustment, redefined the estimation period, and produced a result 9 basis points below its own 2023 figure.

8 This has raised concerns from other regulated sectors, which are critical for the Commission to address. Both the Electricity Networks Association (ENA) and Transpower have urged the Commission to justify its departure from the 2023 IM starting point and explain how it can be distinguished from future cases. NZ Airports strongly supports this request. If a targeted amendment process meant for coding errors can be used to fundamentally reopen settled methodologies, no regulated entity under Part 4 can

rely on regulatory stability between review cycles. Long-term investment decisions rely on frameworks remaining stable outside of orderly periodic reviews.

Arguments about the High Court guidance

9 Both sides cite paragraph 235 of the December 2025 High Court judgement. Airlines point to the sentence stating post-COVID data is the best available because it will take into account any revised information and expectations held by market participants. NZ Airports notes that the High Court did not cite any submissions or evidence on the record to support that observation. It was not a matter that was relevant to the alternative input methodologies that were argued before it. It is therefore unreasonable to interpret the High Court's decision as proposing a new methodology – especially when the Court was so clear that it lacked the ability, on the available evidence in relation to the actual input methodologies argued before it, to determine whether one was materially better than the other.

10 That is particularly so, when the very next sentence in the High Court decision, which the airlines have ignored, is considered: *"Placing excessive reliance on a small time series of post-pandemic data would raise the same issues of variance."*

11 The High Court explicitly warned against the risk the Commission has realised: a compressed 3-year window yielding only 39 four-weekly data points ending at a historical low percentile. The draft decision offers no explanation for how it evaluates and mitigates that risk.

12 In short, NZ Airports does not agree that the High Court decision provides an endorsement of the approach presented in the Draft Decision.

The post-Covid window

13 There are other major problems with submitters' support for using only the post-Covid window as defined by the Commission.

A focus on the most recent data undermines the purpose of the IM

14 The Commission's draft decision justifies the post-COVID window because it provides "the most accurate estimate for the cost of capital as of the decision date." Separately, it asserts - without testing the claim - that this data has "settled sufficiently" to represent appropriate beta values "going forward."

15 The airline submissions adopt the same framing. Qantas describes the three-year window as "the most relevant and representative measure" of current systematic risk. TDB Advisory, for BARNZ, justifies the same window because it is "a forward-looking estimate for the period to which the estimates apply." Air New Zealand endorses the Commission's own framing that a mechanical correction would fail to "reflect current market conditions and expectations."

16 All four treat the relevant period as the moment of estimation. However, the asset beta this process sets applies for the full seven-year IM cycle. An estimate that is accurate "as of the decision date" is, with this reasoning, not accurate for the full IM period.

17 The Commission sets the asset beta through an IM, rather than assessing it fresh at each price-setting event, precisely so that airports, airlines, and the Commission itself have a stable reference point for that full period. A methodology that privileges most recent data cannot serve that purpose, because data tomorrow will always be more recent, and by this same test more 'relevant', than it is today.

18 In this way, the Commission's approach does not support fixing an asset beta for seven years at all. Instead, it supports requiring airports to reassess and justify the appropriate beta at each individual price-setting event.

Submitters are mistaken on what beta measures

19 TDB's support for using only post-COVID data relies entirely on the assumption that this recent data incorporates investors' updated views of future pandemic risk. As outlined by our independent expert reports, this assumption is false.

20 Beta measures the actual covariance between asset returns and market returns within the specific window chosen. It cannot capture investor fear of future events, nor can it capture the risk of future disasters, unless those risks actively manifest as volatility within that exact window through changes in perceptions of risk. As HoustonKemp notes (citing Gabaix, 2012), in a sample window without disasters, betas reflect only calm, normal-time covariance, even if investors are highly anxious about the future.

21 TDB counter-argues that beta reflects changing perceptions of risk, not just realized shocks. This is correct. But for TDB's logic to hold for the draft decision, the Commission would have to prove that investors' perceived probability of a future pandemic materially shifted inside the chosen three-year window. No submission, including TDB's, identifies any such shift, nor is there any reason to believe such a change occurred. Absent that evidence, TDB's logic defeats itself: a stable, unchanged perception of risk will not appear in measured beta at all, no matter how large that risk actually is.

22 Dr. Lally's simulation analysis demonstrates the danger of this flaw: an estimator that treats the absence of rare events within a short window as proof that those risks do not exist will systematically understate the true beta. By actively removing high-volatility COVID data while retaining only low-volatility post-COVID data, the Commission's chosen window introduces a structural downward bias.

23 The Commission itself has historically understood this mechanism. The Flint methodology was introduced to the 2023 IMs for this exact reason. Recognizing that excluding COVID data entirely would understate the real risks airports face, the Commission gave that data partial weight rather than removing it. It did this because it understood a fundamental principle: a calm window, left to itself, cannot capture risk that did not occur within it.

24 A regulator that has already proven it understands this mechanism, and has previously sought to implement a remedy for it, cannot simply abandon that remedy without explaining why it is no longer necessary. This is not a matter of judgement, it is a fundamental concept that underpins the methodology.

25 The Commission must address this directly in its final decision. Expressing a preference for one approach over another will not suffice. It must engage with the fundamental concepts of asset beta estimation it has used since 2010, and explain why it is departing from those fundamentals exclusively for airports.

There is no statistically significant basis for using only post-COVID data

26 The Commission's preference for post-COVID data also rests on a foundational claim that the true asset beta changed after COVID, making recent data more reliable than older data. That claim does not hold when tested for statistical significance.

27 Dr Lally calculated the 95% confidence interval for the difference between the pre-COVID estimate (0.66) and the post-COVID estimate (0.62) to be -0.34 to +0.26. Because this interval spans zero by a wide margin, the shift is statistically indistinguishable from noise.

28 HoustonKemp's five-year window ending January 2026 yields 0.70 (+0.04 from the pre-COVID baseline), while the Commission's three-year window yields 0.62 (-0.04 from the baseline). Both are the exact same statistical distance from the pre-COVID figure; the Commission has simply selected the lower one, without a stated basis for preferring it.

29 TDB argues the post-COVID window is justified because there is no evidence of a systematic premium associated with pandemic risk - but if the pandemic did not systematically alter the true beta, there is no basis for abandoning the older data and the standard ten-year window in the first place. The argument for the shorter window and the argument against a structural change cannot both be true.

30 The Commission cannot rely on a change it cannot statistically demonstrate. Absent that demonstration, the shift from 0.66 to 0.62 is not evidence of a changed asset beta - it is the Commission's chosen arbitrary estimation window producing a lower number by construction, indistinguishable from noise.

The window uses arbitrary dates with major consequences

31 It is important to reinforce the arbitrary nature of the window that airline submitters are supporting as more "relevant" and "pragmatic".

32 The draft decision asserts, without statistical testing, that COVID ceased to affect airport markets in January 2023. CEG's structural break analysis shows that market behaviour actually returned to pre-COVID patterns by December 2020 at the latest. By delaying the post-COVID window start to February 2023, the Commission has excluded over two years of valid post-COVID data.

33 HoustonKemp shows that the Commission's expanding window analysis (Table 3.4) is fundamentally flawed because every window begins in February 2020 (inside the pandemic). It measures the dilution of COVID data over time, not a structural break endpoint.

34 A boundary this consequential - it defines the entire estimation window - cannot rest on an assumption the Commission has not tested and a chart that does not test it either.

In summary

35 Tested against the evidence, the post-COVID-only window fails on every ground on which it has been defended. It is not more relevant than a longer window without a demonstrated change in the underlying risk, and no such change has been shown. Its central theoretical justification - that post-COVID betas already price in updated pandemic risk - collapses under its own proponent's logic. The shift it produces from the pre-COVID estimate is not statistically distinguishable from noise. And the boundary that defines the window's start has never been tested against the data at all. The window is not supported by evidence at any of these levels; it is supported only by TDB Advisory's endorsement, which itself independently derives nothing and probes none of these questions. A methodology this exposed cannot be the basis for a final decision without the Commission addressing each of these failures directly.

The contrast in airport and airline evidence

36 As noted, every corrected and independently derived approach to estimating the asset beta converges on a range of 0.71 to 0.79:

- The Commission's own corrected arithmetical models: applying the corrected 2023 IM methodology acknowledged by the High Court (Attachment B) yields an asset beta of 0.71 (range of 0.69 to 0.73). Incorporating a corrected pandemic adjustment (Attachment C) produces the exact same central estimate of 0.71.
- The CEG analysis: updated to May 2026 using the Commission's post-COVID framework - but with a corrected COVID end date and extended endpoint - CEG derives a beta of 0.75.
- Dr Lally's analysis: utilizing a full ten-year window (including COVID data) to capture long-term risk profiles, Dr. Lally derives a beta of 0.79.
- HoustonKemp's analysis: utilizing a standard five-year window analysis produces a beta of 0.70.

37 The convergence of these distinct expert methodologies demonstrates that the draft estimate of 0.62 is an anomaly. TDB Advisory is the sole expert supporting 0.62, yet its report merely endorses the Commission's "most practical" proposal rather than independently deriving the figure using robust methodologies or otherwise addressing these statistical issues. While suggesting that the Commission's

approach is consistent with TDB Advisory's previously expressed view that there would be adequate post-Covid data in the future, TDB Advisory admits that "the situation has arisen earlier than expected".

38 The airline submissions, taken together, encourage the Commission to confirm 0.62 or move to an even lower estimate. BARNZ, via TDB Advisory, endorses the Commission's methodology and its resulting 0.62 figure. Air New Zealand, Qantas, and IATA endorse the three-year post-COVID methodology but each argues the resulting figure should be lower still.

39 None of the four independently derives an asset beta or probes the statistical choices behind 0.62.

40 The Commission's task under Part 4 is not to locate a comfortable midpoint between submitters. In estimating the asset beta, its task is to identify, from the evidence before it, the estimate that best reflects the airports' true systematic risk – the return a workably competitive market would require investors to bear that risk, no more and no less. A number reached by averaging submitters' positions, rather than by determining which evidence most reliably estimates that risk, serves neither purpose.

41 On that test, the asset beta evidence is not evenly weighted. The airport evidence – the Commission's own corrected arithmetic and four independently constructed expert analyses using different methodologies – converges between 0.71 and 0.79. The airline evidence does not independently derive an asset beta at all. Instead, it reflects their preferences about where the number should land, not alternative derivations of where the evidence says it does land.

42 If the Commission's final decision departs from the converged airport evidence in favour of the airline position, it must demonstrate its conclusions through reasoned analysis addressing each of the specific mathematical and statistical arguments raised in airport submissions – not through a general statement that views differed and a judgement call was made. That does not reflect the nature of the material in front of the regulator.

43 We respond to some of the specific arguments from airlines below.

Qantas

44 Qantas proposes excluding Airports of Thailand from the comparator set, producing an asset beta of 0.54, a figure it then supports by reference to international regulator comparisons.

45 Placing Italy's ART, the UK CAA, Ireland's CAR, and Airways NZ alongside Qantas's proposed 0.54 implies these figures are measuring the same thing. They are not. Those regulators also do not use comparable methodologies.

46 Qantas's Figure 2 makes the error Dr Lally identifies in the Commission's own reliance on international comparators. As Dr Lally's report sets out in addressing the Commission's reliance on the UK CAA and Irish regulator, each of these regulators applies its own judgement-based adjustments, data periods, and treatment of COVID-affected data – in several cases explicitly rejecting the very three-year, post-COVID-only approach that underpins Qantas's own preferred figure.

47 If this consultation were genuinely about evaluating New Zealand airports' asset beta with Heathrow or other European airports, it would require an entirely different methodology, evidence base, and process to establish that equivalence.

48 Even taken at face value, Qantas's own comparison implies New Zealand's regulated airports carry a systematic risk profile within 0.01 of Heathrow's – one of the world's most congested aviation hubs. This is simply not credible.

49 Qantas separately argues for a lower WACC based on its downstream annual cost impact on airlines. This fundamentally misunderstands the statutory framework. The cost of capital is an evidence-based measure of the return investors require to bear actual systematic risk; it is not a macroeconomic lever for managing the airline sector's cost base. Suppressing the WACC does not eliminate underlying

costs; it merely transfers uncompensated risk from the airlines' cost base directly onto airport investors, which has implications for incentives to invest in airport infrastructure.

50 Aviation is, at present, a genuinely more expensive environment to operate in, for reasons that have nothing to do with whether the asset beta is correctly estimated. That is a fact about current market conditions, not a flaw in the WACC methodology to be corrected. Suppressing airport investment returns to soften that reality would not make the cost environment less real – it would subsidise it, using airports to prop up a cost structure the methodology is not designed to underwrite and has no mandate to fix. Higher costs are, in the first instance, the cost of doing business in the current environment; asking the Commission to engineer them away through an artificially suppressed WACC is asking it to do something Part 4 does not empower it to do. Suppressing airport investment returns also removes the incentive for airports to invest in capacity that could relieve those cost pressures over time.

IATA

51 IATA argues that WACC should be deliberately anchored at or below the midpoint, claiming underestimation has "limited, temporary consequences." This is structurally false. Underestimating airport WACC directly harms the traveling public through deferred or scaled-back investment in runway capacity, terminal efficiency, and climate resilience. Unlike a minor tariff correction, a foregone capacity expansion cannot be reversed at the next reset - the passengers who suffer from congestion and reduced connectivity in the intervening years never get that utility back as the cost will be higher airfares as a result of constrained capacity.

52 Delayed infrastructure is inherently more expensive infrastructure. Construction cost inflation and compressed delivery timelines mean deferred investments cost significantly more when eventually undertaken, a premium that ultimately falls back onto passengers. While a suppressed WACC artificially pads airlines' short-term margins, the long-term cost of underinvestment is borne entirely by consumers.

53 More fundamentally, this argument does not belong in the estimation of a parameter that is meant to be an evidence-based measure of systematic risk. It asks the Commission to set the number based on a policy preference about how risk should be distributed between consumers and investors, not on what the evidence shows that risk actually is. Sections 52A and 52R require input methodologies that support efficient investment and provide certainty; systematically anchoring below the evidence produces the opposite outcome – an input methodology that cannot function as a stable basis for investment decisions, this time by design rather than by volatility.

54 IATA also proposes expanding the comparator set beyond airports entirely, arguing that other Part 4-regulated sectors – electricity lines and gas pipelines – should serve as a benchmark. This is another attempt to create a lower bound reference point which is not supported by the evidence. Airports face demand volatility from international travel, airline capacity decisions, and exposure to exactly the kind of catastrophic, low-frequency shocks – pandemics, geopolitical disruption to travel – set out earlier in this submission. Electricity lines and gas pipelines do not face a comparable risk profile; their lower observed beta reflects a genuinely different risk exposure, not a more accurate measurement of the same risk airports carry. IATA offers no methodology for why averaging airports' systematic risk against an unrelated sector's produces a more accurate estimate of airport risk.

The Airports of Thailand (AOT) exclusion argument

55 Air New Zealand, Qantas, and BARNZ argue that AOT should be excluded from the comparator set on the basis that its post-COVID asset beta of approximately 1.22 is an outlier that distorts the sample average upward. CEG's analysis accompanying this submission dismantles this argument on two independent grounds, proving the visual variance is a function of flawed methodology, not underlying asset risk.

56 CEG demonstrates that the narrow three-year window ending 31 January 2026 is the *only* endpoint that produces AOT as an outlier. Shifting the window back by 12 months places AOT squarely in the middle of the sample. Furthermore, when applying a positive debt beta to that same window, AOT

drops into the bottom half of the comparator set. AOT's outlier status is not an inherent trait of the firm; it is a statistical artifact of a highly volatile, overly narrow window.

57 The airline submissions fundamentally confuse the symptom with the cause when pointing to AOT's low 5% leverage. Finance theory and international regulatory precedent, including the AER's 2026 Rate of Return Instrument (0.10 debt beta) and the QCA (0.12 debt beta) - recognise that corporate debt carries systematic risk that increases with leverage. The Commission's zero-debt assumption introduces a severe, leverage-dependent bias: it mathematically understates the asset betas of highly leveraged firms, whereas low leverage firms will have more accurate asset betas. The result is that the asset beta of firms with low leverage can appear deceptively high when compared to firms with high leverage.

58 Consequently, Fraport, with 66% leverage, is as much of an outlier in the sample as AOT. The apparent gap between the two firms is substantially a function of the zero-debt-beta distortion applied unevenly across very different capital structures, not a genuine difference in underlying systematic risk.

59 If a positive debt beta was applied to reflect real-world risk transfer, the artificial gap between individual firm asset betas closes and the outlier argument vanishes.

60 The Commission has historically adopted the position that a zero debt beta is acceptable because the individual biases cancel out when using the sample average leverage to re-lever the sample average asset beta to equity beta. While this has been accepted as appropriate under Part 4, CEG's analysis demonstrates that because Fraport's extreme leverage creates such vast diversity within this narrow sample, this cancellation mechanism does not entirely eliminate the issue. Instead, the calculation is skewed due to the non-linear impact of averaging, creating a 0.12 percentage point downward bias in the final vanilla WACC.

61 CEG's analysis identifies that this discrepancy narrows as longer estimation windows are used.

62 CEG's report also shows that the chart Qantas relies on most heavily to make this argument (Figure 1 of its submission) is independently misleading, on presentational grounds alone. The apparent downward trend across the comparator set – with AOT sitting apart from it – is an artefact of the arbitrary order in which Qantas listed the airports along the chart's horizontal axis, not evidence of any real relationship in the underlying data. Reordering the identical data produces a materially different picture, in which Fraport appears as much of an outlier as AOT does.

63 The fact that the airline submissions rely on multiple, compounding errors simultaneously highlights the deeper danger of the Commission's current direction. When a regulatory framework narrows its data window to just 39 four-weekly observations, it creates an environment where a single comparator firm can swing the entire result based on a single chosen month, a flawed debt beta assumption, or the order in which data happens to be charted.

64 NZ Airports agrees AOT's inclusion warrants review, but via a consistent, updated application of the Commission's own 2023 filter criteria to post-COVID data which would be expected to include other airports in the comparator set the Commission has excluded - this is a process the Commission has omitted. To be clear, in line with our position that longer estimation windows and broader comparator sets produce more accurate results, NZ Airports does not support narrow filtering of the comparator set as a matter of principle. But having chosen this path in the draft decision, the Commission cannot apply it selectively; if the filter criteria are to be used at all, they must be applied consistently to the data the Commission has chosen to rely on.

RAB multiples and other cross-checks

65 BARNZ and Qantas point to Auckland Airport's ~2.0x RAB multiple to argue that the current WACC generates excess returns. This cross-check is far too blunt. A RAB multiple reflects non-regulated revenues, scarcity value, constrained hub growth expectations, and general market confidence - none of which the airlines isolated from the WACC component.

66 The most direct, valid reasonableness check is that a 0.62 beta fails every independent expert and empirical baseline available.

67 An output-level check is only as good as its ability to isolate the variable being tested, and this one does not. It is not open to the Commission to lean on a disputed, second-order confirmatory check while the primary reasonableness checks fail.

Cross-sector inconsistency

68 Volatility is a defining feature of the draft decision. The same methodology, applied twelve months apart, swings the result from 0.54 to 0.79. The AOT exclusion argument reverses depending on a single month's difference in endpoint. A compressed, asymmetric COVID cut-off, untested against the data, drives the outcome the Commission now proposes to adopt. A three-year window is not stable enough to bear the weight the draft decision places on it.

69 This raises real questions not only for airports, but for how the Commission expects Part 4 regulation to function more broadly. If a three-year, endpoint-sensitive window is fit for purpose here, it is worth asking directly whether the Commission would contemplate applying the same approach to any other sector it regulates.

70 Since the submission round closed, further work from the Commission has been released which highlights the inconsistency of its narrow approach to airports. The *Emerging Views Paper for the Watercare PQP28* process (published 25 June 2026) outlines the Commission's standard Part 4 cost of capital methodology: using three five-year estimation windows, including COVID data, and averaging results. The Commission explicitly calls this the "standard approach as other regulated sectors."

71 The draft decision for airports deviates severely from this standard, introducing major methodological instability:

Metric	Watercare/Standard Part 4 approach	Airports draft decision approach
Estimation window	5-year windows and 15 years total (stable)	3-year window (highly volatile)
Data inclusion	Includes COVID-period data	Asymmetrically excludes COVID data
Endpoint sensitivity	Low	Extreme (results shift dramatically based on months)

72 Airports have been given no equivalent reason for why they, alone among Part 4 sectors, should be subject to a three-year, endpoint-sensitive window that the Commission has not tested, has not applied anywhere else, and has not shown to produce a more accurate result.

Whether this exercise produces a usable input methodology

73 This raises a more fundamental question. Has the Commission settled on an IM that is actually functional?

74 An IM must serve as a reproducible, predictable framework that regulated airports can use to guide long-term planning and evaluate price-setting events (PSE). The purpose of setting an asset beta through an IM process, rather than at each price-setting event, is to give airports, airlines, and the Commission itself a stable, predictable framework that can be relied on for the intervening period.

75 As Wellington Airport notes, an IM must be a coherent, enduring framework, not an unstable point estimate manufactured at a single review. It must provide a systematic line of reasoning that airports can work through over time, particularly if they need to justify a variation based on their specific local circumstances.

76 The Commission's proposed three-year, highly endpoint-sensitive window fundamentally defeats this purpose. Because it generates wide and arbitrary swings, a beta adopted for June 2026 has no economic claim to remaining appropriate when subsequent price-setting events occur.

77 This structural volatility will put airports in a very difficult position.

- Airports will be required to independently reassess the appropriate asset beta at each future price-setting event, because the Commission's own methodology does not produce a figure durable enough to rely on. It is, in effect, a 'snapshot' or 'spot' asset beta.
- Without a stable, tested line of reasoning to follow, different airports facing different price-setting events are likely to reach different, reasonable conclusions about the appropriate asset beta to apply.
- By replacing a predictable benchmark with a moving target, the Commission is actively creating a breeding ground for protracted disputes between airports and stakeholders during price-setting events.
- Airports will be forced to guess how the Commission's methodology should be applied in future periods, with the Commission only confirming whether that guess was correct after the price-setting event has already occurred.

78 Historically, airports' pricing proposals have aligned as closely as possible with the Commission's IMs to maintain stability. It is important for the Commission to recognise the shift this draft decision creates.

79 NZ Airports requests that the Commission explicitly clarify how it intends to assess pricing variations under a methodology that it admits produces materially different results based on timing alone. Regulated entities acting in good faith cannot be penalized for navigating a volatile framework of the Commission's own design.

The argument of “pragmatism” to override empirical evidence

80 The airline submissions and TDB Advisory heavily rely on the label of “pragmatism” to justify the Commission's adoption of a three-year post-COVID estimation window, labelling it the only “pragmatic option” available to avoid the complexities of updating the Flint methodology.

81 The three-year window is undeniably pragmatic for airlines, who benefit from the lower WACC it creates, and it is pragmatic for the Commission as a process management shortcut.

82 But as we have noted, there is nothing pragmatic about this as an IM for airports when it is so fragile for the purposes of PSEs. And it is profoundly *unpragmatic* under the strict statutory framework of the Commerce Act.

83 Pragmatism is not a concept that should be used to justify an input methodology. Section 52R requires input methodologies to promote certainty in relation to the rules, requirements and processes that apply to regulation. Pragmatism rejects certainty.

84 Section 52A mandates that the Commission promote the long-term benefit of consumers by encouraging efficient investment in regulated infrastructure. Regulatory certainty and predictability is important to achieve this. A highly volatile framework that produces an asset beta sitting at the 1.4th percentile of a 22-year historical distribution does neither. It delivers an unstable, unvalidated anomaly that investors cannot reliably plan against.

85 Regulatory pragmatism may have a place when choosing between competing, equally valid methodologies when data is scarce or outcomes are closely matched. It should not override a mountain of contradictory empirical data. When a chosen approach fails every independent test and cross-check applied to it, including basic statistical significance testing, the label of “pragmatism” loses all credibility.

86 The Commission cannot simply assert pragmatism to insulate a draft decision from its own mathematical and statistical failures. If the output is so fragile that a minor twelve-month shift in the endpoint completely upends comparator rankings, it is an unstable methodology.

Conclusion

87 There is no room for reasonable disagreement about where the evidence points. Independently derived analyses, using different methodologies, different data windows, and different starting assumptions, converge on a range of 0.71 to 0.79. Against that convergence, the airline submissions offer preference-based arguments for why the number should be lower, several of which fail on their own internal logic once tested.

88 The draft decision has an underlying problem. It uses an estimation approach that cannot produce a stable, reliable, or reproducible figure, and that has not been shown, on any test applied to it, to be more accurate than the evidence the Commission itself has before it.

89 The Commission does not need to resolve the broader, contested debate between a post-COVID window and a full ten-year approach in the abstract. It needs only to follow what the evidence before it, tested rigorously and consistently, actually shows – and in doing so, to restore the rigour and certainty this input methodology is required to provide.

90 The mathematically demonstrated facts are:

- A calm post-COVID window cannot capture disaster-period risk.
- The shift from 0.66 to 0.62 is not statistically significant.
- COVID's structural effect did not last until January 2023.
- The narrow window creates major instability, producing swings from 0.54 to 0.79 on the same methodology.
- The use of zero debt betas means asset betas of individual airports cannot be meaningfully compared to reach conclusions on their suitability for inclusion in the comparator set.
- The Commission's own corrected arithmetic produces a floor of 0.71.

91 NZ Airports requests that the Commission issue a final decision that:

- Corrects the endpoint definition errors and extends the identified window.
- Consistently reapplies its comparator filter criteria.
- Sets the asset beta no lower than 0.71 - the minimum supported by the Commission's own corrected arithmetic.

92 The submission process must not be treated by the Commission as an exercise in balancing competing opinions or 'views.'

93 The volatility, endpoint sensitivity, and structural downward bias identified in the draft decision are verifiable mathematical facts, not expressions of corporate preference. To maintain regulatory integrity, the Commission's final decision must directly engage with and answer the quantitative testing on the record, rather than treating mathematical errors as matters of opinion.

94 If the Commission confirms the draft decision's approach, it must accept the position airports will be in as they seek to apply the methodology over time. The Commission is introducing an inherent fragility into the regulatory framework. The mathematically demonstrated reality is that a short window

creates extreme endpoint sensitivity. When airports undertake future price-setting events, the Association expects they will need to mitigate the volatility of the narrow window by expanding the data estimation window as far as pragmatically possible. NZ Airports requests the Commission clarify its comfort with this likely outcome.

Note on the cross-submission period

95 NZ Airports does not oppose a reasonable extension to the cross-submission timeline, provided the integrity of the process is maintained. Because initial airline submissions were largely endorsements, if airlines introduce substantial new expert analysis at this cross-submission stage, fairness dictates that NZ Airports be granted a further opportunity to respond before a final decision is reached. We note that a Process and Issues Paper would normally have provided a platform for this further engagement, but was a step the Commission chose to skip in this case.

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