NZ AIRPORTS ASSOCIATION

30 June 2021

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Dear Katie

NZ AIRPORTS CROSS SUBMISSION ON SUBMISSIONS ON AIRWAYS SERVICE FRAMEWORK

Introduction and summary

1.1 Thank you for the opportunity to consider and respond to the submissions on Airways' Proposed Revised Airways Service Framework (**Proposal**).

1.2 It is clear that there is no support for the changes in the Proposal. A unifying theme in the submissions is that Airways has not identified any potential benefits for the aviation sector. In fact, there is concern that the Proposal will only deliver additional cost and complexity in the provision of Air Navigation Services ("**ANS**").

1.3 The submissions have reinforced NZ Airports' view that the current Proposal should be put on hold until the Ministry of Transport ("**MoT**") has conducted its first principle review into ANS in New Zealand.

There is broad consensus across the aviation sector

1.4 NZ Airports is pleased to see there is broad consensus across the industry in a number of respects:

(a) Airways has indicated there are potential "structural issues" that prevent it from providing services efficiently and effectively, but a number of submitters agree that Airways has not adequately defined or described the problem it is attempting to solve. For example:

(i) Air New Zealand does not consider that the status quo of airport companies nominally contracting services from Airways obscures the value proposition of the services and disagrees that this model leads to inefficiencies.[1]

(ii) Aviation NZ considers that insufficient information (such as data, financials, assumptions, risk assessment and comparisons with international guidance) has been provided to explain the structural issues that supposedly prevent Airways from supplying services in the most cost effective, efficient and pro-competitive way.[2]

[1] Air New Zealand submission to Airways' Proposed Revised Airways Service Framework, at [4] and [5].
[2] Aviation New Zealand submission to Airways' Proposed Revised Airways Service Framework, at pg 2.

(iii) NZ Airline Pilots' Association submitted that the underlying settings that balance out efficiency and profitability are not structural issues but reflect the design that Parliament has legislated i.e. the SOE model.[3]

(iv) NZ Aviation Federation submitted that Airways' operating model needs to change, to reflect that it provides criticial infrastructure. However, it does not consider that the current service framework consultation should be progressed further at this time.

NZ Airports agrees that there is a disconnect between the proposal to charge airports and the objectives Airways seeks to achieve because Airways has not adequately defined the perceived problem.

(b) The benefits of charging airports, rather than airlines, have not been identified. In fact, a number of submitters raise concerns that the Proposal would generate worse outcomes in terms of cost-effectiveness and efficiencies. For example:

- Air New Zealand is concerned that the proposed commercial framework may lead to increases in pricing[4] and an arm's length structure may lead to service level degradation and inefficiencies.[5]
- BARNZ is concerned that the proposal could lead to a lack of cost transparency, it would be more difficult for airlines to understand whether services are being provided on an efficient basis and could lead to administrative complexity and inefficiency, as airlines would be required to have commercial relationships with multiple airport operators to receive Aerodrome Air Traffic Management Services. [6]
- IATA says that it is difficult to provide a view on whether the current structure is impending efficiency without understanding what benefits the proposed commercial framework will deliver, and that there is insufficient information provided in the consultation document.[7]
- Rotorua Regional Airport is concerned that forcing further operating costs on regional airports without appropriate recovery mechanisms exacerbates the financial challenges regional airports face.[8]

NZ Airports agrees that Airways has not explained what the benefits of its proposal are to airports, aircraft operators and the broader industry, and struggles to identify any benefits other than providing a way for Airways to manage its own revenue risk. While NZ Airports recognises that is an entirely reasonable objective for an SOE, this type of consideration should not drive a change in the commercial model when providing a seamless and safe ANS network should be paramount.

[3] NZ Airline Pilots' Association submission to Airways' Proposed Revised Airways Service Framework, at pg 1
[4] Air New Zealand submission to Airways' Proposed Revised Airways Service Framework, at [6].
[5] Air New Zealand submission to Airways' Proposed Revised Airways Service Framework, at [16] and [17].
[6] The Board of Airline Representatives of NZ submission to Airways' Proposed Revised Airways Service Framework, at [18].
[7] International Air Transport Association submission to Airways' Proposed Revised Airways Service Framework, at pg 1.
[8] Rotorua Regional Airport submission to Airways' Proposed Revised Airways Service Framework, at pg 2.

(c) There is an acknowledgement by most submitters that competition in Air Navigation Services could be beneficial, but that it does not currently exist. Therefore, contestability is not a basis for the proposed change. For example:

- Air New Zealand supports the idea of contestability for services provided by Airways, but notes that at this time Airways remains a monopoly supplier of the "contestable" services.[9]
- Auckland Airport considers that Airways' rationale for changing its commercial framework is not credible and its distinction between statutory monopoly services and so-called contestable services is entirely artificial.[10]
- Aviation NZ considers that non-statutory monopoly services are not truly contestable because barriers to entry prevent competitors from supplying these services. These services cannot be easily separated from the statutory monopoly services that Airways provides and should not be used as a justification for commercial cost recovery as outlined in the commercial framework.[11]
- NZ Airline Pilots' Association does not support the direct charging to airports for aerodrome services[12] and expressed concern that the commercial framework would result in significant inefficiencies, which would likely lead to overall greater charges to air traffic services users.
- Rotorua Regional Airport acknowledged that Airways has an effective monopoly over the provision of Aerodrome Control Services, and that these services are not genuinely contestable and should not be excluded from the pricing framework.[13]

NZ Airports confirms its view that the distinction between statutory monopoly and contestable services asserted by Airways is artificial and does not reflect reality, and therefore this cannot be relied upon as a basis for commercial change.

(d) There is confusion as to how charging airports could and would promote competition. For example, BARNZ notes that it is unclear as to how Airways having direct commercial relationships with airports for contestable services will lead to improved competition.[14]

NZ Airports agrees, and as per its submission, considers the proposal may actually be harmful for competition.

[9] Air New Zealand submission to Airways' Proposed Revised Airways Service Framework, at [4] and [5].
[10] Auckland Airport submission to Airways' Proposed Revised Airways Service Framework, at [1.3].
[11] Aviation New Zealand submission to Airways' Proposed Revised Airways Service Framework, at pg 2.
[12] NZ Airline Pilots' Association submission to Airways' Proposed Revised Airways Service Framework, pgs 4-5.
[13] Rotorua Regional Airport submission to Airways' Proposed Revised Airways Service Framework, pgs 3-5.
[14] The Board of Airline Representatives of NZ submission to Airways' Proposed Revised Airways Service Framework, at [19] – [26].

1.5 We acknowledge BARNZ's suggestion of an industry workshop to discuss the benefits that the proposed changes would deliver to customers over and above the current service framework today. NZ Airports welcomes further information in this respect and would be pleased to participate in this dialogue. However, Airways, despite its good intentions, is not itself in a position to resolve the fundamental issue, which is that Airways is an SOE which has commercial objectives that potentially conflict with what is best for New Zealand's air transport sector. NZ Airports maintains that the Government, rather than Airways, following consultation with stakeholders, must take the lead in determining how ANS should best be delivered in the future. It would not be appropriate to implement the Proposal prior to the Ministry of Transport conducting its 'first principles' review.

1.6 The accompanying Appendix summarises NZ Airports' interpretation of the submissions on key aspects of the Proposal. It demonstrates that the Proposal is not justified under an orthodox cost / benefit analysis, and that it would be prudent for Airways to not proceed with its Proposal until the Ministry of Transport has conducted its review.

1.7 If you wish to discuss any aspect of this letter or our previous submission, please feel free to contact me.

Yours sincerely

Kevin Ward
Chief Executive

NZ AIRPORTS ASSOCIATION

APPENDIX - Summary of Submissions

Key: ✓ **Agrees**
✘ **Disagrees**
\- **No specific comment**

	AIR NZ	AIAL	AVIATION NZ	BARNZ	CHCH AIRPORT	CAA	IATA	KAPITI AIRPORT	NZ AIRLINE PILOTS	NZ AIRPORTS	NZ AVIATION FEDERATION	ROTORUA AIRPORT	WELLINGTON AIRPORT	COMMENT
Is there a problem? Airways believes there could be structural issues preventing Airways supplying services in the most cost effective, efficient and pro-competitive way	✘	✘	✘	✘	-	✓	✘	✘	✘	✘	✓	-	✘	The majority of submitters consider that Airways has not clearly articulated the problem or has provided insufficient information as to what these "structural issues" are.[15] There is some disagreement as to whether there is a problem to "fix".[16]
Are there options to address the problem? Airways believes distinguishing between monopoly and contestable services will resolve these structural issues, and:	✘	✘	-	✘	✘	-	-	-	✘	✘	✘	-	✘	All submitters who addressed this issue disagree with the Proposal.[17] Submitters identify the fact that Airways is an SOE as a key issue which the Proposal does not (and Airways itself cannot) address.[18]

[15] Air New Zealand submission at [18]; Auckland Airport submission at [1.3]; Aviation New Zealand submission at pg 2; BARNZ submission at [7]; IATA submission at pg 1; NZ Airline Pilots' Association submission at pg 1; NZ Airports submission at [2.12].
[16] Air New Zealand submission at [11]; Auckland Airport submission at [1.3]; BARNZ submission at [7], CAA submission, pg 1; IATA submission at pg 1; Kapiti Airport submission at pg 1; NZ Airline Pilots' Association submission at pg 1; NZ Airports submission at [2.12]; NZ Aviation Federation submission at pg 1; Wellington Airport submission at page 1.
[17] Air New Zealand submission at [5]; Auckland Airport submission at [1.3]; BARNZ submission at [18], [19]- [26]; Christchurch International Airport submission, pgs 1-2; NZ Airline Pilots' Association submission at pg 4; NZ Airports submission at [1.1] – [2.15], [4.1] – [4.21]; NZ Aviation Federation submission at pg 2; Wellington Airport submission at pg 1.
[18] Christchurch International Airport submission, pgs 1-2; NZ Airline Pilots' Association submission at pgs 1 and 3; NZ Airports submission at [3.10] – [3.13]; Wellington Airport submission at pg 1.

	AIR NZ	AIAL	AVIATION NZ	BARNZ	CHCH AIRPORT	CAA	IATA	KAPITI AIRPORT	NZ AIRLINE PILOTS	NZ AIRPORTS	NZ AVIATION FEDERATION	ROTORUA AIRPORT	WELLINGTON AIRPORT	COMMENT
• Be cost-effective	✘	-	-	✘	-	-	-	-	✘	✘	-	✘	✘	All submitters who addressed this issue disagree with the Proposal, and even express concern that this could result in increased prices.[19]
• Be efficient	✘	✘	-	✘	-	-	-	-	✘	✘	-	-	-	All submitters who addressed this issue disagree with the Proposal, with one submitter highlighting that airlines would have to negotiate with numerous airports rather than a single entity like Airways.[20]
• Promote competition	-	-	✘	✘	-	-	-	-	-	✘	-	-	-	All submitters who addressed this issue disagree with the Proposal, noting that it is unclear how Airways having direct commercial relationships with airports for contestable services will lead to improved competition.[21]
What benefits will the proposal deliver? Airways should charge airports for its services	✘	✘	-	-	✘	-	-	✓	✘	✘	-	✘	✘	The clear majority of submitters who addressed this issue disagree with the Proposal, stating the benefits of this model have not been explained or demonstrated.[22]

[19] Air New Zealand submission at [6]; BARNZ submission at [18]; NZ Airline Pilots' Association submission at pg 4; NZ Airports submission at [5.6]; Rotorua Regional Airport submission at [7] – [9]; Wellington Airport submission at pg 1.

[20] Air New Zealand submission at [17]; Auckland Airport submission at [2.5]; BARNZ submission at [18]; NZ Airline Pilots' Association submission at pg 4; NZ Airports submission at [3.8] and [5.6].

[21] Aviation New Zealand submission, at pg 3; BARNZ submission at [19] – [26]; NZ Airports submission at [5.1] – [5.14].

[22] Air New Zealand submission at [16] and [17]; Auckland Airport submission at [1.3]; Christchurch International Airport submission, pgs 1-2; Kapiti Airport submission at pg 1; NZ Airline Pilots' Association submission at pg 4; Auckland Airport submission at [5.1] – [5.14]; NZ Airports submission at [2.1] – [2.15]; Rotorua Regional Airport submission at [7] and [27] – [29]; Wellington Airport submission at pg 1.

	AIR NZ	AIAL	AVIATION NZ	BARNZ	CHCH AIRPORT	CAA	IATA	KAPITI AIRPORT	NZ AIRLINE PILOTS	NZ AIRPORTS	NZ AVIATION FEDERATION	ROTORUA AIRPORT	WELLINGTON AIRPORT	COMMENT
Non-statutory monopoly services will be provided on a contestable basis	✘	✘	✘	-	-	✘	-	-	✘	✘	-	✘	✘	All submitters who addressed this issue disagree that the services described by Airways as "contestable" are genuinely contestable.[23]

[23] Air New Zealand submission at [5]; Auckland Airport submission at [1.3]; Aviation New Zealand submission, at pg 2; CAA submission, at pg 1; NZ Airline Pilots' Association submission at pg 4; NZ Airports submission at [4.1] – [4.25]; Wellington Airport submission at pg 1.