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The Effectiveness of the Economic Regulation of Airport Services under Part 4

Executive Summary

New Zealand's aviation system is under sustained cost pressure – a concern the Commerce Commission has recently highlighted.[1] Without regulatory reform, the status quo will lead to higher airfares, suppressed demand, reduced tourism competitiveness, and weakened connectivity across the country. In particular, the current trajectory of charges would mean 3.9 million fewer passenger trips through Auckland Airport over the five years to 2032, with a consequential reduction in economic activity and regional access. The reforms proposed by Air New Zealand in this submission would significantly reduce the risk of these passenger losses.

This issue has arisen because New Zealand's current airport regulatory regime was designed for an era of incremental investment, large public ownership stakes in major airports and relatively limited commercial complexity. Today's environment is starkly different: multi-billion-dollar capital programmes are underway, and airport charges are rising sharply. Auckland Airport alone is contemplating unprecedented aeronautical capital investment, with the total cost of its Master Plan independently estimated at [**CIC**][2] for the full development of the precinct.

Existing regulatory tools - designed to promote transparency rather than active oversight – are no longer fit for purpose and are out of line with international best practice. The need for targeted regulatory intervention is becoming urgent. As such it is very timely that MBIE is considering the effectiveness of the economic regulation that applies to New Zealand airports.

MBIE has asked for submissions to focus on two key questions. In summary, Air New Zealand's responses are:

1. Does the regime provide sufficient oversight during times of major capital investment? ***Answer*: *No*,** and
2. Is the regime sufficiently flexible to provide a targeted and timely response when changes in regulatory approach are required? ***Answer: No.***

Relevant to the first question, MBIE also asked whether they should consider Hybrid Till alternatives to the current dual till regime. ***Answer: Yes***

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[1] Commerce Commission, Assessment of whether to initiate competition study into domestic air travel sector, May 2025.
[2] See Case Study 4, below.

The current regime fails in four key aspects:

(i) *insufficient oversight of major capital expenditure*: major airports can pursue large scale capital expenditure projects even in the face of unanimous objections from substantial customers. This is an especially critical deficiency given the looming wall of airport capital expenditure.

(ii) *misaligned investment incentives*: the current dual till regime incentivises airports to invest in non-aeronautical activities but does not require airports to pass any of the financial benefits of these activities onto passengers;

(iii) *excessive pricing:* the combination of dual till and insufficient capital expenditure oversight results in excessive airport charges and suppressed demand;

(iv) *an outdated and ineffective regime*: the escalation mechanism in the current regime is not working as intended and is therefore insufficient to deter poor behaviour. Nor is the regime designed to resolve disputes about significant investments or target service levels - the Commerce Commission has acknowledged this.

Air New Zealand's proposed reforms (outlined in the following table) would modernise airport regulation and restore alignment between airport incentives and public interest outcomes. The first two reforms are simple, effective and can be implemented within the current legislative framework. Reforms three and four are critical components of a well-functioning regime.

1.	***Hybrid till***	*Simple to implement near term* *High impact*	Aligns incentives across airports, airlines, and government by recognising the integrated nature of airport businesses. Shares a portion of non-aeronautical revenue to reduce airport charges and therefore support connectivity. This change can be made with limited amendments under the existing framework.
2.	***Strengthen Regulatory Flexibility and Oversight Tool***	*Simple to implement near term* *High impact*	Enable targeted intervention for individual airports rather than collective regulation of all three major airports Equip the Commerce Commission to act quickly and proportionately through clear, predictable escalation triggers.
3.	***Independent scrutiny of major capital projects***	*Framework required* *Medium term*	Ensures independent capex scrutiny occurs prior to build. Monitoring will reduce risk of non-delivery or overspend. Consistent with international practice.
4.	***Binding dispute resolution mechanism***	*Framework required* *Medium term*	Ensures that feedback from all market participants is adequately addressed. Effective dispute resolution promotes collaboration.

New Zealand's aviation system is at a crossroads. The status quo is not neutral - it is an active barrier to system resilience, affordability, and growth. This is a rare opportunity for structural reform. With the right tools in place, New Zealand's airport regulatory framework can shift from passive oversight to active alignment, supporting investment decisions that grow the aviation system in step with the economy and deliver better outcomes for all New Zealanders.

1. Introduction

Air New Zealand welcomes MBIE's targeted review of Part 4 airport regulation. This review comes at a critical time for New Zealand's aviation system. As a key enabler of economic activity, aviation supports around 177,000 jobs. Of that, Air New Zealand supports over 130,000 jobs and $26.4 billion in direct and facilitated economic activity annually.[3] These are jobs in every region and across many sectors – aviation, hospitality, tourism and more.

The strength of this broader aviation system, and the livelihoods it sustains, relies on fair and effective airport regulation. As the OECD has noted, New Zealand's geographic isolation and low population density make this especially critical.[4]

Since the corporatisation of New Zealand airports in the late 1980s, the sector has undergone a profound commercial transformation. Auckland International Airport is now fully privatised and is one of New Zealand's largest listed companies, with once-in-a-generation multi-billion-dollar capital plans that will fundamentally reshape the cost base of New Zealand's entire aviation network. Yet despite this evolution, the regulatory framework for airports has remained virtually unchanged and is now ineffective. This regulatory "gap" is already contributing to growing cost pressure across the system.

In its assessment of the domestic airline sector (May 2025), the Commerce Commission noted that input costs have increased significantly in recent years, making the economics of smaller regional routes particularly challenging. When prices rise faster than demand can absorb, passenger volumes fall. Independent analysis prepared by infrastructure advisors Castalia estimates that higher aeronautical charges, combined with rising agency fees and levies, will result in **3.9 million fewer** passengers travelling through Auckland Airport in the five years to 2032. This leaves a smaller passenger base to cover rising infrastructure costs, triggering further price increases - a self-reinforcing cycle that ultimately weakens growth and connectivity for Kiwi travellers.

Air New Zealand can see signs of this cost pressure in the market. It is our strong view that it is in the shared interests of airports, airlines and government to reverse the trend and enable sustainable growth. Supporting shared interests means building infrastructure that aligns with actual demand, is affordable, and supports the kind of connectivity that drives regional development, export competitiveness and tourism recovery and growth. Of the few levers available to government to influence these outcomes, effective airport regulation is among the most impactful.

If MBIE's review leads to meaningful regulatory change, it will unlock growth for New Zealand in a way that few policy changes could.

2. The Problem: The Current Regime Is No Longer Delivering on Its Purpose

The economic regulation of New Zealand's major airports is outdated and no longer aligned with international best practice. The current regime assumes airports act in consumers'

[3] Sense Partners, Facilitating Prosperity: The Economic Contribution of Air New Zealand (8 December 2023). Air New Zealand press release.
[4] OECD, New Zealand Economic Survey, 2024.

long-term interests, a holdover from when they were all publicly owned and expected to balance profit with public good. Today's privately owned airports operate with different imperatives, so urgently require updated regulation.

Airports act as permitted by the regulatory environment, and the current regime incentivises behaviour that does not align with passenger or broader aviation system needs. Without effective oversight, airport capital plans can proceed in ways that benefit shareholders while undermining the public interest.

The current regime's reliance on transparency alone has repeatedly proven insufficient to constrain pricing or investment by airports with significant market power. In response to MBIE's review questions, this section outlines the key ways in which the current regime is falling short:

(i) insufficient oversight of major capital investment;
(ii) misaligned investment incentives;
(iii) excessive pricing;
(iv) an outdated and ineffective regime; and
(v) New Zealand is an international outlier.

2.1 Insufficient oversight of major capital investment:

Auckland Airport's controversial proposal to invest at least $6.6 billion[5] of aeronautical capital expenditure over the 10 years to 2032 provides a clear example of the failings of the current regime with regard to major capital investment.[6]

While airlines have been consulted, nearly all have raised concerns about the scale and cost of the programme. Under the current regime, however, there is no formal ability to challenge the appropriateness or efficiency of the investment, and as the Commerce Commission has recently acknowledged, there are limitations in the existing framework for scrutinising projects of this scale.

Independent analysis by Castalia highlights a core flaw in the current regulatory model: ex-post reviews do not protect against overbuild risk, as airports can rationalise cost increases after the fact. Information disclosure is, by design, backward-looking. It cannot prevent inefficient investment or excessive pricing before these are embedded into the cost base. By the time impacts are visible to consumers, it is often too late to reverse them.

This lack of upfront oversight has broad system-wide consequences. Major airport investments directly influence the cost base of the entire domestic air network. Most

[5] Based on AIAL's base case aeronautical capital expenditure forecast for PSE4 and PSE5 as published in AIAL's PSE4 Price Setting Disclosure dated 17 August 2023 (pg 7). AIAL has also included a high case forecast which includes additional expenditure of $1.1 billion.

[6] AIAL's ITP exceeds international efficiency benchmarks relative to forecast demand. Despite the size of the investment, the ITP adds just two additional gates – a strikingly low capacity uplift relative to spend. In a user-pays system, where investment must be recovered through charges, this raises serious questions about whether there is sufficient capacity uplift to pay for it.

regional journeys rely on connections through one of New Zealand's major airports - especially Auckland. When costs at these hubs rise, so too does the cost of regional travel.

Over-investment in large-scale projects can also divert resources away from regional infrastructure. If airlines are forced to absorb the cost of inefficient or unnecessary investment at major airports, their capacity to invest in smaller regional airports is reduced, ultimately weakening New Zealand's broader transport network.

Importantly, Auckland Airport's current development represents only the first phase of a much larger longer-term redevelopment programme. As Case Study 4 below demonstrates, Auckland Airport's draft Master Plan is estimated to cost [**CIC**] for the full development of the precinct.

2.2 Misaligned investment incentives

New Zealand's airport regulation operates under a dual till model, which separates aeronautical and non-aeronautical activities for pricing purposes. This means that charges to airlines and passengers are based on the cost of providing aeronautical services (such as runways, terminals, and security) while revenues from commercial activities (like retail, car parking, hotels and property development) are excluded from the pricing calculation. The majority of these commercial activities all benefit from the passenger volumes generated by the aeronautical network.

In practice, these commercial activities often rely on shared infrastructure. Roads, utilities, maintenance services, and management overheads typically support both sides of the airport business. Yet under the current framework, costs can be disproportionately allocated to the aeronautical till, while commercial activities benefit. This dynamic can encourage investment in commercial ventures at the expense of essential aviation infrastructure. The Mānawa Bay example illustrates how this distorts investment priorities and misallocates shared infrastructure costs while also negatively impacting the consumer experience.

Case Study 1: Mānawa Bay

Auckland Airport recently opened the $200 million Mānawa Bay retail development. While the airport precinct already experiences significant traffic congestion, the Draft Master Plan however proposes only modest roading upgrades over the next 12 years and no mass rapid transit solutions until at least 2038. As a result, travel to and from the airport will become increasingly difficult.

Despite this congestion, Auckland Airport recently opened the $200 million Mānawa Bay retail development in the middle of the airport precinct. Air New Zealand expects Mānawa Bay to add approximately 17,500 daily traffic movements, increasing overall traffic in the precinct by around 30%. This has significantly compounded the traffic problem, leading to delays for passengers and staff with flow-on effects on service reliability.

This example speaks to the misaligned investment incentives of the current regime. Most passengers would have preferred Auckland Airport to prioritise investment in transport infrastructure rather than a shopping mall that makes accessing the airport more difficult.

Auckland Airport's forecast base case spending for roading over the 10 year PSE4-5 period is $164 million, rising to $460 million in a high case scenario. [**CIC**] of these roading costs (and 50% of the cost of the road that is primarily used to access Mānawa Bay) are allocated to the aeronautical till, which are ultimately reflected in increased passenger fares.

New Zealand's dual till model incentivises airport operators to capture the upside of commercial investments while pushing associated costs into aeronautical charges. While this may be rational from a business perspective, it creates inefficiencies, misdirects capital, and increases costs for airlines and passengers, with no accountability for whether those outcomes serve the wider public interest. In effect, the tills are not operating independently, but in quiet competition: the commercial side retains the profits, while the regulated side absorbs the shared costs.

2.3 Excessive pricing outcomes

Excessive pricing outcomes are the natural result of the structural issues described above. When major capital expenditure is not subject to robust, ex-ante oversight (as outlined in 2.1), and when investment incentives are misaligned through a dual till model that separates costs from benefits (as outlined in 2.2), airports are free to set prices that reflect their commercial priorities and interests rather than the needs of the wider aviation system.

Evidence shows that this negative dynamic is already playing out under New Zealand's current regime. A 2021 report by Frontier Economics[7] estimated the internal rates of return (IRR) for Auckland and Wellington Airports since privatisation in 1998, finding that both airports have consistently earned returns well above their estimated cost of capital and the

[7] Frontier Economics, Improving the Economic Regulation of Airports (December 2021)

current light-handed regime has enabled sustained economic rents across both aeronautical and non-aeronautical services.

Table 1: Estimated IRR vs Cost of Capital for Auckland and Wellington (1998-2017)

		Auckland	Wellington
Opening asset value	$000	756,977	146,000
Sum of cashflows	$000	3,048,410	600,147
Closing asset value - market	$000	8,490,700	1,182,753
Closing asset value - book	$000	6,145,800	1,000,217
IRR range	%	19.9% - 21.0%	16.9% - 17.4%
WACC estimate	%	11.6%	11.6%

Source: Frontier Economics analysis

Frontier Economics have observed that dual till is guaranteed, due to the nature of its incentives, to deliver an excessive level of charges.[8] International analysis reinforces this conclusion. A 2017 study by York Aviation,[9] commissioned by Airlines for Europe, found that airports operating under dual till models consistently earned returns above their WACC, returns that would typically be competed away in a functioning market.

These findings underscore the structural weakness in New Zealand's current regime. It allows airports to set prices based on capital plans that lack independent oversight and to recover those costs from airlines and passengers, even when those costs are inefficiently allocated.

2.4 Outdated and inflexible regime

The current regulatory framework lacks the tools, flexibility, and responsiveness needed to address the risks outlined in the previous sections. Even when concerns are identified - such as inefficient capital spending or excessive pricing - the regime provides no practical mechanism for timely intervention.

In the most recent review of Auckland Airport's PSE4, the Commerce Commission found that the current regulatory regime constrained the Commission's ability to assess major investment plans or pricing proposals *before* they are implemented. This limitation is particularly problematic given the consistency of the Commission's findings of excessive pricing by Auckland Airport over multiple price setting events. In addition, the Commission's five-year review cycle is not equipped to assess the efficiency of multi-generational capital programmes that stretch across several pricing periods. The impacts are not theoretical: Auckland Airport's excess profits were in place during the critical rebuild of most airlines' international networks, which reset the post-COVID status quo. The result is that, while most markets are now well above their pre-COVID capacity, New Zealand's

[8] Frontier Economics, Defining The Regulatory Till, 2011.
[9] York Aviation, The Cost and Profitability of European Airports, 2017.

international arrivals are just ~90% of pre-COVID with Auckland's capacity stagnant over the last two peak summer seasons.

Despite these findings, the Commerce Commission has not initiated a section 56 inquiry, in part because of the complexity of such processes as mandated in the Act. The requirement to determine or amend input methodologies before an inquiry can proceed is particularly onerous. In practical terms, any review is unlikely to conclude before the airport resets its prices, rendering the process ineffective as a deterrent. This structural flaw weakens the intended "credible threat" of escalation that underpins the current light-handed regime.

This rigidity also imposes high costs on users. During the PSE4 process, Air New Zealand alone has incurred several millions of dollars in legal, economic, and technical advisory costs to attempt to ensure that charges were efficient and investments justifiable. These are sunk costs incurred without any guarantee of an appropriate regulatory outcome. The model effectively requires users to act as de facto regulators - a burden that is not sustainable and that entrenches power and information asymmetry in favour of airport operators.

2.5 New Zealand's Airport Regulatory Regime Is an International Outlier

By global standards, New Zealand's approach to airport regulation is now an outlier. In 2025, Air New Zealand commissioned a report from Oxera, a leading international economic consultancy, to benchmark New Zealand's approach against that of other jurisdictions, particularly those where airports with market power are privately or majority-privately owned.[10, 11]

International experience shows that the fewer competitive constraints an airport faces, the stronger the case for effective regulatory oversight. Oxera's analysis is clear: in regions that have shifted airport infrastructure to private ownership, transparency alone is not enough to protect consumers from market power, or to uphold the national interest.

As Figure 1 shows, Auckland Airport stands out globally on the basis of the extent of the market power it holds and the limited constraints placed on its pricing and investment behaviour. In any other jurisdiction, this combination would typically trigger proactive oversight, price regulation, or enforceable undertakings. Even Australia's regulatory regime, which is arguably light regulation and low competitive constraint, includes formal monitoring on an annual basis, mandatory annual reporting on prices, service quality and financial performance, and a degree of government strategic control.[12] In contrast, New

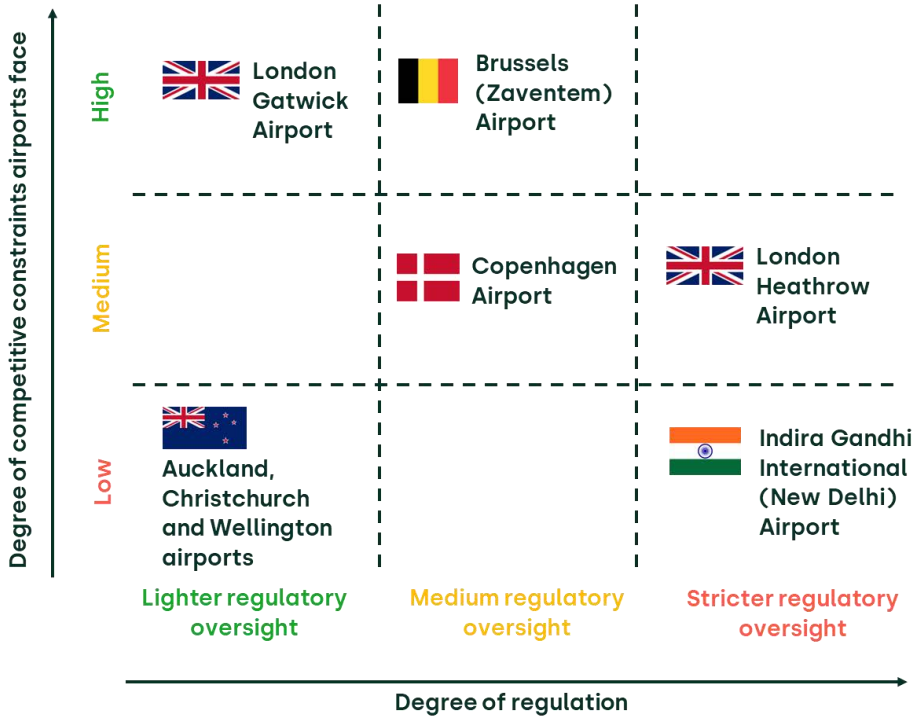
[10] Oxera has advised stakeholders across the entire aviation value chain and has played a key role in developing airport regulation and designing regulatory frameworks grounded in competition principles. A full copy of their report has been provided to MBIE with this submission.

[11] The majority of airports globally are in public ownership. For example, in the USA, despite being a highly market oriented economy, almost all airports are still publicly owned and managed as strategic municipal infrastructure.

[12] In Australia, the federal government also retains ownership of the land on which the major airports operate. So while the airports are privately operated, the underlying land remains Crown (government) property, which gives the Commonwealth a degree of long-term strategic control — for example, through lease conditions, planning approvals, and regulatory oversight.

Zealand continues to rely solely on transparency - an approach that international regulators view as insufficient.

Figure 1: The relationship between competitive constraints and the degree of regulation (Oxera)



Without reform, New Zealand risks entrenching a system that is both costly to engage with and ineffective at protecting consumer and national interests. The longer New Zealand's regime remains an outlier, the more pressure is placed on affordability, connectivity, and the credibility of the regime itself.

3. The Solution: Modernise Airport Regulation to Align with Public Interest Outcomes

Air New Zealand proposes two targeted immediate reforms that can be implemented within the current regulatory framework – ***hybrid till and improved regulatory flexibility***. The solutions outlined in this submission are designed to restore alignment between airport investment incentives and consumer outcomes. They address the core structural weaknesses in the current dual till, light-handed regime. Both are supported by international precedent and independent economic modelling. These reforms will also provide a pathway toward more comprehensive reform to ensure independent scrutiny of capital investment and appropriate dispute resolution mechanisms.

3.1 Hybrid till

Air New Zealand strongly supports MBIE's consideration of hybrid till alternatives to the current dual till regime. Regulators globally are increasingly moving to hybrid till as a simple and efficient compromise between single till and dual till regulation, particularly in regions where airports have been privatised.

While current settings focus on transparency after the fact, hybrid till ensures that aeronautical charges reflect the broader value generated by passenger activity and shared infrastructure, consistent with pricing outcomes in a competitive market. It is a proven mechanism to constrain overinvestment and inflated pricing before they are embedded in the cost base.

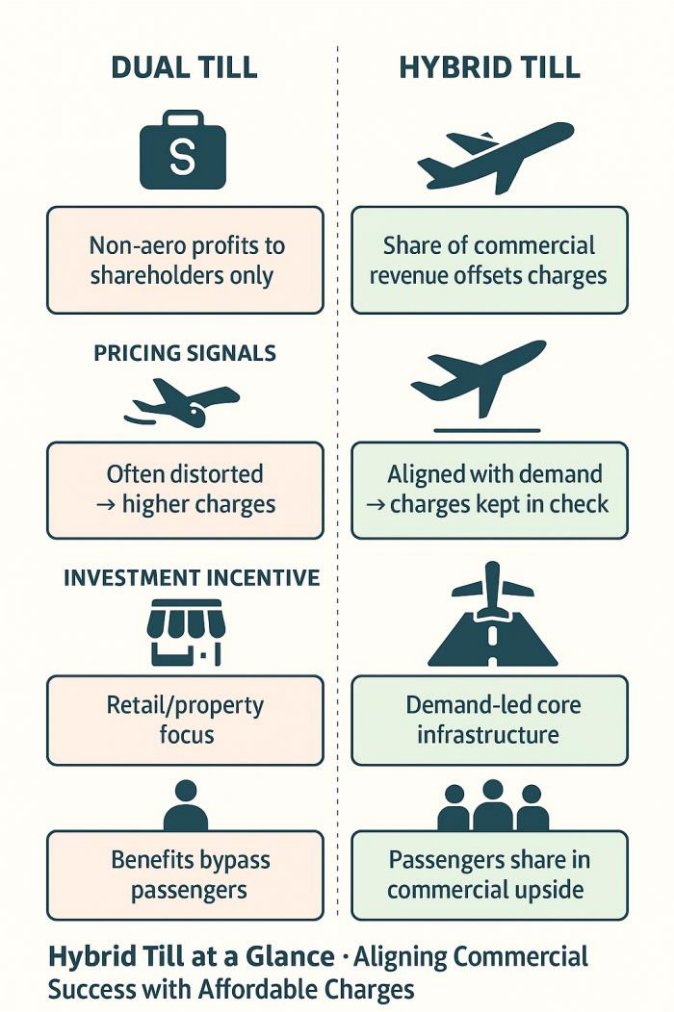
a) What is a hybrid till

Hybrid till is a pricing model that requires airports to use a defined share of non-aeronautical revenues (from activities such as retail, parking, hotels and property) to subsidise aeronautical charges.

Within existing information disclosure regulation, a hybrid till model would require airports to take into account a defined portion of commercial, non-regulated revenues for the purpose of calculating the airports' targeted and actual return on regulated assets. These returns would be published and targeted returns would be subject to five-yearly reviews against input methodologies following price-setting events.

Should further intervention or oversight be required, a hybrid till would be equally compatible with the other regulatory approaches already contemplated with Part 4 of the Commerce Act, including negotiate/arbitrate frameworks or price-quality regulation.

Figure 2: Key Features and Benefits of a Hybrid Till Model



b) Hybrid Till realigns incentives with the Part 4 purpose

Hybrid till helps address a key limitation of the current dual till model: the disconnect between who funds airport infrastructure and who benefits from it. Specifically:

- Under dual till, airports are able to develop diversified, lower-risk commercial businesses (including retail, parking, and property) which benefit from the passenger volumes generated by the aeronautical network.
- Yet the financial benefits of this diversification are retained entirely by the airport, while the cost of aeronautical infrastructure is recovered solely from airlines and their passengers.
- In a genuinely competitive market, firms would factor all revenue sources into pricing decisions or risk losing business to more efficient competitors. Hybrid till introduces this kind of discipline into a monopoly environment, ensuring that

commercial gains linked to passenger throughput help offset the cost of infrastructure used to generate them.

- This shift results in more proportionate pricing and better reflects the enterprise-wide risk profile of modern airports. In doing so, hybrid till helps replicate the outcomes expected in a workably competitive market, consistent with the purpose of Part 4 of the Commerce Act.

c) Economic evidence and international examples

Hybrid till is supported by economic analysis and international best practice for airport regulation:

- Frontier Economics (2021) found New Zealand's dual till system enables inefficient pricing and sustained excess returns, particularly at Auckland and Wellington. Hybrid till was recommended as a remedy to improve efficiency and reduce pricing distortions.
- Castalia modelling (2025) shows hybrid till could reduce Auckland Airport's charges by around 20% - 30% across PSE4 and PSE5 particularly on price-sensitive regional routes.
- The OECD has described hybrid till as a "well-calibrated lump-sum subsidy between commercial and aeronautical activities," noting its value even under light-handed regimes like New Zealand's.

There are numerous examples of hybrid till regimes across Europe and Asia Pacific. The Oxera report references as examples Copenhagen, Portugal and India (the fastest growing aviation market in the world which adopted hybrid till regulation in 2016). Oxera notes a trend towards hybrid approaches, with airports such as Heathrow potentially moving to exclude some commercial activities from the till, and the French airports being permitted to implement a hybrid- rather than a single-till if they sign a multi-annual agreement.

It is important to note that the choice of the regulatory "till", and the intensity of regulatory intervention, are not inherently linked. For example, hybrid till systems are used both in India's regulator-led approach and in Copenhagen's multilateral negotiation process. A hybrid till does not require complicated and costly regulatory oversight and can flex as necessary to provide alternative, airport specific, approaches where conduct, market conditions or capital expenditure deem it necessary. Examples of hybrid till regimes are included in Oxera's report.

d) Implementation Pathways

There are several ways in which the hybrid till could be executed within the existing legislative framework. While this submission is not prescriptive about the exact mechanics, Air New Zealand would be happy to assist MBIE and the Commerce Commission in discussing the changes needed in order to ensure a fit-for-purpose approach for New Zealand if that would be helpful.

3.2 Stronger Regulatory Intervention Tools

This section responds to MBIE's second core question: *whether the current regime is sufficiently flexible to provide a timely and proportionate response when concerns about airport conduct or investment emerge*.

At present, it is not. The regime lacks practical tools to assess airport behaviour in real time, to intervene when issues arise, or to prevent excessive pricing or inefficient investment before it impacts users. The only formal escalation mechanism - a section 56 inquiry – has never been initiated. It is retrospective, complex, and often too slow to be effective before the next pricing round.

This section proposes a package of reforms that would strengthen the regime's effectiveness and credibility. Some of these tools (such as airport-specific escalation and faster inquiry processes) can be implemented quickly under existing legislative structures. Others such as independent scrutiny of major capital projects and a binding dispute resolution mechanism are equally important but may require additional development. Collectively, these reforms would deliver a more flexible and proportionate regime that is better targeted to risk and less costly to participate in. The result would be a fit for purpose aviation system for New Zealanders. As discussed in Section 2.4, the current framework requires users to incur considerable cost simply to engage. A regime that enables timely, proportionate oversight would reduce this burden while increasing effectiveness.

a) A regulatory threat that no longer works

The entire premise of the information disclosure regime is that it functions as a credible threat - deterring poor conduct by signaling the potential for stronger regulation (the "credible regulatory threat" principle) a point noted explicitly in prior reviews[13]:

> The light-handed information disclosure regime is intended to work through providing a credible threat of further regulation if the airport's information disclosure does not meet the Commission's expectations. If an airport does not comply with the Part 4 purpose, then further regulation could be applied – either negotiate/arbitrate or price-quality regulation which is provided for in Part 4.

The information disclosure regime is not functioning as intended. To address this, Air New Zealand proposes a set of targeted regulatory tools that can be implemented within the current legislative framework. These would improve the effectiveness, responsiveness, proportionality, and credibility of airport regulation in New Zealand.

[13] Cabinet Paper - Part 4 of the Commerce Act 1986: Strengthening the Regulatory Regime for Major International Airports, para 10.

b) Tools for Targeted Intervention

In our view, the following additions would provide MBIE and/or the Commerce Commission with a scalable toolkit to manage risk, protect consumers, and ensure that the regulatory regime works as designed:

i. **Clarify that targeted escalation can apply to individual airports** (via amendments to sections 56A and 56G), rather than assuming collective regulation of all three major airports.

ii. **Enable rapid, targeted escalation** through a streamlined section 56 inquiry process (six-month timeframe).

iii. **Allow for airport-specific Orders in Council**, ensuring regulatory actions are agile, proportionate, and able to effectively deter monopoly pricing or inefficient investment decisions.

iv. **Introduce ex-ante capital investment review powers**, allowing the Commerce Commission, or a suitably qualified independent expert, to assess proposed capital expenditure before costs are locked into aeronautical prices. This review should consider not only the efficiency and scale of the proposed investment, but also its likely impact on wider economic outcomes, including demand elasticity, regional connectivity, and potential displacement of other critical aviation or infrastructure investments.

These changes do not seek to alter the existing Part 4 continuum (Information Disclosure → Negotiate/Arbitrate → Price-Quality). Rather, Air New Zealand's proposals enhance the existing tools, making them effective oversight and deterrents and ensuring they function as intended. As with hybrid till, these reforms would enable a more efficient, risk-based approach - focusing attention where it is most needed. International evidence supports this direction. In proposing these enhancements, Air New Zealand supports BARNZ's call to amend the Commerce Act to enable airport-specific escalation under section 56, and to remove the requirement to redetermine input methodologies before an inquiry can commence. These changes would materially improve the responsiveness of the regime and restore the credibility of the regulatory threat it is intended to provide.

c) Tailoring regulation to risk

This position aligns with Air New Zealand's previous submission to MBIE's review of the Commerce Act (February 2025). Flexibility is especially important because not all major airports pose the same risk. Differences in ownership structure, market power, and competitive context mean some airports may not require the same degree of regulatory oversight as others. A fit-for-purpose framework must allow targeted regulatory escalation where risk is concentrated, rather than assuming a one-size-fits-all approach. Enabling

airport-specific intervention recognises that effective regulation is not about regulating *more* but regulating *smarter*.

Case Study 2: Christchurch Airport – A Model of Aligned Incentives

Christchurch Airport offers a local example of how governance, competition, and ownership structure can drive better alignment with consumer and aviation system outcomes.

Unlike airports with dominant market positions, Christchurch Airport operates in a more contested environment - its proximity to Queenstown means it must earn and retain passenger volume. This competitive dynamic, combined with its public ownership by Christchurch City Council and the Crown, creates strong incentives to focus on its core function: enabling efficient, affordable air travel.

Recent experience has shown that Christchurch Airport takes a collaborative, demand-led approach to investment, consulting early with airline partners and scaling projects to fit actual growth, not speculative projections. For example, Christchurch Airport has introduced titled annuity depreciation into its price setting. Its charges remain among the lowest and most stable of New Zealand's major airports, reflecting its emphasis on value over margin.

This example also highlights a broader regulatory insight: not all major airports require the same form or intensity of regulation. Where market forces and ownership structures create natural checks on pricing and investment behaviour (as is the case in Christchurch) lighter-touch oversight may be sufficient. The regulatory model should reflect not just size, but risk.

Air New Zealand does not always agree with Christchurch Airport. But the relationship is more collaborative, with a stronger shared focus on enabling sustainable aviation growth. This illustrates that when ownership and competitive context support alignment, the system works better - delivering lower costs, stronger partnerships, and more sustainable infrastructure outcomes.

Some airport stakeholders argue that enabling faster or airport-specific inquiries would introduce regulatory uncertainty. Air New Zealand disagrees. International experience shows that regulatory flexibility does not undermine certainty, when well-designed, it improves it. International experience demonstrates this.

d) International best practice: regulatory flexibility is a feature, not a flaw

One of the key insights from the Oxera report is that regulatory flexibility is a feature, rather than a weakness, of regulatory systems. The UK Civil Aviation Act exemplifies this principle, empowering the UK Civil Aviation Authority (UK CAA) to tailor its regulatory approach without requiring further legislative changes. This has enabled the UK CAA to adopt distinct regulatory approaches for each of Heathrow, Gatwick and Stansted Airports based on their respective levels of market power. The regulation of Gatwick Airport is based upon price and service quality commitments agreed between Gatwick and their airline customers.

Heathrow, by contrast, is subject to more robust oversight, reflecting its greater degree of market power.

e) Regulation should encourage collaboration

International examples also show how a credible regulatory backstop can promote, rather than undermine, collaboration. The Oxera report examines models in which airports and airlines negotiate directly within a structured environment. In Copenhagen, the multilateral negotiation process has consistently delivered stable outcomes through negotiation, without needing to trigger its fallback regulatory settings. The UK CAA has also found that the negotiation approach at Gatwick is functioning effectively. These frameworks encourage collaboration between stakeholders, reducing the need for direct regulatory imposition while maintaining a robust safeguard in case of disagreement.

Developing an effective dispute resolution mechanism to support other regulatory tools would encourage greater collaboration between market participants. This proposal aligns with the recommendation in our executive summary to introduce a **binding dispute resolution mechanism**. This is an essential component of a modern regulatory regime and should be developed alongside other reforms.

f) Ex-ante capex reviews are the norm

Globally, forward-looking scrutiny of major capital programmes is standard practice. As the Commerce Commission's PSE4 Final Report confirms, the reliance on ex-post capital expenditure monitoring leaves consumers without meaningful protection. Regulators are understandably reticent to act once capital is already committed, because of the impact this might have on future investment. For this reason, modern regulatory frameworks in comparable jurisdictions apply a more active stewardship model. These allow regulators to intervene early - particularly when airport users raise concerns about major capital expenditure projects - preventing negative impacts on airfares and service outcomes.[14]

This supports our recommendation in Section 3.2(b)(iv) to introduce independent scrutiny of major capital projects. While this reform may require a dedicated implementation pathway, it is no less critical. A credible review process, before prices are set or poured into concrete, is essential to ensuring that capital investments support demand, deliver value, and maintain public trust in the regime. Air New Zealand supports BARNZ's proposal that this verification function could be modelled on existing infrastructure frameworks and either incorporated into a future regulatory tier or added as an enhancement to the current information disclosure regime.

[14] Evidence from York Aviation suggests that where dual till models are used without rigorous regulatory scrutiny, there is a risk of overinvestment in infrastructure not proportionate to user needs. This "gold plating" can inflate the RAB and drive higher charges—often justified ex post with insufficient transparency.

4. Independent Modelling Shows that Alternative Regulatory Approaches will Improve Aviation Outcomes

Air New Zealand commissioned an independent analysis by Castalia to model how Auckland Airport's capital expenditure programme would increase future aeronautical charges under the current regulatory regime. Castalia then compared the impact of alternative regulatory models routinely used in other jurisdictions. A full copy of their report has been provided with this submission. Castalia found that alternative proven international regulatory models would lead to lower aeronautical charges and more passenger journeys than under the current approach.

Figures 3 and 4 illustrate the effects of the four scenarios, compared to a "business as usual" (BAU) approach.[15] The "Affordable Airport & Hybrid Till" scenario effectively replicates a regulator-led hybrid till regime (such as India). The "Hybrid Till" scenario represents an airport-led regime, similar to the current New Zealand regime but with a change to hybrid till.

Figure 3 shows the effect on Auckland Airport's domestic aeronautical charges[16]. Under the current regime, Auckland Airport's domestic charges will increase from around $8.60 per passenger in 2022 to $38.80 per passenger by 2032. Under the two hybrid till scenarios, Castalia expects domestic charges in 2032 would be 20-30% lower than under the current regime.

Figure 3: Domestic passenger aeronautical charges at AIAL under all scenarios

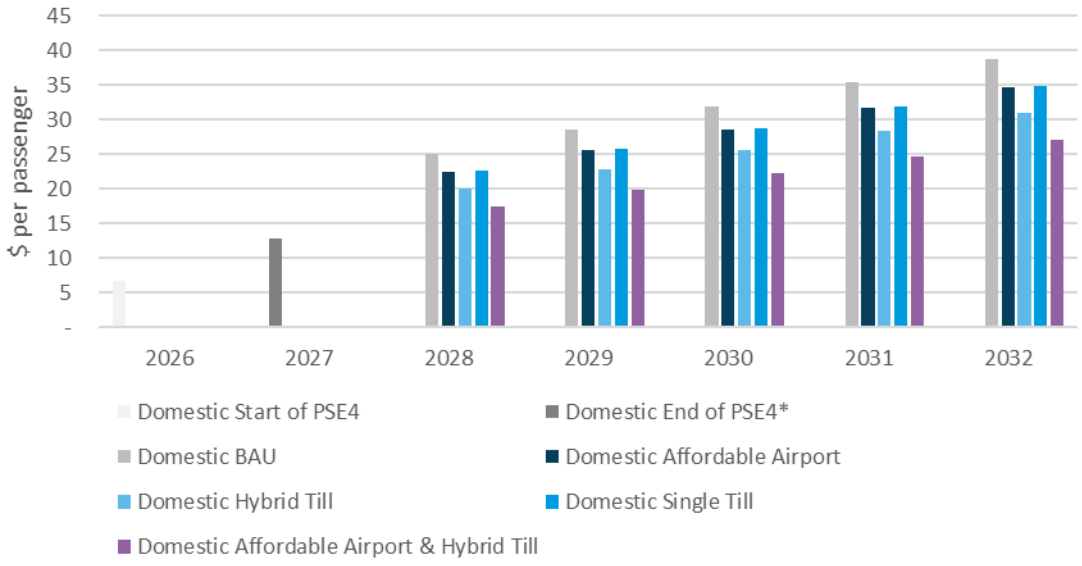


Figure 4 shows Castalia's estimates of the impact that alternative regulatory constructs will have on the volume of passengers travelling through Auckland Airport. Relative to the current (BAU) regime, Castalia estimates that an airport-led hybrid model would result in

[15] Assuming the current regulatory state and the completion of Auckland Airport's capital programme for PSE4 and PSE5).

[16] A similar chart for each of regional and international charges is contained in the full report.

additional passenger volumes of 1.25% by 2032. A regulator-led hybrid model would result in additional passenger volumes of almost 2% by 2032.

Castalia expects that under the current regulatory regime, higher aeronautical charges at Auckland Airport will result in 2.4m fewer passenger journeys in the five years to 2032, rising to 3.9m fewer passenger journeys if the impact of higher border, aviation security, civil aviation and related agency fees and levies are included. Castalia estimates the hybrid till scenarios would result in much lower demand suppression, at 1.1- 1.8m more passenger journeys compared to the BAU.

Figure 4: Total passenger throughput at AIAL under counterfactual scenarios, compared to BAU[17]

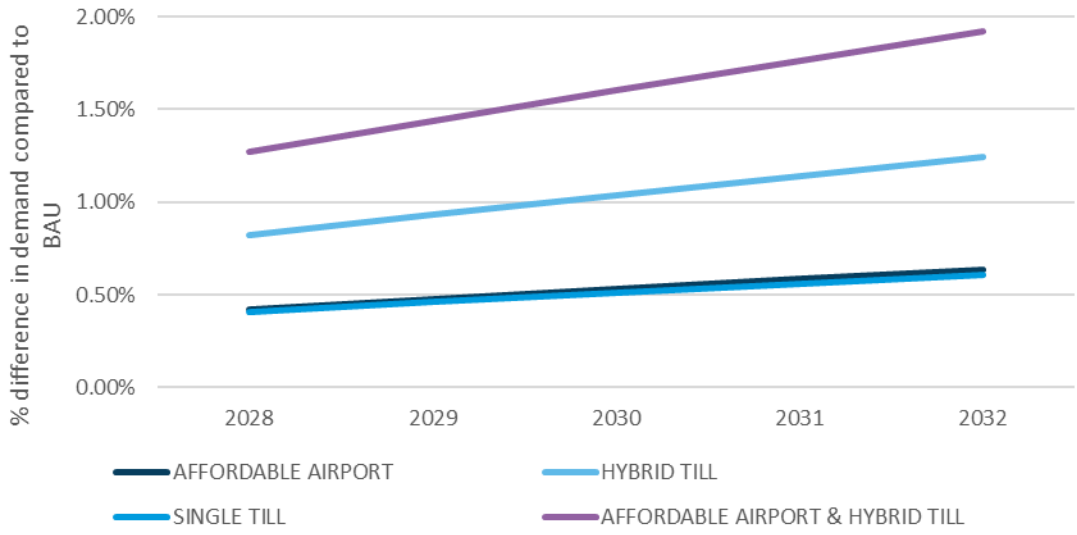


Figure 4 shows the impact on demand across all routes and fare types. In each of the scenarios considered by Castalia, the effect is greatest on domestic and regional travellers. Since domestic and regional travellers account for around 46% of all passenger throughput at Auckland Airport (over 8.4m domestic passenger journeys), even small percentage increases to passenger volumes are significant. The simple hybrid till scenario will produce up to 5.90% greater passenger demand on individual routes, while a combination of hybrid till and a fit-for-purpose terminal results in up to 9.20% greater passenger demand.

Auckland Airport's plans to invest heavily across subsequent PSE periods (2033 – 2042) (see Case Study 4 below). Castalia modelled how the capital expenditure required to deliver Auckland Airport's 2014 Master Plan might affect the aeronautical revenue that Auckland Airport would be permitted to charge under current regulatory settings.[18] Castalia expect

[17] The "more affordable airport" scenario assumes AIAL invests in a fit-for-purpose terminal at a more affordable level to meet forecast demand.

[18] While AIAL did not release any cost indicators as part of its recently released 2025 Draft Master Plan, Castalia used cost estimates developed in relation to the 2014 Master Plan to model indicative

that in 2033 (PSE6) and beyond, aeronautical revenues will increase at a much faster rate (**[CIC]**) than the growth in passengers who pay the charges (see Figure 5 below). This means the effect of aeronautical charges on passenger demand for air travel is likely to be even greater after 2033.

The Castalia analysis makes clear that targeted regulatory reform can materially improve affordability and access, particularly for regional travellers, who are most affected by cost sensitivity.

Figure 5: AIAL's estimated annual revenue requirement from aeronautical charges in PSE5, PSE6 and PSE7 (2027-2042) and projected passenger throughput

[confidential and commercially sensitive]

aeronautical revenue over a longer time horizon that AIAL will be permitted to charge under current regulatory settings.

5. Risks to New Zealand's Aviation System Without Regulatory Change

This section outlines the key risks of leaving the current regulatory settings unchanged. The risks of inaction are not abstract, they are already visible, measurable, and compounding. Left unchanged, the current regulatory framework will lock inefficiency into the cost base of the entire aviation system, with consequences felt most acutely by regional communities, price-sensitive travellers and industries that depend on air connectivity.

5.1 Rising Costs and Falling Demand

Castalia's modelling confirms that under the status quo New Zealand faces a worsening cost spiral:

- Charges and airfares will rise, especially on domestic and regional routes;
- Demand will fall, particularly where price elasticity is highest;
- Regional connectivity will erode, slowly but inevitably, as route economics collapse;
- The user-pays cost base must be spread across fewer passengers, driving prices higher still;
- And opportunities for economic growth - through tourism, trade, labour mobility, and domestic investment - will be lost.

As the Air Navigation System Review (May 2023) noted, New Zealand's aviation sector is at a crossroads. It is one of the few transport systems that largely funds itself, without major operating subsidies, and is expected to deliver both commercial return and public good. But when airport costs outpace demand, the system comes under pressure: routes contract, volumes decline, and the user-pays model becomes unsustainable. Without regulatory reform, this feedback loop will continue to erode affordability, access, and resilience across the network.

Representatives of airport interests tend to argue that stronger regulatory oversight would simply create a "wealth transfer" from airports to airlines were charges to drop. Air New Zealand acknowledges that the Australian Productivity Commission has cautioned against assuming automatic pass-through of charge reductions in all contexts.[1] We note however, that Figure 3 shows that at Auckland Airport, under all of the alternative regulatory constructs that Castalia has modelled, their airport charges will still increase significantly from current levels, just less steeply. There will be no "savings" for airlines to retain.

5.2 Risk of Entrenched Market Power: the Dual role of Airport Companies

A key risk of inaction is the growing ability of major airports to operate unchecked, not only as infrastructure providers, but as commercial landlords and competitors. Airports increasingly operate their own commercial services (e.g. lounges, valet parking, food and retail) which compete directly with services offered by full-service airlines. This dual role can create acute tensions, particularly where airports control access to limited terminal space and use that control to influence competitive outcomes. In such cases, the absence of credible regulatory recourse risks enabling anti-competitive behaviour to persist unchecked.

These conduct risks, though harder to quantify, highlight a deeper vulnerability: a regulatory model that lacks the flexibility and speed to respond to increasingly sophisticated forms of commercial power.

Case Study 3: [CIC]

5.3 Cumulative Impact of Unchecked Investment

Nowhere are the risks of inaction more visible than at Auckland Airport, where a 10 year, $6.6 billion capital programme is underway with an even larger wave of investment to follow.[19] If the regulatory regime is not strengthened now, the cost impacts of these decisions will soon be irreversible.

Case Study 4: Auckland Airport – Master Plan

In April of this year, Auckland Airport released its draft 2025 Master Plan (its first update since 2014) which provides a 25-year vision for land use and infrastructure at the Auckland precinct. The draft Master Plan signals a step-change in infrastructure ambition, including a second runway, the demolition of the Domestic Terminal Building and JUHI (jet fuel storage) facility, the construction of new international and regional piers and a new regional terminal.

The draft Master Plan is entirely uncosted. Air New Zealand has engaged its own independent expert to quantify the likely costs of the various Master Plan projects. This work is not yet complete. **[CIC]**

The future capital expenditure required to implement the Master Plan will therefore dwarf current levels associated with the ITP. As the Castalia report shows, the scale and speed of price increases facing passengers beyond PSE5 will be significantly amplified by this next wave of infrastructure investment. The impact will be felt most acutely over the 2033 – 2043 period, when many projects are set to complete and enter the regulated asset base.

Experience under the current regime has shown that once an airport begins pouring concrete, it is too late to influence the scope, timing or cost of projects. The light-handed regulatory framework offers no real mechanism to prevent excessive or inefficient spending before it is locked in.

The scale of capital expenditure set out in the Draft Master Plan is a warning. It makes the case for reform clear: if no action is taken now, the next decade of infrastructure investment will lock in higher costs, reduce system flexibility, and reshape the domestic air network in ways that are impossible to reverse.

6. Conclusion: Getting this Right Has Never Mattered More

Thousands of livelihoods across New Zealand depend on aviation. But beyond that it connects whānau, enables business, drives regional development, and keeps our economy open to the world. Those benefits are at risk if the airport regulatory framework does not evolve to meet current and future needs.

The current regulatory regime no longer provides the oversight or incentives needed to support affordable, efficient, and demand-led infrastructure for the benefit of consumers. Left unchanged, it will continue to erode regional access, suppress demand, and drive-up costs across the aviation system.

The reforms proposed in this submission are practical, effective, simple to implement within existing frameworks and targeted to address key risks.

- Hybrid till will realign incentives and reduce the cost burden on passengers.
- Targeted regulatory tools will restore the credibility and flexibility of the regime, enabling faster, fairer intervention.
- Future enhancements, including ex-ante capex scrutiny and dispute resolution, will strengthen accountability and reduce the risk of regulatory failure.

Together, these changes will support an aviation system that is more efficient, more affordable, and more resilient - not just for airlines or airports, but for every New Zealander who depends on air connectivity. New Zealand's aviation system is at a crossroads. The status quo is reducing connectivity. Reform can grow it. This is a rare and important moment for change, and with the right tools in place, we can grow an aviation system that works for all New Zealanders.

Yours sincerely

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