

## ACI ASIA-PACIFIC & MIDDLE EAST COMMENTARY ON REGULATORY FLEXIBILITY AND THE USE OF HYBRID-TILL MODELS IN THE CONTEXT OF NEW ZEALAND'S AIRPORT REGULATION

This submission from Airports Council International (ACI) Asia-Pacific & Middle East offers a strategic and evidence-based perspective on New Zealand's current airport regulatory framework, with specific focus on capital investment oversight and the flexibility of the regime in response to policy evolution. It strongly affirms the effectiveness of the existing dual-till model—where aeronautical and non-aeronautical revenues and costs are treated separately—citing its role in promoting investment, maintaining transparency, and aligning with international best practices. In contrast, the commentary raises substantive concerns regarding the adoption of hybrid-till alternatives, highlighting the risks of reduced investment incentives, increased regulatory complexity, and ambiguous revenue attribution, particularly in partially privatized contexts.

While acknowledging the OECD's recommendation to explore hybrid-till options, ACI cautions that the Economic Survey provides only a high-level and non-technical treatment of the issue, lacking in empirical depth or rigorous modelling. The document advocates targeted procedural enhancements, such as improved consultation protocols during major capital cycles. ACI ultimately recommends the preservation of the dual-till model as a proven regulatory foundation and encourages any further reforms to be pursued through careful analysis, broad consultation, and policy consistency.

### 1. Introduction

- 1.1. Airports Council International (ACI) Asia-Pacific & Middle East appreciates the opportunity to provide its perspective on the evolving regulatory framework governing New Zealand's airports. This commentary responds to the request for feedback on (i) the sufficiency of oversight during periods of major capital investment, and (ii) the regime's flexibility to adapt in the event of changes in regulatory direction. It also offers a considered response to the OECD's suggestion—contained in its 2024 Economic Survey of New Zealand—that the Government explore hybrid-till alternatives to the current dual-till structure.

### 2. Commentary on the OECD Economic Survey

- 2.1. While OECD Economic Surveys offer valuable macroeconomic perspectives, their treatment of sector-specific regulatory models, particularly those as technically complex as airport till regimes, can at times be limited in scope. In the case of New Zealand, the OECD's 2024 recommendation to explore hybrid-till alternatives appears to rest on a high-level conceptual framing rather than a detailed analysis of the regime's performance, structure, or legal underpinnings.
- 2.2. The OECD report does not provide substantive economic modelling, cost-benefit evaluation, or comparative assessment of hybrid till outcomes in markets with similar

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characteristics. As such, ACI would respectfully suggest that the OECD's input be viewed as a prompt for broader discussion, rather than as a definitive basis for policy redesign. Any exploration of alternative models should be informed by rigorous scenario analysis, structured stakeholder consultation, and an appreciation of the need to preserve regulatory credibility and investor certainty.

## **3. Performance of the Dual-Till Model**

- 3.1. New Zealand's light-handed, dual-till regime has underpinned a regulatory framework that is internationally recognized for its transparency, credibility, and ability to balance stakeholder interests. Under this structure, aeronautical and non-aeronautical activities are regulated separately, ensuring clarity in pricing while encouraging private investment in commercial infrastructure. The model has incentivized airports to expand and innovate, with pricing outcomes subject to scrutiny through mandatory information disclosure and post-implementation reviews conducted by the New Zealand Commerce Commission.
- 3.2. Comparable jurisdictions have achieved similarly positive outcomes under dual-till frameworks—most notably Australia, where deregulation in 2002 was followed by a sustained period of investment, capacity growth, and real reductions in airfares. The model remains broadly aligned with international best practices, particularly in markets that feature corporatized or privatized airport operators.

## **4. Considerations Regarding Hybrid-Till Alternatives**

- 4.1. ACI notes the OECD's recommendation that hybrid-till models be considered as a potential adjustment to the current framework. While conceptually intended to share non-aeronautical revenues with airline users, hybrid-till regimes are frequently associated with increased regulatory complexity, reduced investment incentives, and ambiguity in the attribution of costs and revenues. Experiences in India, where a hybrid-till model has been implemented for several major airports, illustrate the practical challenges such frameworks can introduce, including disputes over revenue allocation, regulatory uncertainty, and reduced investor confidence.
- 4.2. International academic literature remains divided on the comparative merits of single, hybrid, and dual-till regimes. Empirical evidence does not point conclusively to superior consumer or investment outcomes under hybrid arrangements, particularly in markets where non-aeronautical activities face competitive pressure and where commercial freedom is critical to funding future infrastructure.
- 4.3. In this regard, the dual-till structure in New Zealand has proven sufficiently robust and adaptive. Should refinements be required, ACI would suggest that these be achieved

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through incremental adjustments to transparency and engagement processes, rather than a fundamental restructuring of the till regime.

- 4.4. The global regulatory trend clearly demonstrates a move away from single till and, increasingly, from hybrid till, in favor of dual till regimes. Data from over 570 commercial airports across more than 100 markets shows that approximately 70 percent of airports already operate under dual or hybrid till frameworks, with dual till becoming the dominant model in newer regulatory transitions. Between 2015 and 2023, a growing number of major jurisdictions—including Brazil, Spain, Italy, Japan, Republic of Korea and India—have either transitioned to or are in the process of moving toward dual till, often as a result of airport privatizations or increased commercial investment. Empirical literature and regulatory experience point to dual till structures as more conducive to efficient investment, better alignment of risk and reward, and superior outcomes in congested and capital-intensive environments. This trajectory suggests that dual till has emerged as the global best practice, particularly in markets where airport infrastructure development is a national priority.

## **5. Oversight During Major Capital Investment**

- 5.1. The current regulatory model includes well-established mechanisms for airport-user engagement during periods of major capital expenditure. These include mandatory consultation protocols, price-setting disclosures, and post-facto reviews. Rather than shifting the foundational principles of the regime, greater clarity could be introduced through targeted reforms, such as enhanced disclosure requirements for long-term investment planning, improved forecasting assumptions, or event-based review triggers.
- 5.2. These adjustments would maintain the strengths of the existing framework while reinforcing public confidence in pricing decisions made during periods of intensive infrastructure development.

## **6. Regulatory Flexibility and Differentiated Treatment**

- 6.1. While increased regulatory flexibility offers the potential to better accommodate market dynamics and airport-specific circumstances, it must be balanced carefully against the imperative of regulatory stability. Changes to regulatory settings—particularly in a system such as New Zealand’s that has evolved incrementally over time—should be guided by thorough analysis, stakeholder consultation, and a clear understanding of long-term implications. A shift in approach, if not judiciously calibrated, risks undermining investor confidence, creating implementation uncertainty, and compromising predictability for both airport operators and users. ACI therefore underscores the importance of maintaining consistency in core regulatory

principles while allowing for pragmatic evolution through well-defined, evidence-based processes.

## **7. Conclusions and Recommendations**

- 7.1. ACI Asia-Pacific & Middle East respectfully submits that New Zealand's current dual-till regulatory model, when combined with robust disclosure and consultation processes, continues to serve the sector well. It ensures transparency, encourages investment, and aligns with global best practices for airport economic regulation. While there may be merit in enhancing certain procedural elements, particularly during major capital investment phases, there is no compelling evidence at this time to warrant a shift toward a hybrid-till framework.
- 7.2. **Accordingly, ACI recommends the following:**
- 7.2.1. Preserve the dual-till structure as the cornerstone of the regulatory regime;
  - 7.2.2. Introduce refinements to stakeholder engagement during major investment cycles;
  - 7.2.3. Provide regulatory authorities with flexibility to apply differentiated oversight where warranted;
  - 7.2.4. Approach any future consideration of alternative till models with caution, analytical rigor, and inclusive dialogue.
- 7.3. New Zealand's regulatory regime is well-regarded globally for its balance, clarity, and ability to promote long-term infrastructure development. ACI remains available to provide any further technical insights or assistance that may support the Government and the Commerce Commission in advancing this important policy dialogue.

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