

23 May 2025

Via email: competition.policy@mbie.govt.nz

Submission in response to MBE request for feedback on airport economic regulation under Part 4 of the Commerce Act 1986

Queenstown Airport Corporation Limited (QAC) welcomes the opportunity to provide feedback on the effectiveness of the economic regulation of airport services under Part 4 of the Commerce Act 1986. QAC has reviewed, and supports, the submission of the New Zealand Airports Association. We echo NZ Airports' position that MBIE should protect the integrity of the current regulatory framework, uphold the role of the Commerce Commission and resist targeted or politically driven regulatory changes.

In addition to the submission provided by NZ Airports Association, QAC makes the following submissions.

Queenstown Airport Corporation Limited – Overview

QAC was formed in 1988 to manage Queenstown Airport, and since then has been responsible for the management and development of Queenstown Airport. QAC strives to deliver an innovative airport that people love to travel through and the community takes pride in, and to enable significant economic and social benefits to the community we serve through reliable air connectivity.

QAC is a Council Controlled Trading Organisation (CCTO) under the Local Government Act 2002. QAC is 75.01% owned by the Queenstown Lakes District Council (QLDC) and 24.99% owned by Auckland International Airport Limited. QAC has obligations as a CCTO to support QLDC in providing good quality local infrastructure that is appropriate to meet current and anticipated future needs and services.

QLDC provides a Statement of Expectation that provides the strategic direction and guidance for the QAC Board of Directors in the development of our annual Statement of Intent. QAC's 2025 Statement of Intent outlines a comprehensive set of performance targets that reflect the balanced priorities of its majority shareholder, QLDC. These targets span financial sustainability, operational excellence, environmental stewardship, and community engagement. Financially, QAC aims to maintain profitability while investing in infrastructure that supports long-term regional growth. Operationally, the Statement of Intent includes targets for passenger experience, safety, and resilience. In alignment with QLDC's Statement of Expectations, QAC's Statement of Intent

emphasises measurable progress on climate change adaptation, including emissions reduction and integration of climate risk into strategic planning.

QAC is a network utility operator and requiring authority under the Resource Management Act 1991. QAC is also a lifeline utility under the Civil Defence Emergency Management Act 2002 and is required to operate and manage its airport as a commercial undertaking under both the Airport Authorities Act 1966 (AAA) and its replacement, the Civil Aviation Act 2023.

Queenstown Airport is part of a national network of critical infrastructure assets which connect residents and international and domestic visitors to the Southern Lakes region. The airport is a strategic national and regional asset which contributes to the vibrancy and prosperity of New Zealand's economy, its tourism sector and the regional communities served by the airport. It is as important as other critical infrastructure, including roading, telecommunications cables and piping for essential services. QAC is responsible for managing this strategic asset to ensure it is financially viable and sustainable, generates appropriate returns on assets, and continues to contribute to New Zealand's economic development, export earnings and the wellbeing of our communities.

With a rich heritage dating from 1935, Queenstown Airport is today New Zealand's fourth busiest airport. More than 60 businesses and 700 people work across the airport precinct providing a broad range of services, making it one of the largest hubs of economic activity in the region.

QAC's ongoing work with, and support of, the communities across the Southern Lakes region is underpinned by its focus on maintaining its social licence to operate and a commitment to social, economic and environmental sustainability through QAC's sustainability strategy, which guides its thinking in this space. QAC is committed to being a good neighbour and working with others to align long-term planning initiatives, address destination infrastructure constraints and find solutions to local social issues.

As a public air transport infrastructure business, QAC will continue its long-term planning and appropriately invest in infrastructure to maintain high levels of safety, efficiency and customer service going forward. QAC's long-term planning is also necessary to future proof the airport infrastructure.

Queenstown Airport, as a significant infrastructure asset majority-owned by the Queenstown Lakes District, makes important contributions to the local and national economy. Research undertaken by NZIER when developing our Master Plan has shown that by 2032 Queenstown Airport will:

- have an impact on Queenstown Lakes District's GDP of +6.5% (as against 2022 baseline), which is about the equivalent of all building construction in Queenstown today;
- create approximately 120 extra jobs in the Queenstown Lakes District and 260 extra jobs in the Otago region each year;
- support the people of Queenstown to increase their wellbeing and quality of life, demonstrated through a 32% increase in household spending; and

- support expansion of production in the Queenstown Lakes District in the food and services (12%), transport (6%), tourism (6%) and accommodation (4%) sectors and support a 4% expansion in the rest of the Queenstown Lakes District economy.

The Southern Lakes region is a premier internationally recognised destination, with year-round appeal, as the demand for flights in and out of Queenstown demonstrates. These flights also bring many social and economic benefits for the people and businesses of this region. Queenstown Airport plays an integral role in facilitating the demand for tourism in the Southern Lakes Region and New Zealand and, in consultation with our airline partners, we have undertaken significant work to develop a plan that will appropriately invest in infrastructure that enhances the visitor experience and enables growth in the years ahead.

In summary, QAC is firmly of the view that the governance and accountability framework it operates under, combined with airport-specific regulatory framework discussed below, promotes positive outcomes for our customers and the community we serve. In the absence of any concerns expressed about QAC's performance, we were surprised to learn that QAC had been identified as a potential candidate for regulation under Part 4 of the Commerce Act ("Part 4").

The regulatory framework

QAC met with MBIE to clarify the nature of this consultation process and to better understand what is being sought from us. During this meeting we were asked for our view on whether the current legislation creates a barrier to bringing new airports into the regulatory regime. It is our view that the current legislation does not create a barrier but rather sets an appropriately high bar for including further airports under Part 4.

Decisions, and public discourse, about bringing new airports into the regulatory regime under Part 4 without undertaking a rigorous, evidence-based process, risk being driven by political expediency, lobbyist pressure, or incomplete understanding rather than robust objective analysis to determine and define a problem that allegedly exists. If a problem is identified, similarly rigorous analysis must be brought to bear on the options available to address that problem.

A failure to follow a diligent, evidence-based process can lead to outcomes that are misaligned with actual risks, impose unnecessary burdens, and do not address any identified issues. In sectors like aviation and the wider infrastructure network, where strategic decisions have long-term implications, poorly grounded regulation can erode public trust and investor or funding support, and create legal or economic uncertainty. A robust evidence-based approach ensures transparency and accountability and is essential when considering potential legislative change.

For regulation under Part 4 to be imposed on additional airports, such a process already exists. The Commerce Commission can undertake an inquiry into whether and how to regulate additional airport services and then make a recommendation to the Minister of Commerce and Consumer

Affairs. The Minister must consider the recommendation and decide whether or not to recommend that the regulation be imposed, in which case an Order in Council must be made. The Commission can then issue a determination specifying how the regulation will apply.

QAC is aware that concerns regarding the applicability of using the Part 4 inquiry and Order in Council process to impose regulation on an airport not already specified in the Act were raised in the review of airport regulation which resulted in the Commerce Amendment Act 2018. In response to concerns that there was some doubt about whether another airport company could become regulated by Order in Council (because it would be inconsistent with the Act's specification that Part 4 only applies to Auckland, Wellington and Christchurch Airports), MBIE recommended that this should be explicitly clarified to remove any uncertainty. Section 56N of the Commerce Act was introduced to make clear that the usual Part 4 inquiry and Order in Council processes, set out in Part 4 (subpart 2), applies to airports also. Eight years later, this process has not been used.

This suggests that there has been no evidential basis from which the Commerce Commission, or the Minister, have determined it necessary to initiate an inquiry, or to question whether regulatory oversight should be extended to other airports.

MBIE's view at the time, set out in the Departmental Report on the Commerce Amendment Bill 2018, was:¹

"We consider that the full Part 4 inquiry and Order in Council process is appropriate and should be followed, rather than any truncated process as there is no presumption that other airport companies are able to exercise substantial market power."

It is therefore clear that airports should be treated in the same way as any other sector being considered for potential regulation under Part 4. We are concerned that there appears to be an underlying (incorrect) assumption that airports become automatic candidates for regulation under Part 4 once they reach a certain (but undefined) size, simply because the largest international airports are already subject to Part 4.

The fact that other airports haven't been included in the Part 4 regime to date does not reveal a dysfunction of the legislation but rather demonstrates a lack of evidence or need for their inclusion. No clear concerns over QAC's conduct have been identified, and it appears that this consultation process is looking to establish solutions searching for problems.

If MBIE is nevertheless of the view that QAC should be considered for regulation under Part 4, then:

- The Commission must undertake its usual process for inquiry into those concerns. To the best of QAC's knowledge, that process has, to date, been a cautious approach including a

¹ Commerce Amendment Bill – Report to the Transport and Infrastructure Committee (16 August 2018), at para [103].

preliminary assessment before determining whether a full Part 4 inquiry is justified.² QAC notes that the Commission's considered approach to the possible imposition of regulation on certain goods and services is appropriate given the "long and potentially costly Part 4 Inquiry process", which must be justifiable. A preliminary assessment itself can also lead to the resolution of any issues of concern, a result which is likely to be in the best long term interests for consumers and all parties involved.³

- If a full inquiry is undertaken, the Commission must consider (in its usual way) whether QAC is supplying goods or services in a market where there is little or competition, and little or no likelihood of a substantial increase in competition; and
- The Commission must also consider whether the benefits of regulating QAC would materially exceed the costs of regulation.

In our view, there is no evidence that there is substantial scope for QAC to exercise substantial market power and no evidence of conduct inconsistent with Part 4 which would warrant even a preliminary assessment by the Commission.

Airline submissions

The submissions from BARNZ and IATA on the Commerce Act Review 2025 that called for QAC to be included within Part 4 of the Commerce Act rely on Queenstown Airport's role as an international gateway to justify their positions. The submissions also place weight on Queenstown Airport meeting the 'specified airport company' threshold of the AAA.

This is misconceived. Meeting the criteria of "specified airport company" under the AAA means that QAC is subject to provisions in the Airport Authorities (Airport Companies Information Disclosure) Regulations 1999 which require the annual disclosure of financial statements.⁴ QAC must also comply with consultation obligations to its substantial airline customers under the AAA. QAC has always met its statutory requirements for annual disclosures and consultation with its substantial airline customers under the AAA, both of which provide opportunities for airlines to require airports to provide detailed financial information without reciprocal levels of access to airline costs and pricing.

However, there is no link between the "specified airport company" threshold in the AAA and the imposition of economic regulation under Part 4. As discussed above, the Commerce Act contains its own fit-for-purpose tests for the imposition of regulation on particular goods and services which must be upheld, including for reasons of regulatory certainty and transparency.

² [Commerce Commission - Part 4 inquiries and preliminary assessments.](#)

³ For example, the preliminary assessment into Eastland Port. See [Commerce Commission - Commission welcomes commercial resolution at Eastland Port.](#)

⁴ A "specified airport company" under the AAA means an airport company that, in its last accounting period, received revenue that exceeded \$10 million, Airports Authority Act 1966, s 2.

QAC considers that consultation and information disclosure under the Civil Aviation Act remains a proportionate and effective regulatory framework to mitigate the potential exercise of market power. We note that if an inquiry under Part 4 was commenced, in order to justify additional regulation under Part 4, the Commission would need to establish that existing regulation (including the governance and accountability framework discussed above) is ineffective. We consider that it would be unable to do so.

A further reason given by BARNZ and IATA for QAC to be regulated under Part 4 is that Auckland International Airport Limited (AIAL) is a minority shareholder of QAC. There seems to be a misconception that QAC is unduly influenced by AIAL's direction. This is categorically not the case. As set out above, QAC is a community owned and controlled asset, with QLDC holding 75% ownership, appointing 5 out of 6 board members, and providing our strategic direction through its Statement of Expectations.

BARNZ and IATA then refer to a single line in an OECD report, which provides no supporting arguments as evidence that QAC should be regulated under Part 4. Neither the OECD reference, nor IATA nor BARNZ provide any cogent argument or evidence to support this broad and unsubstantiated position.

QAC today

Whilst QAC is experiencing growth in passenger numbers as New Zealand's fourth largest airport, it processes less than half the number of passengers of the next biggest airports. In FY 2024, Queenstown Airport had 2.58 million passenger movements as compared with Wellington Airport's 5.5 million, and we processed only approximately 40% of the passenger movements of Christchurch International Airport over the same period.

Notwithstanding QAC's relatively small size, the growing size of an airport is not and should not be the trigger for considering whether it should be regulated under Part 4 - there is no established or objective size threshold under the Act. Rather, there should be evidence that the airport is (or is likely to be) engaging in conduct that is inconsistent with the Part 4 purpose (such as targeting or earning excess profits for aeronautical services). To the best of our knowledge, no airline has made such a claim. In fact, on 12 May 2025, Air New Zealand wrote to QAC in reference to our initial pricing proposal, commending our approach to consultation on the Masterplan, capital plan and the comprehensiveness of information provided as part of the current aeronautical pricing consultation. In the current capital plan consultation, QAC has received and considered feedback from Qantas, and made amendments to the capital plan based on this feedback. This is evidence of the consultation process working in practice.

Aeronautical investment is funded and cost recovered, after consultation with airline customers, through core aeronautical charges. A key feature of Part 4 information disclosure is the requirement for the Commission to establish input methodologies, which means each airport's return on aeronautical activities are assessed using the same building blocks approach. Although QAC is not regulated by the Commerce Act, we purposefully and consistently apply the principles and input methodologies as determined by the Commerce Commission when setting our pricing. It is difficult for airlines to argue that we should set prices lower than what the Commission considers to be reasonable. Accordingly, there is unlikely to be any benefit to consumers if QAC was regulated under Part 4. In contrast, there are likely to be significant increased costs for Queenstown Airport, airlines and consumers.

In respect of the Commerce Commission's costs for the regulation of specified airport services, we understand that regulated airports are levied on a 5-year appropriation basis. From their annual report it appears that, in FY24, the Commerce Commission spent approximately \$1m on specified airport services activities funded from industry levies. These levies are collected under the Commerce (Levy on Suppliers of Regulated Goods and Services) Regulations 2009, which also sets levies in relation to the Commission's input methodologies activities. These regulatory costs, to which QAC would be subject if regulated under Part 4, in addition to the internal costs to build systems to capture the information for disclosures and the increase in staffing to resource the work in complying with the disclosure regime, would ultimately be met through pricing to our airline customers, and through their pricing, the travelling public.

In summary, it is imperative that the addition of any new airport into Part 4, including Queenstown, is based on a rigorous, evidence-based, assessment of both any issues identified, and the costs and benefits of addressing those issues through additional regulation. The appropriate process to meet this high standard is a Part 4 inquiry led by the Commerce Commission, followed by consideration by the Minister and an Order in Council, if recommended. QAC considers that the regulatory burden on the Commission and QAC and its associated costs, would outweigh any perceived benefits or regulation of QAC under Part 4.

Conclusion

QAC's past and present performance is based on its core values and principles to operate a safe, customer focussed, operationally efficient and welcoming environment. As such, all engagement and consultation with its substantial airline customers has been conducted with integrity, transparency, openness and fairness. QAC has never received any complaints on its consultation or price setting reviews.

There is no problem that has been identified that requires further consideration of potential regulatory or legislative intervention. We urge MBIE to maintain the integrity of the current framework, uphold the role of the Commerce Commission and resist targeted or politically driven regulatory changes.

Yours sincerely,

Melissa Brook

GM STRATEGY