

Response to Consultation Paper – Airport monitoring – more detailed information on airport performance

Executive Summary

1. Brisbane Airport Corporation Pty Limited (**BAC**) welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (**ACCC**) Consultation Paper – Airport monitoring – more detailed information on airport performance (the **Consultation Paper**).
2. BAC thanks the ACCC for the additional time that it has provided to comment on this important Consultation Paper.
3. The ACCC's Consultation Paper and recommendations arise out of the Productivity Commission's (**PC**) Economic Regulation of Airports Report, June 2019 report (**PC Report**) and in particular Recommendation 9.4. Having regard to the arbitrary nature of cost allocation methodologies, the PC was careful not to proffer a recommendation that new reporting be created, or new cost allocation methodologies be developed by monitored airports. Instead, what the PC recommended was that monitored airports provide information on the manner in which they allocate costs and provide any cost allocation methodology for allocating common costs, if one is currently used, or otherwise, advise the ACCC if not. Notably the PC did not recommend any further allocation of assets beyond what is currently provided between aeronautical and non-aeronautical assets.
4. BAC was (and remains) supportive of the approach recommended by the PC which, in BAC's view, is consistent with the principles of the light handed regulatory regime.
5. In the Consultation Paper, the ACCC has proposed three options for the expansion of the financial reporting requirements for monitored airports in order to improve the monitoring regime.
6. BAC is of the view that none of the options proposed by the ACCC reflect the PC's recommendations, but in BAC's view, Option 1 is the closest option aligned with them.
7. Of particular concern to BAC is the significant additional regulatory burden that would be placed on monitored airports by proposed Option 2, which would require monitored airports to provide additional information that goes beyond what was contemplated by the PC in Recommendation 9.4 (both in terms of substance and in form).
8. BAC anticipates the costs of establishing and maintaining the proposed Option 2 frameworks to be significant both in terms of costs (internal and external) and lead-in time. This is primarily because Option 2 would effectively require an abandonment by BAC of its internal systems and processes for current ACCC reporting purposes and a complete "bottom up" re-build of the allocations contained in the Regulatory Accounting Statements that are currently prepared by BAC and audited. Further, Option 2 envisages a reallocation of all aeronautical assets by service classification which would involve significant internal and external engagement, time and cost in (among other things) valuing each of BAC's commercial assets; a process that would be disproportionately challenging and burdensome for BAC given its significant asset base.
9. Moreover, by requiring the additional information be incorporated into monitored airports' Regulatory Accounting Statements to be the subject of independent audit, there is a real risk that, given the increased level of subjective judgments on the part of monitored airports to incorporate the additional information required by the Option 2 frameworks, an independent auditor will only be able to provide a non-assurance non-audit review, which provides limited validity and no assurance over any basis of allocation. BAC queries what reliance the ACCC could place on such information in those circumstances.

10. BAC agrees with the ACCC's assessment that Option 3, which builds upon Option 2, should not be supported.
11. BAC provides a detailed response to the Consultation Paper and each of the ACCC's options below and welcomes further engagement with the ACCC on the important issues raised in it.

Context for the Consultation Paper

12. BAC supports the ongoing light touch price monitoring and financial reporting regime that is in place for BAC and the other monitored airports. BAC considers that the current regulatory framework has provided the appropriate environment to support measured, prudent investment in Australia's airports and therefore facilitative of sustainable growth.
13. BAC considers that the current price monitoring and financial reporting framework has been effective in facilitating efficient investment and negotiated outcomes with airport users, to the benefit of airport users, passengers and the broader community.
14. BAC acknowledges that the Consultation Paper has been developed by the ACCC in response to:
 - (a) the PC Report, Recommendation 9.4; and
 - (b) the Australian Government's in principle support for Recommendation 9.4.
15. The ACCC through the Consultation Paper are seeking stakeholder's submissions on the possible expansion of the financial reporting requirements for monitored airports in order to improve the monitoring regime. Before commenting on the specific content of the ACCC's options set out in the Consultation Paper, BAC considers it is important to look at the context for the Consultation Paper, as well as the extent of the expansion of reporting that was recommended by the PC which it considered was needed to improve the monitoring regime.
16. The context for, and the detailed explanation of, what the PC meant in Recommendation 9.4 is set out in the preceding pages of the PC Report in the section headed "Improve the evidence base".¹ The PC recognised in this section that there was a deficiency in the information that is provided under the current monitoring regime as the current monitoring reports do not contain sufficient detail to make an assessment as to whether, for example, aeronautical charges are consistent with an airport exercising market power or whether it could be explained by the costs of providing such services.
17. The PC also recognised that the relevant benchmark to make this assessment is the long-run average costs of providing aeronautical services. However, such a benchmark cannot be calculated in practice, because the capital and costs of common use infrastructure have to be allocated either to international or domestic services. Importantly, the PC Report notes:

*There is no agreed methodology to allocate these costs, so any allocation would be **somewhat arbitrary**.*²
18. The PC goes on to say that because of the arbitrary nature of any cost allocation, it recommends that the ACCC collect and publish³ the following:

¹ PC Report, pages 308-313.

² PC Report, page 309.

³ Subject to the direction to the ACCC to consult with airports and airlines to determine whether any of the information they provide is commercially sensitive and to develop approaches to reporting that balance disclosure with the need to protect sensitive information.

- (a) information on operating and capital costs that can be **directly attributed** to international or domestic aeronautical services;
 - (b) information on **all common costs** that are related to aeronautical services; and
 - (c) any methodologies that the monitored airports **use** to allocate costs to domestic and international services.⁴
19. With respect to car parking and landside access services, the PC noted the following:
- The Commission is recommending that airports be required to report cost data for car parking and landside access in the same way as for aeronautical services. **Operating and capital costs that can be directly attributed to a service, should be. Common costs should be reported as common costs.** If airports have methodologies for allocating common costs to specific services they should provide them to the ACCC. **If they do not have such methodologies, they should state that clearly to the ACCC.***⁵
- (emphasis added)
20. What is clear is that the PC was not recommending that new reporting be created, or new cost allocation methodologies be developed. It is notable that the PC did not recommend that this reporting form part of the Regulatory Accounting Statements which are subject to independent audit.⁶
21. Rather, given the arbitrary nature of cost allocation methodologies, the PC was recommending that the monitored airports provide information on the manner in which they allocate costs i.e. costs that are directly attributed to a specific service and common costs reported as such, and provide any cost allocation methodology for allocating common costs if one is currently used, and if not, advising the ACCC that this allocation is not made.
22. This approach taken by the PC would not, in BAC's view, be too onerous and would be consistent with the principles of the light handed regulatory regime.
23. BAC in its response to the PC's draft recommendations⁷ (that in broad terms reflected the final Recommendation 9.4) were supportive of the collection and publication of airport financial and operational data where it supports the effective price monitoring and reporting by the ACCC. Importantly, BAC considered that what was being proposed presented only a minimal additional regulatory burden on BAC.
24. BAC was also supportive of the PC's recommendation that airports be required to report on cost allocation methodologies, however, only in respect of the allocation of costs between aeronautical and non-aeronautical services and for aeronautical services, between the various services provided (i.e. aeronautical, parking and landside access).
25. It is in the above context that the Consultation Paper and the options proposed by the ACCC should be considered.

⁴ PC Report, page 309.

⁵ PC Report, page 312.

⁶ Reference to any requirement for an audit was removed by the PC between the draft PC Report, February 2019 at page 303 and the final PC Report as was the requirement to "*clearly set out the methodologies used for allocating the costs to international and domestic aeronautical services, at terminal and at distance parking and landside access services.*"

⁷ Response to the PC's draft report on economic regulation of airports, 25 March 2019, page 24.

Overall Comments on the Options in the Consultation Paper

26. The ACCC has proffered three options for increasing the information provided to the ACCC with each option building on the previous one in terms of the reporting framework and the amount of data as well as supporting information requirement, namely:
- (a) **Option 1** – Collecting more detailed data for specific services and relying on basic cost allocation principles;
 - (b) **Option 2** – Collecting systematically disaggregated data and relying on detailed cost allocation method; and
 - (c) **Option 3** – Collecting systematically disaggregated data in accordance with standardised cost allocation method developed by the ACCC.
27. BAC notes that none of the options proffered by the ACCC reflect the recommendations made by the PC as outlined above, with Option 1 being the closest option aligned with the PC's recommendations.
28. The ACCC's preliminary view, as set out in paragraph 4.26 of the Consultation Paper, is that:
- ... Option 2 best balances the need for greater transparency over monitored airports operations and financial performance versus the increased compliance costs that may arise from providing more detailed financial and cost allocation data.*
29. In principle, BAC supports providing:
- (a) aeronautical revenue for international and domestic services;
 - (b) detailed cost data for international and domestic services, particularly in light of the PC's concerns regarding the level of BAC's international aeronautical charges⁸;
 - (c) passenger data segregated across international and domestic services, noting that other data such as aircraft movements is available to the ACCC from publicly available sources such as the Bureau of Infrastructure and Transport Research Economics (**BITRE**);
 - (d) (as it already does) a break-down of car parking charges (Table 6.1: Schedule of airport car parking charges and Table 6.1.1) and revenue (Table 6.2: Airport car parking revenue) by car park type and associated car parking costs (Table 6.3: Airport car parking costs), including the basis of the cost allocation (i.e., specific cost drivers);
 - (e) (as it already does) a detailed break-down of landside access charges (Table 7.1: Schedule of landside access charges and Table 7.1.1: Schedule of Ground Transport Operator Fees) and revenue (Table 7.2 Landside access revenue) by transport mode and associated landside access costs (Table 7.3: Landside access costs), including the basis of the cost allocation (i.e., specific cost drivers).
30. In line with the PC Report, this additional information should be provided consistent with monitored airports current processes so as to minimise the additional regulatory burden on monitored airports and recognising the arbitrary nature of cost allocation (as noted in paragraph 17 above).

⁸ PC Report, page 309 (and Consultation Paper at 2.11 and 2.12)

31. As the ACCC recognises, Option 1 covers only the specific service categories and/or sub categories that the PC recommended⁹. BAC, in line with the PC's recommendations, broadly supports the ACCC's Option 1 subject to the following provisos:
- (a) the additional information be provided outside the Regulatory Accounting Statements which are subject to independent audit;
 - (b) cost and asset allocations for aeronautical services should be provided based on current methodologies already developed by monitored airports, for example, by providing the information prepared by monitored airports in their building block methodology to estimate the cost of providing aeronautical services and the aeronautical asset base (split across domestic and international services); and
 - (c) cost and asset allocation for non-aeronautical services should be limited to what is already provided to the ACCC given the limited probative value of separately reporting car parking and landside access services in the manner suggested by the ACCC.
32. On the other hand, Option 2, as preferred by the ACCC, significantly increases the regulatory burden placed on the monitored airports and seeks additional information beyond what was contemplated by the PC in Recommendation 9.4 and in a form also not contemplated by the PC.
33. BAC does not support the ACCC's Option 2 for the following reasons:
- (a) **Full mapping of costs to all services is not required** – The ACCC through Option 2 is seeking the full mapping of costs for all services that are defined by the ACCC. Such a full mapping of costs of all services was not contemplated by the PC and is not something that the monitored airports currently undertake and would be, in the case of “other” non-aeronautical services¹⁰, beyond the scope of the price monitoring and financial reporting regime. Option 2 would require the monitored airports to develop new (somewhat arbitrary) cost and asset allocation methodologies for each of the services contemplated which is inconsistent with the PC's approach of:
 - (i) requiring the monitored airports to provide cost allocation methodologies that are “used”¹¹; and
 - (ii) not specifying that the current requirements for asset allocations need to change¹².
 - (b) **The significant increase in the regulatory burden placed on monitored airports** – Option 2 would place a significant increased regulatory reporting burden on monitored airports and will give rise to a need to perform a significant amount of work to allow for disaggregated cost and asset reporting. BAC currently utilises internal reporting templates, workpapers and procedures which are complex and specifically customised to its current ACCC reporting requirements. Option 2 will require an abandonment of those internal systems and processes and an entire overhaul of the approach to ACCC reporting. This

⁹ Consultation Paper, paragraph 4.20.

¹⁰ The ACCC at Table 3 of the Consultation Paper states that “*This covers all other categories (e.g. retail, properties, car rental) to be reported individually or together*”.

¹¹ See Recommendation 9.4 which states “*report the methodologies that they use to allocate costs to specific assets*”.

¹² The PC state in Recommendation 9.4 that statements are to be prepared that “*separately show the **costs and revenues** in relation to the provision and use of aeronautical services for domestic flights and for international flights.*” Further the PC states “*- report any **costs** that are to be allocated to the provision of specific services, including international and domestic aeronautical services. – report the methodologies that they use to allocate **costs** to specific services. ”*

would involve a “bottom up” re-build of the allocations calculated from the Regulatory Accounting Statements that are currently prepared. The quantum of this compliance burden will increase exponentially if the information that monitored airports are required to provide necessitates modifications to the approach towards current management accounts and/or set-up of monitored airports’ accounting / reporting systems. Based on the information provided in the Consultation Paper, BAC considers that modifications to its internal regulatory reporting and accounting systems, software and procedures are expected and necessary.

BAC would be required to extensively consult with external parties, such as software providers, engineers and data analysts to deliver such a bottom-up re-build and to critically analyse the functional requirements of regulatory reporting, update the documentation and procedures and customise internal accounting software to accommodate the additional tracking and extraction of data in the format required by the ACCC.

Compliance with Option 2 will be particularly challenging with respect to the allocation of assets in circumstances where BAC does not currently split assets beyond aeronautical and non-aeronautical assets. Option 2 envisages a reallocation of all aeronautical assets by service classification. BAC anticipates this will involve significant additional time and cost and would involve engaging external consultants to conduct extensive site tours, interviews of staff and “fair value” asset valuations (outside of current valuations already underway) in respect of each of the monitored airports’ commercial assets, which would be disproportionately burdensome and challenging for BAC given its significant asset base over its 2,700 hectare footprint.

Based on the above, BAC anticipates the costs of establishing and maintaining the proposed Option 2 frameworks would be significant both in terms of the costs of additional internal resources as well as external resources required. It is, however, difficult to estimate the external costs in circumstances where this is not market tested (particularly given the number of consultants, software providers and engineers, data analysts and valuers likely to be involved and expertise required). Further, given the extent of the internal modifications required by Option 2, BAC does not consider a 12 month lead in time would in practice be sufficient.

- (c) **The deficiency of any independent audit** – As set out in paragraph 4.21 of the Consultation Paper, Option 2 requires, based on the extended service classification that the ACCC will develop, the additional information to be incorporated into the monitored airports’ Regulatory Accounting Statement. Importantly, Option 2 requires this significant additional detailed cost information that is to be included in the Regulatory Accounting Statements to be the subject of the independent audit. An approved independent auditor will be required to form an opinion on the accuracy, completeness and appropriateness of the Regulatory Accounting Statements, including the allocation methodologies applied for each of the additional information items set out in paragraph 4.21 of the Consultation Paper.

With each new layer of additional information and detail this will require significantly more subjective judgments being made. BAC considers that in such circumstances, there is a real risk that an independent auditor will likely be unable to provide an unmodified audit opinion as the independent auditor will be unable to reasonably validate that the Regulated Accounting Statement is “*free from material misstatement whether due to fraud or error*”.

What instead is likely to be provided by an independent auditor is a non-assurance non-audit review, which provides limited validity and no assurance over any basis of allocation (i.e., not a qualified audit opinion and merely a ‘tick and flick’ exercise).

- (d) **Reliability of any allocation and the negative inference that would be made** – In light of the above likely inability of the independent auditor to be able to provide an unmodified audit opinion, the reliance that the ACCC could then place on the information contained in the Regulatory Accounting Statements would be questionable. How this likely inability of the independent auditor to be able to provide an unmodified audit opinion is positioned by the ACCC in any subsequent airport monitoring report may give rise to a negative inference being made against a monitored airport by the ACCC or the general public. This may further, amongst other things, give rise to a reputational issue for shareholders and investors of the monitored airports as they may infer wrongdoing on the part of the monitored airport as the cost and asset allocations cannot be verified by an independent auditor.
- (e) **No one-size fits all approach possible** – It would be extremely challenging to establish a framework that provided consistent and reliable data splits that were relevant across the monitored airports that will enable, for example, benchmarking to occur, particularly given that monitored airports have different operations and businesses. This will be further exacerbated if no audit opinion is able to be provided (as discussed above). A one-size fits all approach to service classification and then cost and asset allocation between those services is simply not possible.
- (f) **Concerns associated with the potential interpretation of the additional information if viewed in isolation** – It will be important that the ACCC acknowledges that the true 'cost' of provision of the services is multi-variate and incorporates, among other items, a fair return on the substantial capital investments that airports undertake to develop and maintain the critical infrastructure that facilitates service.
34. As noted in paragraph 26 above, each of the ACCC's options build on each other. BAC agrees with the ACCC's assessment that Option 3 should not be supported.
35. BAC sets out its comments on each of the ACCC's proposed Options below based on service type.

Aeronautical Services

Option 1 – Aeronautical Services

36. For aeronautical services, the ACCC sets out in Option 1 the additional information that the ACCC will require monitored airports to provide to the ACCC. Subject to the confidentiality submissions set out in detail in paragraphs 66 to 71 below, the below table sets out BAC's comments on the ACCC's additional information requirements:

Table 1: Option 1 – Aeronautical Services

Option 1 requirement	BAC Comments
Provide income statement and balance sheets that show the split between domestic and international services ¹³	BAC can provide income statement and balance sheets that show the split between domestic and international services as it currently splits this information for the purposes of its building block pricing model. BAC would be supportive of providing this information in this form. BAC would not, however, be supportive of this being provided as part of the Regulatory Accounting Statements (Tables 1.1, 1.2, 1.3, 1.4 and 1.5) which are subject to independent audit.

¹³ Consultation Paper, paragraph 4.7.

Option 1 requirement	BAC Comments
	BAC proposes that the ACCC instead require that this information be prepared in a new table format that sits outside the scope of the audited component of the ACCC report.
Split aeronautical revenues into domestic and international services ¹⁴	<p>As with the income statement and balance sheets, this information is prepared by BAC as part of its building block pricing model. BAC would be supportive of providing this information in this form. BAC would not be supportive of this being provided as part of the Regulatory Accounting Statements (Table 1.1 and 2.2) which are subject to independent audit.</p> <p>BAC proposes that the ACCC instead require that this information be prepared in a new table format that sits outside the scope of the audited component of the ACCC report.</p>
Split aeronautical costs into domestic and international services ¹⁵	<p>In principle BAC supports the provision of more detailed cost information, particularly in relation to international services given the PC's comments regarding BAC with respect to the costs associated with these services.</p> <p>BAC currently splits the costs of aeronautical services as part of BAC's building block pricing model. As with the other matters detailed above, BAC would be supportive of providing this information in this form. BAC would not, however, be supportive of this being provided as part of the Regulatory Accounting Statements which are subject to independent audit.</p> <p>BAC proposes that the ACCC instead require that this information be prepared in a new table format that sits outside the scope of the audited component of the ACCC report.</p> <p>BAC is, however, concerned about the potential interpretation and reporting of this additional data if it is viewed in isolation. As the ACCC is aware, and as recognised by the PC¹⁶, aeronautical charges are commercially negotiated between monitored airports and airlines using the building block methodology. The building block methodology utilises a range of inputs in calculating an "allowable revenue" that represents a fair and appropriate return to airports in return for the provision of aeronautical services. Under the building block methodology, operating expenses and capital expenses represent only some of the multiple inputs relating to "costs" and therefore cannot be used solely as a proxy for the "cost" of international aeronautical services. The true "cost" of the provision of aeronautical services is multi-variate and incorporates, amongst other things, a fair rate of return on the substantial capital investments the airport undertakes to develop and maintain the critical infrastructure that facilitates the delivery of the aeronautical services.</p>
Provide a detailed description of how costs are allocated to the	As noted above, the PC contemplated that cost allocation methodologies that would be provided to the ACCC would be

¹⁴ Consultation Paper, paragraph 4.8.

¹⁵ Consultation Paper, paragraph 4.10.

¹⁶ PC Report, page 138 ff.

Option 1 requirement	BAC Comments
<p>provision of specific services, including international and domestic aeronautical services¹⁷</p>	<p>those that the monitored airports currently “use”.¹⁸ BAC has cost allocation methodologies in place for the purposes of its building block pricing model which utilise certain drivers to allocate common costs for aeronautical pricing purposes. For example, as set out in Table 2.1 of the Regulatory Accounting Statements, the basis of certain charges are the “MTOW” being the maximum take-off weight. BAC utilises the MTOW as a driver for allocating certain common costs for the purposes of aeronautical pricing.</p> <p>As with the other matters outlined above, BAC would be supportive of providing this information in this form as it is the current cost allocation methodology “used” by BAC. BAC would, however, be concerned, given the subjective nature of these cost allocation drivers, that these drivers and the resulting cost allocations (as detailed above) be subject to independent audit. BAC considers that if this was required there are real risks that seeking inclusion of this additional information in the Regulatory Accounting Statements could mean that no audit opinion would be able to be provided.</p>
<p>Split reporting of aeronautical and non-aeronautical assets the same way as costs¹⁹</p>	<p>BAC understands that what is contemplated is that the noncurrent aeronautical assets in Table 4.1 be further split into noncurrent international and domestic services assets. It is unclear if this will apply to the ‘line in the sand approach’ in Table 4.2 or just in respect of those listed in Table 4.1.</p> <p>The PC does not specify in Recommendation 9.4 any change to the current reporting of noncurrent assets in the way contemplated by the ACCC. Rather the PC’s focus is on obtaining additional information on the capital and operating costs of common use infrastructure as discussed above.²⁰</p> <p>BAC anticipates that if this additional allocation was required this would exponentially increase the report breadth. To give the ACCC an understanding of the scale of this exercise, in 2011 when BAC had changed its access road configuration and removed a roundabout, BAC engaged an external consultancy to assist it with undertaking a road allocation study for the sole purpose of ACCC reporting. This road allocation study for just one asset took multiple months to complete and at significant cost to BAC.</p> <p>Based on the matters raised above, BAC is not supportive of providing an additional split of the aeronautical asset base as contemplated in Option 1.</p> <p>As with the other items above, if the ACCC was to require the monitored airports to provide this additional information, BAC would not be supportive of this being provided as part of the Regulatory Accounting Statements (Tables 4.1-4.2). BAC proposes that the ACCC instead require that this information be</p>

¹⁷ Consultation Paper, paragraph 4.12.

¹⁸ PC Report, page 309.

¹⁹ Consultation Paper, paragraph 4.13.

²⁰ PC Report, page 309.

Option 1 requirement	BAC Comments
	prepared in a new table format that sits outside the scope of the audited component of the ACCC report.
<p>The monitored airports would need to report all relevant operational data (being reports for the purposes of regulation 7.07) in disaggregated form to match financial data²¹</p>	<p><i>Passenger numbers</i></p> <p>BAC provides in Table 5.1 of its regulated accounts a split of passengers by international passengers, international transit, domestic (excluding on-carriage) and domestic on-carriage. It is unclear what information or data beyond what is already provided in Table 5.1 is contemplated by the ACCC in Option 1.</p> <p><i>Aircraft movements</i></p> <p>BAC provides in Table 5.1 of its regulated accounts a split in aircraft movements – regular passenger transport by international and domestic and aircraft movement – other (General aviation). It is unclear as to what information or data beyond what is already provided in Table 5.1 is contemplated by the ACCC in Option 1. Moreover, as noted above, there are other publicly available data sources that the ACCC can rely on from BITRE on aircraft movements.</p> <p><i>Average staff equivalent and area (in hectares) data</i></p> <p>BAC is supportive of supplying average staff equivalent data and area (hectares) data in disaggregated form, however, BAC notes that this information will be based on additional allocators that will be subject to subjective judgment. In respect of average staff equivalent data this data has the additional limitation that it would be provided at a point in time (for example 30 June each year) and therefore would not be representative of seasonality or other factors. In respect of area (in hectares) data, this will be based on a subjective internal methodology. For example, whilst the area of the international terminals are a defined area, the perimeters of these terminals such as the aprons, taxiways and runway are shared between the domestic and international terminals in Brisbane which will need to be subjectively allocated.</p> <p><i>Reports under Regulation 7.07</i></p> <p>BAC notes that it is proposed that all relevant operational data (and not just average staff equivalent) be the subject of regulation 7.07 of the <i>Airport Regulations 1997 (Regulations)</i>. BAC does not, in principle, object to such matters being included in Regulation 7.07. However, given the matters set out above, BAC considers that these matters need to be addressed and the shortcomings in the data accepted by the ACCC so as to ensure monitored airports cannot be said to be contravening their reporting requirements under section 145(1) of the <i>Airports Act 1996 (Airports Act)</i>.</p>

²¹ Consultation Paper, paragraph 4.14.

Option 2 – Aeronautical Services

37. For aeronautical services, the ACCC sets out in Option 2 the additional information that the ACCC will require monitored airports to provide to the ACCC. Subject to the confidentiality submissions set out in detail in paragraphs 66 to 71 below, the below table sets out BAC's comments on the ACCC's additional information requirements:

Table 2: Option 2 – Aeronautical Services

Option 2 requirements	BAC Comments
<p>Service classifications developed by the ACCC²²</p>	<p>The ACCC contemplates that aeronautical services will be categorised into domestic passengers, international passengers and other (which covers all other categories other than passenger services (e.g. freight, general aviation)).</p> <p>As detailed above, the PC only contemplated that to improve the monitoring regime to enable greater scrutiny of airport performance that separate reporting of costs and revenue occur in relation to aeronautical services for domestic flights and international flights.²³</p> <p>There is no suggestion in the PC report that a further split is required to address flights utilised for other services, for example, international freight.²⁴</p> <p>The ACCC recognises at paragraph 4.20 of the Consultation Paper what is being sought here is beyond what the PC had recommended be gathered. The ACCC justifies this additional information on the basis that the information that the PC considered to be appropriate would not provide sufficient transparency over the revenues and costs across all services/activities of the monitored airports.</p> <p>Respectfully, this appears to be regulatory over-reach on the part of the ACCC, particularly in circumstances where the PC was more limited in what it considered was necessary to improve the monitoring regime.</p>
<p>Based on the ACCC's service classifications, the monitored airports would be required to provide additional regulatory accounting data (throughput data and financial data) in relation to each service (group and sub group levels)²⁵</p>	<p><i>Throughput data</i></p> <p>The comments made in Option 1 equally apply here in respect of throughput data (which BAC assumes is the data that is currently captured in Table 5.1: Statement of operational statistics), save that Option 2 is further complicated by a further additional split between international passengers, domestic passengers and other (being freight and general aviation). Particularly with respect to the allocation of area (hectares), an allocation based on passengers and other non-passenger services appears to be nonsensical.</p> <p><i>Financial data</i></p> <p>BAC is able to split revenue by international and domestic. It may be possible to conduct a further split as proposed with respect to</p>

²² Consultation Paper, paragraph 4.18.

²³ PC Report, page 308.

²⁴ Indeed, the only references to freight services in the PC Report are in respect of issues associated with access to Sydney Airport.

²⁵ Consultation Paper, paragraph 4.21.

Option 2 requirements	BAC Comments
	<p>“other”, however, this will require additional internal and possibly external resources to be able to appropriately split out these “other” non-passenger services.</p> <p>As regards to the other financial data, costs, profits and assets, BAC does not currently split these for ACCC regulatory purposes, beyond an aeronautical/non-aeronautical split.</p> <p>What is contemplated by Option 2²⁶ is that the split of international passengers, domestic passengers and other be made in respect of all aspects of the aeronautical services included in the regulatory accounting data.</p> <p>Putting aside the issues associated with the auditing of this data, which are addressed below, Option 2 will require an entire overhaul of BAC’s approach to ACCC reporting and necessitate a “bottom up” rebuild of the regulatory accounts that monitored airports currently prepare (as detailed in paragraph 33(b) above).</p> <p><i>Assets</i></p> <p>BAC currently does not split assets beyond aeronautical/non-aeronautical. If Option 2 was implemented, this would likely require BAC to go back to first principles for each of its aeronautical assets to assess each of them and then allocate these between international passengers, domestic and other (as detailed in paragraph 33(b) above).</p> <p>This would result in a significant regulatory burden being placed on monitored airports with limited benefit to the ACCC given the likely short comings associated with any allocation if it is required to be audited (see further below).</p> <p><i>Costs</i></p> <p>As set out in response to Option 1, there are significant challenges associated with allocating costs between international and domestic. This is exacerbated by requiring the further “other” split as proposed by Option 2.</p>
Provide detailed cost allocation methodology ²⁷	<p>As discussed above, BAC does not currently allocate costs in the manner contemplated by Option 2. The provision of a detailed cost allocation methodology as contemplated by Option 2 would be inconsistent with the PC’s recommendation for providing cost allocation methodologies currently “used” by monitored airports.</p> <p>BAC anticipates that if it was required to allocate costs as contemplated by Option 2 this will require significant upfront investment to change the way that it gathers and reports all of its financial data to meet the ACCC’s requirements. As such, BAC will need to develop, most likely with the assistance of an accounting consultancy, at significant expense to BAC, a cost allocation methodology that meets the ACCC reporting requirements. It would not be possible for the purposes of Option 2</p>

²⁶ The comments made in respect of the split of financial data between international and domestic flights in respect of Option 1 apply to the extent relevant for Option 2.

²⁷ Consultation Paper, paragraph 4.21.

Option 2 requirements	BAC Comments
	<p>to rely on the cost allocation methodology used by BAC for its building block pricing model as this will not be aligned with the ACCC service allocations and would not be sufficiently detailed to meet the requirements set out in paragraph 4.21 of the Consultation Paper.</p>
<p>Independent auditing of the regulatory accounts²⁸</p>	<p>Any requirement to have the additional financial data split into international passengers, domestic passengers and other, requires subjective judgment regarding these allocations.</p> <p>As discussed in paragraph 33(c) and 33(d) above, an independent auditor will be required to form a view on the accuracy and appropriateness of the allocation methodology applied for each of the additional information set out in paragraph 4.21 of the Consultation Paper. With each new layer of additional information and detail this will require significantly more subjective judgments being made, in the absence of accounting standards to assist with any allocation.²⁹</p> <p>BAC considers that in such circumstances, there is a real risk that seeking inclusion of this additional information in the regulated accounts could mean that no audit opinion would be able to be provided.</p> <p>BAC notes that the PC Report does not recommend that the additional information provided by the monitored airports set out in Recommendation 9.4 be included in the Regulatory Accounting Statements and be subject to the independent audit process.</p> <p>Notwithstanding the matters raised above, BAC proposes that if the ACCC requires the cost allocation contemplated by Option 2, the ACCC allows this information be prepared in a new table format that sits outside the scope of the audited component of the ACCC report.</p>

38. One of the factors for the ACCC favouring Option 2 (as opposed to Option 1) may be to attempt to achieve standardisation of approach across the monitored airports so as to enable the ACCC to be able to make meaningful comparisons between monitored airports.
39. BAC recognises that it would be extremely challenging to establish a framework that provided consistent and reliable data splits that were relevant across the monitored airports. A one-size fits all approach to service classification and then cost allocation between those services is simply not possible. This is because:

²⁸ Consultation Paper, paragraph 4.22.

²⁹ Which the ACCC recognises given the comments in paragraph 4.23 of the Consultation Paper noting the need for the ACCC to prescribe high-level cost allocation guidance to ensure allocation of financial account items are consistent with accounting standards and principles, including being fully distributed to airport services without duplication or omissions.

- (a) each of the monitored airports are different, such that even if standardised service classifications are adopted, this does not mean that each of the airports can or will be able to apply any consistent allocation methodology;
 - (b) a number of cost allocation methodologies could (and would likely) be applied by a monitored airport, each one yielding a different outcome;
 - (c) given the number of line items contemplated to be the subject of Option 2, the monitored airports could in no way guarantee the validity, consistency or completeness of the reportable data; and
 - (d) as detailed above, this would give rise to a real risk that an independent auditor will likely be unable to provide an unmodified audit opinion as the independent auditor will be unable to reasonably validate that the Regulated Accounting Statement is “*free from material misstatement whether due to fraud or error*”.
40. In light of the above, the probative value of Option 2 for any comparative purpose, let alone for an individual monitored airport, would be questionable at best.
41. This coupled with the significant additional regulatory burden associated with Option 2 when compared with what the PC contemplated and Option 1, means that BAC cannot support the ACCC’s current preference for Option 2.

Option 3 – Aeronautical Services

42. For Option 3, it is proposed for aeronautical services that BAC will be required to report systematically disaggregated data (as described for Option 2), in accordance with a standardised cost allocation method prescribed by the ACCC. To enable this to occur, the ACCC considers that it requires enhanced powers to make “record keeping rules” for the monitored airports.
43. As noted in paragraph 26 above, each of the ACCC’s options build on each other. BAC agrees with the ACCC’s assessment that Option 3 should not be supported.
44. The use of a “standardised cost allocation method” being developed by the ACCC will likely involve a process of “*detailed design, development and implementation, and considerable stakeholder consultation.*”³⁰
45. BAC agrees with this conclusion, however, BAC notes that what the ACCC is contemplating through Option 2 is shifting this significant cost and regulatory burden to the monitored airports.
46. Neither Option 2 nor 3 justifies the regulatory burden given the PC did not consider the current monitoring scheme required transparency over the revenues and costs across all the services/activities of the monitored airport. The PC was more targeted in its concern, which, as detailed above, is consistent with the light touch regulation that the monitored airports are currently subject to.
47. BAC also considers that Option 3 is evidence of regulatory over-reach, particularly in circumstances where the PC noted the following in respect of the ACCC’s proposal to have powers to make “record keeping rules”:

The Commission might consider recommending record keeping rules in the future. At this stage the proportionate response to the airports’ behaviour is to

³⁰ Consultation Paper, paragraph 4.31.

enhance the annual financial and quality of service monitoring. This could be achieved through straightforward amendments to the Airport Regulation.³¹

Car parking

Option 1 – Car parking

48. For car parking services, the ACCC sets out in Option 1 the additional information that the ACCC will require monitored airports to provide to the ACCC. Subject to the confidentiality submissions set out in detail in paragraphs 66 to 71 below, set out in the below table are BAC's comments on the ACCC's additional information requirements:

Table 3: Option 1 – Car parking

Option 1 requirements	BAC comments
Provide income statement and balance sheets that show the split between car parking, landside access and other services with car parking further split into at-terminal and at-distance car parking data ³²	<p>BAC does not currently report its income statement and balance sheets in the manner required by Option 1.</p> <p>BAC, as detailed below, already provides detailed financial information regarding the charges, revenue and costs associated with car parking services. It is unclear what further data or information the ACCC requires beyond what it currently obtains to investigate any potential harm associated with car parking charges for monitored airports.</p> <p>If the monitored airports are to provide an additional income statement and balance sheets to demonstrate the allocation between at-terminal and at-distance car parking, this should be done outside the scope of the audited component of the ACCC report.</p>
Separate charge, revenue and cost data based on at-terminal and at-distance car parking	<p><i>Charges and Revenue</i></p> <p>BAC provides in Table 6.1 of the Regulatory Accounting Statements a schedule of the airport car parking charges split by car park type and in Table 6.2, a schedule of the revenue split by car park type. BAC can confirm that all the car parks listed in Table 6.1 and 6.2 are at-terminal car parks save for AirPark long term car park and the staff car park which are BAC's only at-distance car parks.</p> <p>It is unclear based on the above what further information or data beyond what is already provided in Table 6.1 and 6.2 is contemplated by the ACCC in Option 1.</p> <p><i>Costs</i></p> <p>BAC provides in Table 6.3 of the Regulatory Accounting Statements a schedule of car park costs split by public car parks and staff car parking. BAC does not split its car parking costs between at-terminal and at-distance car parks.</p> <p>Following the recommendation of the PC³³, there will be certain of the costs listed in Table 6.3 that can be split as they are directly</p>

³¹ PC Report, page 316.

³² Consultation Paper, paragraph 4.7.

³³ PC Report, page 312.

Option 1 requirements	BAC comments
	<p>attributable to at-terminal and at-distance car parks (for example, certain services and utilities). However, there are other costs listed in Table 6.3 that are common costs and would likely be arbitrarily split between at-terminal and at-distance car parks (for example, general administration, property leasing and maintenance). BAC estimates that this would account for more than half of the costs listed in Table 6.3. BAC considers that in line with the PC's recommendations, BAC prepares (outside the Regulatory Accounting Statements) a new Table 6.3 which indicates which costs are directly attributable to which car park service consistent with the reports provided in Tables 6.1 and 6.2. For those common costs listed in Table 6.3, these be identified as common costs to all car park services.</p>
<p>Information about the cost allocation method to enable the ACCC to understand how the costs and assets have been allocated to at-terminal and at-distance car parking³⁴</p>	<p>The PC did not consider that cost allocations needed to be developed for car parking. Rather, that if cost allocations for common costs were used, details of these allocations should be provided to the ACCC. If they do not, then the monitored airports needed to advise the ACCC of this.</p> <p>BAC can confirm that it currently does not split its costs for car parking as contemplated by Option 1. BAC can, as outlined above, split out its costs directly attributable to each car park service. For common costs, any allocation will involve subjective management judgment and is likely to be an arbitrary split of such costs.</p> <p>BAC understands that the relevance of splitting the cost information is to enable the ACCC to better consider whether airports are earning monopoly rents on their car park offerings or whether they are pricing efficiently recognising the locational rents as well as scarcity rents (or congestion rents) that are associated with car parking. BAC acknowledges that the PC recommendations will improve the ability of the PC and the ACCC in conducting this assessment. However, acknowledging the arbitrary nature of any cost allocation, BAC considers that any requirement to allocate as suggested by the ACCC would be of limited probative value. Such an assessment could, as the PC envisaged, be made by providing for the identification of direct costs by car park and common costs (and the allocation of these if this is already undertaken by the monitored airport).</p>
<p>Split non-aeronautical assets into specific services, at-terminal and at-distance car parking³⁵</p>	<p>BAC understand that what is contemplated is that the noncurrent non aeronautical assets in Table 4.3 be further split into noncurrent car-parking assets (at-distance and at-terminal) and landside access assets (see further below). It is unclear if this will apply to the 'line in the sand approach' in Table 4.4.</p> <p>As noted in Table 1, the PC does not in Recommendation 9.4 contemplate any change to the current reporting of assets in the</p>

³⁴ Consultation Paper, paragraphs 4.12 and 4.16.

³⁵ Consultation Paper, paragraph 4.13.

Option 1 requirements	BAC comments
	<p>way contemplated by the ACCC. Rather the PC's focus is on obtaining additional information on the operating costs of common use infrastructure as discussed above.³⁶</p> <p>BAC anticipates if the additional detail required by the ACCC in Option 1 was required to be provided this would exponentially increase the reporting breadth.</p> <p>Based on the matters raised above, BAC is not supportive of providing an additional split of the non-aeronautical asset base as contemplated in Option 1.</p> <p>As with the other items above, if the ACCC was to require the monitored airports to provide this additional information, BAC would not be supportive of this being provided as part of the Regulatory Accounting Statements (Tables 4.3 and 4.4). BAC proposes that the ACCC instead require that this information be prepared in a new table format that sits outside the scope of the audited component of the ACCC report.</p>
<p>The monitored airports would need to report all relevant operational data (being reports for the purposes of regulation 7.07) in disaggregated form to match financial data</p>	<p><i>Average staff equivalent and area (in hectares) data</i></p> <p>BAC already provides the ACCC with a breakdown of aeronautical staff equivalent and areas (in hectares) data by aeronautical services and non-aeronautical services. The ACCC is seeking a further split of this information by at-terminal and at-distance car parking.</p> <p>BAC is supportive of supplying average staff equivalent data and area (hectares) data in disaggregated form, however, BAC notes that this information will be based on additional allocators that will be subject to subjective judgment. In respect of average staff equivalent data this data has the additional limitation that it would be provided at a point in time (for example 30 June each year) and therefore would not be representative of seasonality or other factors. In respect of area (in hectares) data, this will be based on a subjective internal methodology. For example, whilst the area of the car parks are a defined area, the access roads into the airport precinct and the access roads to the car parks are shared between non-aeronautical services as well as between the car parks and other landside access services which will need to be subjectively allocated.</p> <p><i>Vehicle data</i></p> <p>BAC already provides the ACCC with data on the number of car parking spaces as well as the annual throughput by car parking facility. It is unclear what further information or data the ACCC requires beyond what is already provided to the ACCC.</p> <p><i>Reports under Regulation 7.07</i></p> <p>The comments made in Table 1 above equally apply here.</p>

³⁶ PC Report, page 309.

Option 2 – Car parking

49. For car parking services, the ACCC sets out in Option 2 the additional information that the ACCC will require monitored airports to provide to the ACCC. Subject to the confidentiality submissions set out in detail in paragraphs 66 to 71 below, set out in the below table are BAC's comments on the ACCC's additional information requirements:

Table 4: Option 2 – Car parking

Option 2 requirements	BAC comments
Service classifications developed by the ACCC ³⁷	<p>The ACCC contemplates that car park services will be categorised into at-terminal and at-distance. It is unclear based on Option 2 whether the ACCC will continue to require the current split of car park services that is currently undertaken in respect of some reporting between public and staff car parking.</p> <p>As detailed above, BAC does not currently categorise its services into at-terminal and at-distance car parking. However, as noted above, BAC only provides one at-distance car parking service to the public, being AirPark for which BAC already reports its charges and revenue separately.</p>
Based on the ACCC's service classifications, the monitored airports would be required to provide additional regulatory accounting data (throughput data and financial data) in relation to each service (group and sub group levels) ³⁸	<p><i>Throughput data</i></p> <p>The comments made in Table 2 equally apply here in respect of throughput data (which BAC assumes is the data that is currently captured in Table 5.1 Statement of operational statistics).</p> <p><i>Financial data</i></p> <p>BAC already provides the charges and revenue by car park type noting that only AirPark and the Staff Carpark are at-distance car parks.</p> <p>What is contemplated by Option 2³⁹ is that the split of at-terminal and at-distance car parking be made in respect of all aspects of the car parking services included in the Regulatory Accounting Statements.</p> <p>Putting aside the issues associated with the auditing of this data, which are addressed below, for the same reasons set out in respect of Option 1 in respect of allocation of costs and assets and Option 2 for aeronautical services, Option 2 will require an entire overhaul of BAC's approach to ACCC reporting and necessitate a "bottom up" re-build of the regulatory accounts that monitored airports currently prepare (as detailed in paragraph 33(b) above).</p>
Provide detailed cost allocation methodology ⁴⁰	<p>The provision of a detailed cost allocation methodology as contemplated by Option 2 would be inconsistent with the PC's recommendation for providing cost allocation methodologies (i.e. "If airports have methodologies for allocating common costs to</p>

³⁷ Consultation Paper, paragraph 4.18.

³⁸ Consultation Paper, paragraph 4.21.

³⁹ The comments made in respect of the split of financial data between international and domestic flights in respect of Option 1 apply to the extent relevant for Option 2.

⁴⁰ Consultation Paper, paragraph 4.21.

Option 2 requirements	BAC comments
	<p><i>specific services they should provide them to the ACCC. If they do not have such methodologies, they should state that clearly to the ACCC.”)</i></p> <p>For the same reasons discussed in Table 2, BAC anticipates that if it was required to allocate costs as contemplated by Option 2 this will require significant upfront investment to change the way that it gathers and reports all of its financial data to meet the ACCC’s requirements.</p> <p>It is anticipated that for car parking costs, this allocation may be more challenging as no allocation is currently made between at-terminal and at-distance car parking. Nor is such an allocation made for any other purpose (by contrast to aeronautical services).</p> <p>As such, BAC will need to develop, most likely with the assistance of an accounting consultancy, at significant expense to BAC, a cost allocation methodology that meets the ACCC reporting requirements.</p>
Independent auditing of the regulatory accounts ⁴¹	The comments made in Table 2 in relation to the independent auditing requirement equally apply here.

Option 3 – Car Parking

50. For Option 3, it is proposed for car park services that BAC will be required to report systematically disaggregated data (as described for Option 2), in accordance with a standardised cost allocation method prescribed by the ACCC. To enable this to occur, the ACCC considers that it requires enhanced powers to make “record keeping rules” for the monitored airports.
51. As noted in paragraph 26 above, each of the ACCC’s options build on each other. BAC agrees with the ACCC’s assessment that Option 3 should not be supported for the same reasons set out at paragraphs 42 to 47 above with respect to aeronautical services.

Landside Access

Option 1 – Landside Access

52. For landside access services, the ACCC sets out in Option 1 the information that the ACCC will require monitored airports to provide to the ACCC. Subject to the confidentiality submissions set out in detail in paragraphs 66 to 71 below, set out in the below table are BAC’s comments on the ACCC’s additional information requirements:

Table 5: Option 1 – Landside access

Option 1 requirements	BAC comments
Provide income statement and balance sheets that show the split between car parking, landside access and other	<p>BAC does not currently report its income statement and balance sheet in the manner required by Option 1.</p> <p>BAC, as detailed below, already voluntarily provides detailed financial information regarding the charges, revenue and costs</p>

⁴¹ Consultation Paper, paragraph 4.22.

Option 1 requirements	BAC comments
services with landside access further split into by each transportation mode ⁴²	<p>associated with landside access services. It is unclear what further data or information the ACCC requires beyond what it currently obtains to investigate the potential harm associated with landside access charges for monitored airports.</p> <p>If the monitored airports are to provide an additional income statement and balance sheets to demonstrate the allocation between each transportation mode, this should be done outside the scope of the audited component of the ACCC report.</p>
Separate charge, revenue and cost data based on the provision of each landside service (i.e. transportation mode) ⁴³	<p><i>Charges and revenue</i></p> <p>BAC provides in Table 7.1 and 7.1.1 of the Regulatory Accounting Statements a schedule of the airport landside access charges split by transport mode and in Table 7.2 a schedule of the revenue split by description or charge.</p> <p>It is unclear based on the above, what further information or data beyond what is already provided in Table 7.1, 7.1.1 and 7.2 is contemplated by the ACCC in Option 1.</p> <p><i>Costs</i></p> <p>BAC provides in Table 7.3 of the Regulatory Accounting Statements a schedule of landside access costs. BAC does not split its landside access services by transport mode.</p> <p>Following the recommendation of the PC⁴⁴, there will be certain of the costs that are listed in Table 7.3 that can be split as they are directly attributable to particular transport modes (for example, certain direct costs of operating the taxi and ride share separate waiting area). However, there are other costs listed in Table 7.3 that are common costs and would likely be arbitrarily split between at-transport modes (for example, kerbside attendants costs). BAC sees limited utility in further splitting the costs associated with the delivery of these services.</p>
Information about the cost allocation method to enable the ACCC to understand how the costs and assets have been allocated to each transportation mode ⁴⁵	<p>The PC did not consider that cost allocations needed to be developed for landside access services. Rather, that if cost allocations for common costs were used, details of these allocations should be provided to the ACCC. If they are not, then the monitored airports needed to advise the ACCC of this.</p> <p>BAC can confirm that it currently does not split its costs for landside access as contemplated by Option 1.</p> <p>Unlike with the aeronautical and car parking services, which it is proposed will require an allocation between two types of services⁴⁶, BAC understands that for landside access that the allocation needed will be by transport mode which will include at</p>

⁴² Consultation Paper, paragraph 4.7.

⁴³ Consultation Paper, paragraph 4.17.

⁴⁴ PC Report, page 312.

⁴⁵ Consultation Paper, paragraphs 4.17.

⁴⁶ At least in respect of Option 1 for aeronautical services.

Option 1 requirements	BAC comments
	<p>least eight different transport modes for the monitored airports i.e. taxi, ride sharing, off-airport car parking, private car or limousines, private bus, public bus⁴⁷ and train. BAC notes that there are a considerable number of different classes of vehicle type, as set out in Table 7.1.1 of the Regulatory Accounting Statements, and an allocation by vehicle type would add an additional layer of regulatory burden to the monitored airports.</p> <p>There is significant overlap in the use of shared infrastructure for the delivery of the landside access services, for example, the access roads into the airport are utilised for all of the transport modes (save for Brisbane's AirTrain) as too are kerbside services such as kerbside attendants. Certain additional services are provided for taxi and ride shares with holding areas. However, it would be difficult, and in some cases impossible, for separate costs and assets to be meaningfully allocated to each landside access service. BAC is therefore supportive of the PC's formulation that no allocation be made in respect of landside access assets and for operating and capital costs that can be directly attributed to a service should be allocated this way. Common costs should be reported as common costs and any allocation that is undertaken split by transport mode provided, and if such methodologies are not used that this is confirmed to the ACCC. As set out above, BAC's common costs for the provision of landside access services are not allocated by transport mode.</p>
<p>Split non-aeronautical assets into specific services, landside access services by transport mode⁴⁸</p>	<p>As detailed in Table 3, it would be extremely burdensome to split the non-aeronautical assets (Table 4.3 and 4.4) by landside access services and then by mode of transport. As noted above in Tables 1 and 3, the PC does not contemplate any change to the current reporting of assets in the way contemplated by the ACCC. There are considerable challenges with such a split in the context of landside access services including:</p> <ul style="list-style-type: none"> ▪ There are significant shared zones for the provision of landside access services for example access roads into the airport land and pick up lanes that can be used by more than one transport mode. Any apportionment of these assets by transport mode would require subjective management judgment. This judgment will likely be bespoke to each individual monitored airport as it is recognised that the configuration of landside access services are different for each monitored airport. It is therefore unlikely that the ACCC will achieve the consistency, comparability and interpretability of the information it receives for landside access even if the split of non-aeronautical services are required.

⁴⁷ Noting that Brisbane Airport is prohibited under the contract between the company that operates the train services (AirTrain) and the Queensland Government from provide public bus access.

⁴⁸ Consultation Paper, paragraph 4.17.

Option 1 requirements	BAC comments
	<ul style="list-style-type: none"> ▪ As noted above, the number of transport modes are considerable and are in Table 7.1.1 further broken down within transport mode. If a further allocation is to be made to align with Table 7.1.1 this would add a further layer of complexity and subjectivity. <p>Based on the matters raised above, BAC is not supportive of providing an additional split of the non-aeronautical asset base as contemplated in Option 1. As with the other items above, if the ACCC was to require the monitored airports to provide this additional information, BAC would not be supportive of this being provide as part of the Regulatory Accounting Statements (Tables 4.3 and 4.4).</p>
<p>The monitored airports would need to report all relevant operational data (being reports for the purposes of regulation 7.07) in disaggregated form to match financial data</p>	<p><i>Average staff equivalent and area (in hectares) data</i></p> <p>BAC is supportive of supplying average staff equivalent data and area (hectares) data in disaggregated form, however, BAC notes that this information will be based on additional allocators that will be subject to subjective judgment. In respect of average staff equivalent data this data has the additional limitation that it would be provided at a point in time (for example 30 June each year) and therefore would not be representative of seasonality or other factors. In respect of area (in hectares) data, this will be based on a subjective internal methodology. For example, given that transport modes each utilise the kerbside drop off areas, any allocation is likely to be arbitrary and difficult (if not impossible) to allocate between transport modes in some instances.</p> <p><i>Vehicle data</i></p> <p>BAC already provides the ACCC with data on the number of vehicles utilising different landside access services (see column headed “number of units provided” in Table 7.2).</p> <p>BAC notes the ACCC has expressed some concerns that the current data provided by monitored airports is aggregated data for some forms of transport, such as private buses and private cars⁴⁹. This arises because of the limitations of the data BAC is able to collect, for example, BAC is only able to collect information in relation pick-up activities for various transport modes (by virtue of e-tags being triggered on pick-up) and does not collect, and is not able to collect, information in relation to drop-off activity. It is, however, unclear why the allocation between private buses and cars is critical. It is also unclear what further information or data the ACCC requires beyond what is already provided to the ACCC.</p> <p><i>Reports under Regulation 7.07</i></p> <p>The comments made in Table 1 equally apply here.</p>

⁴⁹ Consultation Paper, page 11.

53. In light of the matters set out above, BAC makes the following additional general comments on the additional information proposed for landside access services:
- (a) **Benefit of additional information in light of the challenges associated with additional data** – BAC understands that the PC's and the ACCC's concerns regarding the lack of cost information for landside access services is that it limits the ACCC's ability to draw meaningful conclusions about the level of pricing and revenues generated from landside access activity and its likely effect on airport performance.⁵⁰ BAC considers whilst there is value in having additional data there are challenges in allocating costs and assets for landside access services. As such, even if this information was able to be provided in any meaningful way, these challenges with allocation will mean that the ACCC and the PC's assessment of these issues will continue to be affected by the consistency, comparability and interpretability of the information that it receives.
- (b) **Regulatory burden as compared to share of revenue for landside access services** – landside access revenues comprise between 2.6 percent of total revenue in 2018-19 across all monitored airports. The ACCC has recognised that the scale of any concern with landside access services is likely to be much smaller than compared to aeronautical and car parking services.⁵¹ It is in this context that the regulatory burden of this proposed Option 1 for landside access needs to be considered. BAC considers it difficult to see a net benefit of requiring provision of the additional information as contemplated by Option 1. The scale of the regulatory burden, in particular in respect of landside access is not consistent with the principles of the light handed regulatory regime.

Option 2 – Landside access

54. For landside access services, the ACCC sets out in Option 2 the additional information that the ACCC will require monitored airports to provide to the ACCC. Subject to the confidentiality submissions set out in detail in paragraphs 66 to 71 below, set out in the below table are BAC's comments on the ACCC's additional information requirements:

Table 6: Option 2 – Landside Access

Option 2 requirements	BAC comments
Service classifications developed by the ACCC ⁵²	<p>The ACCC contemplates that landside access services will be categorised by mode of transport. This is to include taxi, ride sharing, off-airport car parking, private car, private bus and train, each as a separate category for reporting.</p> <p>As detailed in Table 5, BAC does not currently categorise its services by transport mode and the classification which gives rise to issues with the scale of the classification proposed, the ability to then allocate between the classifications and the benefits associated with such classifications particularly given the different landside access services provided and configurations of the monitored airports.</p>
Based on the ACCC's service classifications, the monitored airports would be required to	<i>Throughput data</i>

⁵⁰ PC Report, page 219.

⁵¹ ACCC Submission to the PC, September 2018 at page 54-55.

⁵² Consultation Paper, paragraph 4.18.

Option 2 requirements	BAC comments
provide additional regulatory accounting data (throughput data and financial data) in relation to each service (group and sub group levels) ⁵³	<p>The comments in Table 5 equally apply here in respect of throughput data (which BAC assumes is the data that is currently captured in Table 5.1 Statement of operational statistics).</p> <p><i>Financial data</i></p> <p>BAC already provides the charges and revenue by transport mode. What is contemplated by Option 2⁵⁴ is that the split by transport mode be made in respect of all aspects of the landside access services included in the Regulatory Accounting Statements.</p> <p>Putting aside the issues associated with the auditing of this data, which are addressed below, Option 2 will require an entire overhaul of BAC's approach to ACCC reporting and necessitate a "bottom up" rebuild of the regulatory accounts that monitored airports currently prepare (as detailed in paragraph 33(b) above).</p>
Provide detailed cost allocation methodology ⁵⁵	<p>The provision of a detailed cost allocation methodology as contemplated by Option 2 would be inconsistent with the PC's recommendation for providing cost allocation methodologies (i.e. <i>"If airports have methodologies for allocating common costs to specific services they should provide them to the ACCC. If they do not have such methodologies, they should state that clearly to the ACCC."</i>)</p> <p>For the same reasons discussed in Table 2, BAC anticipates that if it was required to allocate costs as contemplated by Option 2 this will require significant upfront investment to change the way that it gathers and reports all of its financial data to meet the ACCC's requirements.</p> <p>It is anticipated that for landside access services this allocation will be extremely challenging as no allocation is currently made between transport modes. Nor is such an allocation made for any other purpose (by contrast to aeronautical services).</p> <p>As such, BAC will need to develop, most likely with the assistance of an accounting consultancy, at significant expense to BAC, a cost allocation methodology that meets the ACCC reporting requirements.</p>
Independent auditing of the regulatory accounts ⁵⁶	The comments made in Table 2 regarding the requirement for independent auditing equally apply here.

55. BAC notes that for non-aeronautical services, Option 2 contemplated that non-aeronautical services be split into car parking (as discussed in paragraph 49 onwards above), landside access

⁵³ Consultation Paper, paragraph 4.21.

⁵⁴ The comments made in respect of the split of financial data between international and domestic flights in respect of Option 1 apply to the extent relevant for Option 2.

⁵⁵ Consultation Paper, paragraph 4.21.

⁵⁶ Consultation Paper, paragraph 4.22.

(as discussed in paragraph 54 onwards above) and “other”. The ACCC notes that this “other” category covers retail, properties and car rental to be reported individually or together.⁵⁷

56. The ACCC notes that the reason for this is that “*Option 2 requires data and cost allocation method based on a full set of service classification*” to ensure there is no overlapping or omission of any services that an airport provides.
57. The monitoring of, and the reporting on, airports’ financial performance in other non-aeronautical services, such as retailing, car rental operators, business parks and factory outlets is recognised by the ACCC to go beyond the scope of the ACCC’s monitoring role.⁵⁸
58. If it is to be suggested that the Regulatory Accounting Statements include a breakdown of financial data associated with this “other” commercial activity category (which appears to the case based on paragraph 4.21 of the Consultation Paper), this again appears to be significant regulatory over-reach by the ACCC. This is beyond what the PC contemplated in Recommendation 9.4 and also outside the directed monitoring of airports by the ACCC.

Option 3 – Landside access

59. For Option 3, it is proposed for landside access services that BAC will be required to report systematically disaggregated data (as described for Option 2), in accordance with a standardised cost allocation method prescribed by the ACCC. To enable this to occur, the ACCC considers that it requires enhanced powers to make “record keeping rules” for the monitored airports.
60. As noted in paragraph 26 above, each of the ACCC’s options build on each other. BAC agrees with the ACCC’s assessment that Option 3 should not be supported for the same reasons set out above with respect to aeronautical services.

Regulatory requirement for provision of landside access information

61. The PC when commenting about landside access services noted the following:

Airport operators currently provide information to the ACCC on landside access on a voluntary basis — there is no regulatory requirement for them to do so. The monitoring regime would be more effective if airports were required to provide consistent information on the:

- *different modes of landside access and the number of vehicles using each of the landside services*
- *charges and other terms of access for each type of service*
- *revenue and costs associated with landside access services.*

62. The Consultation Paper suggests that the monitored airports provide landside access information as part of the regulatory price monitoring and financial reporting regime, rather than as it currently is, based on a voluntary approach.
63. BAC, as part of this voluntary arrangement, already provides a detailed break-down of:

⁵⁷ Consultation Paper, Table 3.

⁵⁸ Airport Monitoring Report 2020-21, page 19 and 95. Information on such activities in the latest report was limited to the impact of the COVID-19 pandemic on commercial activities at monitored airports.

- (a) landside access revenue (Table 7.2) which is split between scheduled bus services, off-airport car parking operators, off-airport car rental operators, private bus and private car operators (i.e. limousine), taxi pick up, ride share operators and train services;
 - (b) associated landside access costs (Table 7.3), including the basis of cost allocation (i.e. specific cost drivers used to make this allocation to landside access costs as opposed to other non-aeronautical costs and aeronautical costs);
 - (c) ground transport operator fees (Table 7.1.1) split by terminal and transport type.
64. BAC is supportive of continuing to provide the information that it currently provides to the ACCC in Tables 7.1, 7.1.1, 7.2 and 7.3. For the reasons discussed in further detail above, BAC is not supportive of any requirement for the information in Tables 7.1, 7.1.1, 7.2 and 7.3 to be further disaggregated by transport mode.
65. As regards to whether this information should be directed to be provided or amendments should be made to the regulation, this is a matter for the Minister's discretion and government. BAC does, however, see the benefit of this information being provided in a manner such that the confidentiality protections set out below apply to this additional information.

Confidentiality of information

66. The PC recognised in Recommendation 9.4 the commercial sensitivity associated with the additional information that it proposed be provided to the ACCC as part of the price monitoring and financial reporting regime.
67. For existing information provided to the ACCC under the price monitoring and financial reporting regime there are existing confidentiality protections under the Airports Act⁵⁹ and the *Competition and Consumer Act 2010 (Cth)*⁶⁰. BAC is broadly supportive of these protections applying to any additional information that is to be provided to the ACCC as part of the price monitoring and financial reporting regime and for the ACCC to continue to have discretion over what reporting information is available to the public.
68. BAC is, however, concerned regarding how this discretion is being exercised by the ACCC. As detailed in BAC's response to the Airport Quality Indicators – Consultation Paper⁶¹, BAC is concerned that in responses to BAC's claims of confidential or commercially sensitive information, the ACCC's responses have not been grounded in a transparent or objective framework to justify the ACCC's position. Rather BAC is concerned that the decisions are being made arbitrarily, with little or no explanation of why information will be released despite claims of confidentiality being made clearly and comprehensively and in accordance with the ACCC's guidance.
69. BAC considers that these concerns could be addressed by the Guideline⁶² being updated such that "Section 1.2 – Confidentiality" provides guidance to monitored airports regarding the considerations that the ACCC is required to give when the confidentiality claims "*are justified and whether disclosure of the relevant information is necessary in the public interest*". BAC also considers that where confidentiality claims that are justified are made and rejected by the ACCC, that the ACCC be required to explain, by reference to these considerations, why the claim has been rejected in favour of disclosure in the public interest.

⁵⁹ Sections 147 and 158.

⁶⁰ Sections 95ZF(2) and 95ZN.

⁶¹ BAC letter to the ACCC, Airport Quality Indicators – consultation paper, 29 July 2022.

⁶² Which was last updated in June 2009.

70. What additional information should be provided in disaggregated form that could be subject to any confidentiality assessment by the ACCC, will obviously depend on what is ultimately decided by Government in implementing Recommendation 9.4. However, in broad terms, BAC has the following concerns with publishing the type of disaggregated additional information referred to in Recommendation 9.4:
- (a) **Protecting commercial sensitive information is critical to the objective of facilitating commercial negotiations** – the ACCC’s practice of publishing the annual price monitoring reports, the Regulatory Accounting Statements of each of the monitored airports and the supplementary database containing aeronautical and car parking and financial and operational data for each airport provides a significant amount of transparency to market participants of the monitored airports’ commercially sensitive information. As the ACCC is aware, a corner stone of the current light handed regulatory regime is the commercial negotiations that are conducted at arm’s length between airlines and airports. The result of these negotiations are competitively sensitive confidential terminal agreements between a monitored airport and an individual airline. The split of costs and revenue into international and domestic terminals or by specific terminals within monitored airports may allow the airlines to reverse engineer and estimate prices agreed between airports and airlines arising out of those terminals and other commercially sensitive information. For BAC this could arise in respect of the disclosure of costs and revenue information for BAC’s domestic terminal. Given that one operator maintains majority market share in domestic air travel it would be relatively simple for the major domestic airlines to back solve the commercially negotiated rates of their competitors. It is likely to be even more straightforward for other monitored airports given the utilisation of their terminals such that airlines are able to more easily reverse engineer commercially sensitive information, including price. The competition effect is that this could undermine the effectiveness of commercial negotiations between a monitored airport and airline(s) and also across airports.
 - (b) **Create a focal point around which the coordination of behaviour could occur** – the ability to reverse engineer the commercially negotiated prices, for example, through the publication of detailed costs and revenue information may have the capacity to hinder price competition by creating a potential focal point around which behaviour can coordinate in negotiations between, for example, a monitored airport and an airline for that airport or alternatively across monitored airports.
 - (c) **Ensuring commercially sensitive operational and financial information is not available to competitors** – as the ACCC is aware, the monitored airports provide car parking services which compete with other off-airport car parks as well as other modes of transport that utilise its landside access services. The proposed additional information in respect of car parking and landside access services is commercial in confidence given the detailed operational data that is proposed to be provided which could be accessed by existing and/or potential competitors. This could impact the monitored airports’ competition position vis-a-vis off-airport car parking providers. For example, publication of commercially sensitive data such as detailed cost data in relation to AirPark (being the parking asset that competes most directly with off-airport operators) could potentially enable BAC’s competitors, either individually or in coordination with each other, to pursue pricing strategies that adversely impact pricing competition between AirPark and the off-airport car park offerings.
71. Given these concerns, BAC considers, in broad terms, rather than publish the additional disaggregated information, the ACCC should use the information to undertake its analysis and publish the results or observations arising from it.⁶³ Further, given the competitively sensitive

⁶³ Consistent with the ACCC’s suggestion in paragraph 4.41 of the Consultation Paper.

nature of the disaggregated information, the ACCC should consider utilising the options outlined in its ACCC/AER Information Policy for managing such matters, including:

- (a) releasing only aggregated information (which is not capable of being reverse engineered as discussed above); and
- (b) disclosing the substance rather than the detail of any findings arising from the analysis of the disaggregated information.⁶⁴

⁶⁴ See ACCC/AER Information Policy, page 9; see also, example 4, ACCC Guidelines on Concerted Practices, page 10.