

PAPL submission re: Airservices Price Notification process

1st February 2024

1 Introduction

- 1 Perth Airport Pty Limited (**PAPL**) appreciates the opportunity to comment on the ACCC's Issues Paper addressing Airservices Australia's (**Airservices**) Draft Price Notification for FY24 to FY26.¹
- 2 Airservices provides air navigation and aviation rescue and firefighting services (**ARFF**) in supporting a safe and efficient aviation industry. As noted by Airservices' in its Draft Price Notification, investment in air navigation and ARFF services at Perth Airport will be necessary to support the operations of a future parallel runway system, and we look forward to working with Airservices in progressing this important project for Australia's aviation industry.
- 3 PAPL's submission focusses on the weighted average cost of capital (**WACC**) contained in Airservices' Draft Price Notification, addressing the ACCC's consultation questions for its views on the reasonableness of the WACC.²
- 4 Along with promoting operating efficiency and good service outcomes, Airservices' prices need to generate an appropriate rate of return to fund investments in the provision of its services. PAPL agrees with Airservices' position that its proposed prices are the '*minimum necessary*' to '*rebalance*' prices to account for changes in demand against a context of persistent *decreases* in real prices of 35% since 2005 and the recovery from the pandemic.³

2 Summary of the proposed WACC and PAPL's response

- 5 Airservices commissioned an independent WACC review by Incenta Economic Consulting which provided an expert opinion that a post-tax nominal 'vanilla' WACC of **8.93%** is appropriate as assessed at 31 July 2023.⁴ Incenta's WACC estimate is the first robust WACC analysis for Airservices in over 20 years.⁵
- 6 The key *firm-specific* parameters underlying this estimate are:
 - an asset beta of 0.7,
 - a gearing of 21%.
- 7 The key *market-wide* parameters are:
 - risk-free-rate of 4.09%,
 - market risk premium of 6.2%,
 - and return on debt of 6.35% (applying a BBB+ credit rating).

¹ Airservices Australia, Draft Price Notification 2024-2026, (**Draft Price Notification**).

² Australian Competition and Consumer Commission (ACCC), Airservices Australia draft price notification 2024-2026: Issues Paper (30 November 2023), p 28 (questions 13 and 14).

³ Airservices Australia, *Airservices Pricing Proposal* (13 November 2023)

⁴ Incenta Economic Consulting, *Review of WACC* (13 November 2023) (**Incenta WACC Report**).

⁵ The ACCC's previous assessment of a draft pricing proposal for a building-block pricing proposal occurred in 2011 (see ACCC, *Final Decision on Price Notification* (22 August 2011) (**2011 Airservices Decision**) at page 32, and the WACC applied in that decision primarily relied on the historical analysis conducted by PwC in the 2002-03 Airservices process (see PwC, *Review of the Weighted Average Cost of Capital for Regulated Services* (27 November 2003).

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- 8 Notably, Incenta's market wide parameters are estimated as at 31 July 2023, but asset beta and gearing are assessed at December 2019 due to an instruction by Airservices to estimate a 'pre-covid' estimate with subsequent reviews to take into account the pandemic. Importantly, Incenta's position on the WACC represents empirical evidence within the context of Airservices' decision to set a WACC lower than could be reasonably justified given the impact of the pandemic on the aviation industry in Australia and overseas.
- 9 PAPL therefore submits that, while Incenta's WACC estimate is based on relevant empirical evidence, it is **unduly conservative** in its application and hence the WACC is lower than can be reasonably justified given the most up to date empirical evidence of the pandemic justifying a higher risk-adjusted rate of return.
- 10 The *firm-specific* parameters including asset beta are consistent with the findings in *Perth Airport Pty Ltd v Qantas Airways Ltd [No 3] [2022] WASC 51 (Perth Airport case)*, which is a recent and robust methodology addressing PAPL's WACC to apply from July 2018, and hence did not incorporate the increased volatility and risk due to the pandemic. Airservices' WACC is to apply from 1 July 2024 and Incenta has, however:
- rounded *down* the asset beta assessed in December 2019 from 0.72 to 0.70;⁶
 - as per instructions from Airservices, not made any COVID uplift to account for the risks of the pandemic where the Heathrow H7 price determination process and the NZCC 2023 inputs methodologies process serve as clear, recent precedents justifying pandemic uplifts; and
 - used a gearing of 21% in circumstances where Airservices' actual gearing is over 40% and the previous ACCC endorsed WACC for Airservices was based on a gearing of 45%.
- 11 The *market-wide* parameters adopt the recent approach by the Australian Energy Regulator (AER), which, whilst, in PAPL's view is inferior to IPART's 2018 approach,⁷ is reasonable in the current 'normal' risk-free-rate environment.
- 12 It is obviously unusual for a regulated services provider to make a series of concessions on the estimation of its WACC, especially when there are justifiable reasons backed by empirical evidence and overseas precedents to draw upon. PAPL's interpretation of this is Airservices' seeking to show it is making 'upfront' financial concessions to the industry as part of its proposed prices. In undertaking its analysis of the proposed WACC, PAPL considers it important for the ACCC to form a view over the WACC that can be justified (even if this should prove higher than proposed by Airservices) in deciding whether or not to object to the proposed prices contained in Airservices' Draft Prices Notification.
- 13 Accordingly, Airservices' unduly conservative approach should provide significant comfort to the ACCC that the 8.93% is appropriate to promote efficient incentives to invest.
- 14 The following sections provide further detail and analysis on the estimates of the firm-specific parameters (asset beta, gearing and credit rating) and market-wide parameters (risk free rate, market risk premium and gamma).

3 Firm-specific parameters (Asset Beta)

Incenta's approach to the sample set

- 15 The asset beta is the most significant firm-specific parameter which measures *firm-specific* underlying systemic business risk.⁸

⁶ Incenta WACC Report, p 8.

⁷ Independent Pricing and Regulatory Tribunal, *Review of our WACC method* (February 2018), (**IPART 2018 Methodology**).

⁸ Incenta WACC Report p 4; see also *Perth Airport Pty Ltd v Qantas Airways Ltd [No 3] [2022] WASC 51* at [192] – [194] on the definition of the asset beta in setting an appropriate risk adjusted rate of return.

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- 16 For listed firms, it is possible to measure the co-variance of movements of stock prices against the stock market known as 'empirical' asset/equity beta estimates. For unlisted firms, such as Airservices, it is not possible to measure an empirical asset/equity beta estimate.
- 17 This requires the analyst to form a sample of comparator listed firms and using the average as a form of benchmark. In forming the comparator sample, if there are insufficient numbers of domestic listed comparators, it is standard practice to use both domestic and international comparators.⁹
- 18 In the case of Airservices there is only one listed Air Navigation Service Provider (**ANSP**) in the world, an Italian entity called ENAV. Accordingly for Airservices there is *no domestic* listed ANSP, and the only *international* listed ANSP comparator is ENAV. This creates significant challenges in forming a relevant comparator sample of listed firms. In circumstances where there is only one listed ANSP (ENAV), being a 'first-best' comparator, it is practically necessary to consider if other listed firms may serve as 'second-best' proxies.
- 19 To overcome this difficulty, Incenta has conducted a 'first principles' assessment of fundamental systemic business risk to form a sample of relevant comparators. The assessment incorporates a high level assessment of various risk factors including nature of regulation, customer mix, pricing flexibility, market power, growth options and operating leverage.
- 20 Following Incenta's risk assessment it concludes that listed airports are 'reasonably close' comparators. In circumstances where there is only 1 listed ANSPs, PAPL agrees that by necessity resort must be had to listed airports as relevant comparators as a 'second-best' proxy. In this relative sense airports, whilst different, are the closest comparators, and it would be inappropriate to use energy, telecommunications, or other listed firms operating in different industries in the sample.

Incenta's preferred broad sample of 19 airports

- 21 Following the first-principles risk assessment, Incenta identified 29 candidate comparator listed firms including ENAV and 28 listed airports.
- 22 Incenta excludes ENAV as it does not bear 100% traffic risk, which is a fundamental determinant of demand risk faced by Airservices. PAPL agrees that this exclusion is reasonable in these circumstances, with the treatment of ENAV to be reconsidered in future reviews if ENAV's or Airservices' exposure to traffic risk changes.
- 23 Incenta then excluded 9 airports on the basis that they are not liquidly traded stocks.¹⁰ An illiquid stock does not provide accurate estimates of the covariance of movements of the stock against the relevant market index and such an exclusion is consistent with the NZCC's 2023 Input Methodologies final decision;¹¹ and the approach of both economic experts in the *Perth Airport* case.¹² Given this, PAPL agrees with excluding these illiquid stocks.

⁹For example, the NZCC in 2010, 2016, and 2023 used samples of domestic and internationally listed firms for regulated service providers as there are insufficient numbers of listed NZ comparator firms.

¹⁰ Incenta WACC Report, p 7.

¹¹ New Zealand Commerce Commission, *Input Methodologies Review – Final decision – Cost of capital paper* (December 2023) at paragraph 4.129-4.131 provide that:

'In the draft decision, one factor we considered when choosing the comparator sample was the liquidity of the stock based on bid-ask spreads and free-float'

'Houston Kemp for Wellington Airport submitted that we need to exclude Flughafen Wien based on liquidity concerns. CEG for NZ Airports Association also considers that Flughafen Wien should be excluded on liquidity concerns, on the basis that it is acceptable to restrict the sample to firms that have a bid-ask spread of less than 0.5%.'

'We have reviewed the data and consider that Flughafen Wien is an outlier compared to the other firms in the sample we used in the draft decision. We have decided to exclude firms with liquidity concerns, and to remove Flughafen Wien from the revised sample of comparators.'

Further at paragraph 4.157.2 the NZCC states that its liquidity filter results in the removal of Flughafen Wien (Austria), Kobenhavn Luthavene (Denmark) and Toscana (Italy).

¹² *Perth Airport Pty Ltd v Qantas Airways Ltd* [No 3] [2022], [222] and [266].

24 This leaves Incenta with its preferred sample of **19 comparator firms**, and Incenta relies on the average of this broad sample in setting its pre-covid benchmark average of 0.72 as at December 2019, which it subsequently rounds down to 0.7.

Benefits of broad sample

25 PAPL agrees with Incenta's preference for a broad sample which PAPL considers is best regulatory practice.

26 Statistically speaking, a large geographically diverse sample with a focus on the sample average, has the benefit of giving a lower weighting to any individual comparator. Essentially, this means that the 'noise' or volatility for any particular firms, or localised market shocks, are diluted, which increases the robustness of the average.

27 The 'broad sample' approach has been applied in the Perth Airport case¹³ and until recently was the standard approach applied by the NZCC in relation to its Input Methodologies reviews for New Zealand Airports in 2010 and 2016. Specifically:

- In the Perth Airport case, the Court was required to decide between a broad sample of 20 airports, as proposed by PAPL's expert, and a narrow sample of 7 airports, as proposed by Qantas' expert. The Court comprehensively rejected the narrow sample proposed by Qantas' expert and preferred the broad sample, finding that the narrow sample had 'difficulties,' was 'unpersuasive,' 'appeared arbitrary' and was inconsistent with regulatory precedent.¹⁴
- The NZCC in its 2010 and 2016 input methodologies review applied a broad sample of listed airports forming a sample of 25 airports¹⁵ and 26 airports¹⁶ respectively.

Criticism of filters applied by NZCC to reduce the sample

28 In its 2023 Input Methodologies review, the NZCC released a draft decision in June 2023 which materially departed from its 2010 and 2016 approach by using several filters to reduce the sample to only 8 airports.¹⁷ The NZCC subsequently revised its filters in its final decision in December 2023 which resulted in a different sample of 9 airports in its final decision.¹⁸

¹³ Incenta WACC Report: see Annexure A for detail on the minor differences in the samples comparing the Incenta sample and the Perth Airport case sample.

¹⁴ *Perth Airport Pty Ltd v Qantas Airways Ltd [No 3] [2022]* at [264] – [265]:

There are a number of difficulties with Dr Hern's approach [for Qantas]. First, Sydney Airport and a number of the Tier 2 comparator airports do not in fact appear to be 'best' comparators for PAPL. This emerges both from consideration of the nature of the airports (for example, in terms of size, international hub status, extent of international operations and passenger numbers) and in the course of undertaking the relative risk assessment (for example, customer concentration risk).

Secondly, at a conceptual level, the views presented by Dr Hern regarding the necessity for similar country risks are unpersuasive. Thirdly, the sovereign credit rating threshold Dr Hern employs to determine countries with similar risks to Australia appears arbitrary and to be a technique not generally employed by regulators. Dr Hern only identifies a Singaporean energy regulator, an Italian energy regulator and a Spanish energy regulator as having explicitly used sovereign credit rating criteria to select relevant comparators.

¹⁵ NZCC, Input Methodologies (Airport Services) Reasons Paper (December 2010), p 322.

¹⁶ NZCC, Input Methodologies Review Decisions Summary Paper (20 December 2016) page 862.

¹⁷ NZCC, Input Methodologies Review 2023 – Final Decision in NZCC Report on the IM Review 2023 (13 December 2023) (**NZCC Final 2023 Decision**) at paragraph 4.45 identifies sample of 8 airports including AdP (France), AENA (Spain), Beijing (China), Flughafen Wien (Austria), Flughafen Zurich (Switzerland), Fraport (Germany), Sydney (Australia) and Auckland (New Zealand).

¹⁸ NZCC Final 2023 Decision at paragraph 4.173.1 identifies sample of 9 airports including AdP (France), AENA (Spain), Beijing (China), Flughafen Zurich (Switzerland), Fraport (Germany), Sydney (Australia), Airports of Thailand (Thailand), Hainan (China) and Auckland (New Zealand).

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- 29 The NZCC's filters were contentious and resulted in significant criticism. Industry participants presented compelling expert evidence that a broad sample is more accurate, consistent, predictable, less volatile, and less susceptible to 'arbitrary' or 'subjective' judgment calls than narrow samples.¹⁹
- 30 PAPL agrees with Incenta's criticisms of the NZCC's (i) variability of beta estimates filter, (ii) market comparability or 'country-risk' filter, and (iii) negative leverage filter.
- 31 With respect to the 'beta variability' filter, PAPL agrees with Incenta's views that there is no *a priori* reason to exclude airports due to 'imprecise' beta estimates, that noisiness in stock data is expected, that the 'best way to address the issue of beta imprecision is to assemble a large number of valid/comparable entities', and that in any event the NZCC erroneously relied on daily returns in applying its 'reliability' test.²⁰ Further, PAPL notes that experts for airports²¹ and airlines²² stated that beta 'reliability' is not a valid filter in the NZCC 2023 process. Notably, the NZCC itself observed that they are not aware of other regulators adopting such a filter.²³
- 32 With respect to the 'market comparability' filter, PAPL agrees with Incenta's views that comparable *risk* not comparable *markets* is the relevant assessment in forming the sample, the FTSE Equity Country classification is a flawed measure of 'market' comparability and Incenta's observation that there is no valid reason for MRP to be used to filter comparators.²⁴
- 33 Further, PAPL notes that the experts in the NZCC 2023 process made similar points,²⁵ and notes that a similar 'country-risk' filter was rejected by the Court in the Perth Airport case (see paragraph 27 and footnote 14 above).
- 34 With respect to the 'negative leverage' filter, PAPL agrees with Incenta's views that there is no theoretical support for excluding firms with no debt financing and observes that there is no fundamental reason why a firm must use debt finance to fund its assets.

Absence of COVID adjustment

- 35 Airservices instructed Incenta to exclude any consideration of the pandemic from their analysis of the appropriate asset beta, with such issues to be addressed in a subsequent pricing period. This approach is unduly conservative given that Airservices, like other aviation traffic exposed businesses, faced significant downside risk during the pandemic which affects the risk-adjusted returns required to invest in businesses exposed to such risks.
- 36 Figure 13 of Airservices Draft Price Notification shows graphically the extent of the shock to revenues as a result of the pandemic.

¹⁹ See for example:

- Competition Economics Group, Critique of 2023 IM Draft Decision on Asset Beta for NZ Airports (July 2023) (**CEG July 2023 Report**) section 4.
- HoustonKemp Economists, Wellington International Airport Ltd (WIAL) - HoustonKemp Economists' Comments on Commission's Asset Beta Methodology (July 2023) (**HK July 2023 Report**), sections 3.1 and 3.2.

²⁰ Incenta WACC Report, p 7.

²¹ See CEG July 2023 Report at section 6.1.

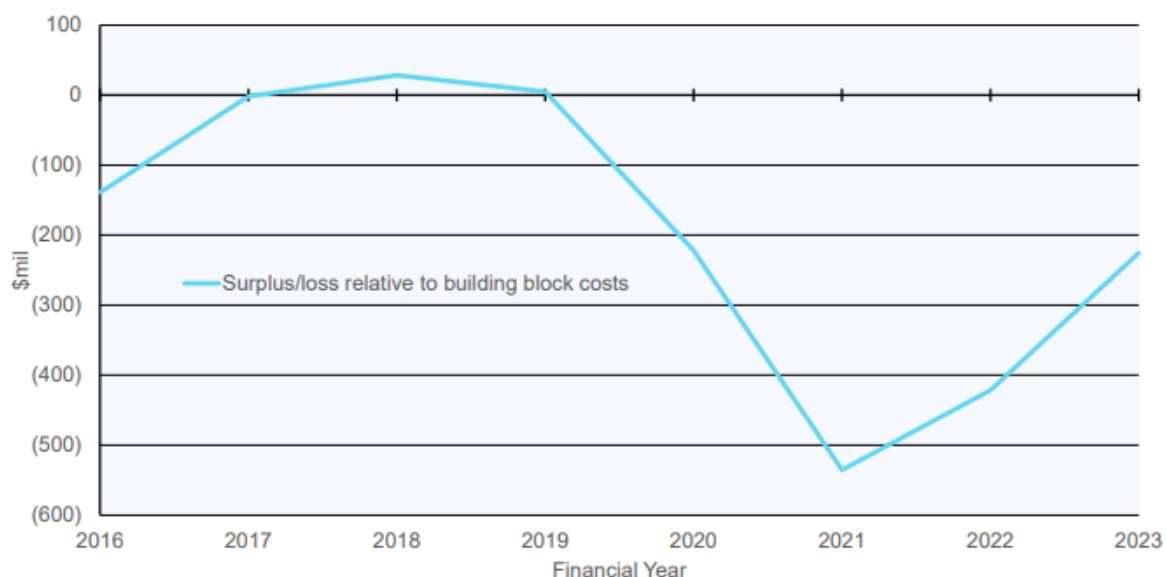
²² Castalia (engaged by Air New Zealand), Air New Zealand Comments on Cost of Capital Draft Decision Report dated July 2023, section 3.1.

²³ NZCC Final 2023 Decision, [4.154].

²⁴ Incenta WACC Report page 8.

²⁵ See for example, CEG July 2023 Report, section 6.1, HK July 2023 Report, section 3.1.

Figure 13: Surplus/(loss) relative to building block costs (\$2016)



- 37 PAPL submits that ignoring the pandemic entirely from its assessment of its required rate of return is an unduly conservative approach which is likely to understate the systemic risks of Airservices exposure to aviation traffic risk. The pandemic serves as a catastrophic example of the very real downside aviation risks faced by businesses with fixed costs that face aviation traffic risk.
- 38 This position is supported by two clear regulatory precedents applying COVID uplifts including the CMA's Heathrow Airport price determination process and NZCC 2023 Inputs Methodology Process (explained below). Any such COVID uplift may be applied by adding the relevant uplift to the 'pre-covid' estimate, or the next pricing period, to ensure that actual downside aviation traffic risks due to such risk exposure are being accounted for in the WACC.

Heathrow Airport H7 price determination process

- 39 On 18 October 2023, the UK Competition and Markets Authority (**CMA**) released its decision addressing all appeals against the Civil Aviation Authority's (**CAA**) decision on the aeronautical charges set by Heathrow airport (**HAL**) for the 'H7' period for calendar years 2022-2026.
- 40 The CMA largely upheld the findings of the CAA in implementing a range of pandemic related adjustments including (i) an upwards RAB adjustment, (ii) an asset beta uplift to account for the pandemic, and (iii) implementing a traffic risk sharing (**TRS**) mechanism, to compensate HAL for asymmetric downside pandemic risks.
- 41 On asset beta,²⁶ the CMA upheld the CAA's three step approach, which includes:
- 'pre-pandemic' baseline beta (using a sample confined to large European hub airports similar to Heathrow) of 0.5 to 0.6;
 - The COVID uplift increasing the range to 0.52 to 0.71; and
 - The decrement for the TRS mechanism, reducing the range to 0.44 to 0.62.

²⁶ See UK Civil Aviation Authority, *Heathrow Airports Licence Modification Appeals Final Determinations* (17 October 2023) at paragraphs 6.94, 6.158, 6.247 and 6.295 in which the CMA holds that the CAA was 'not wrong' in law or in fact implementing each of the three steps in determining the asset beta.

42 Therefore, for firms, like Airservices, with 100% traffic risk exposure (i.e. with no TRS mechanism), the CMA precedent justifies an uplift of **0.02 to 0.11** to the relevant 'baseline' pre-covid estimate. This implies an Incenta asset beta range of 0.72 to 0.81 (post-rounding) with a mid-point of **0.765** if applied to Incenta's pre-covid estimate which underscores the conservatism in Airservices' approach.

43 The uplift is informed by the findings that the pandemic reflects systemic risks faced by businesses that face aviation traffic risk and analysis by Flint, advisers to the CAA, on the systemic risks of the pandemic faced by businesses reliant on aviation traffic.

NZCC Input Methodologies 2023 process

44 In its Final Decision in the input methodologies process published in December 2023, the NZCC calculated a COVID uplift of **0.02 to 0.08** with regard to the CMA precedent.²⁷ This implies an Incenta asset beta range of 0.72 to 0.78 (post-rounding) with a mid-point of **0.75** if applied to Incenta's pre-covid estimate (post rounding) which underscores the conservatism in Airservices' approach.

45 The NZCC adopted and made modifications to the Flint approach in applying its COVID uplift.²⁸

4 Other firm specific parameters (gearing, credit rating)

46 With respect to gearing, Incenta adopt the average gearing of the sample used for asset beta, consistent with the NZCC's approach and the Court's approach in the Perth case. This results in a materially lower gearing than the observed gearing for Airservices, the previous ACCC endorsed assessment of 45% gearing for Airservices,²⁹ which underscores the conservatism of Incenta's approach.

47 With respect to credit rating, Incenta adopts a BBB+ credit rating which is consistent with the approach of both economic experts in the Perth Airport case.³⁰ Accordingly, PAPL agrees with this estimate.

5 Market wide parameters

48 With respect to market wide parameters, Incenta explains that 'during the periods of very low levels of the risk free rate we expressed concern about the divergence between market practice and the practice of regulators, who were applying a mechanistic version of the Capital Asset Pricing Model (CAPM). With recent rises in the risk free rate we observe that market and regulatory estimates of the risk free rate are no longer materially divergent.'³¹

49 Further, Incenta provide that 'during the recent period of very low interest rates, a number of commentators (us included) expressed concern that the Total Market Return (TMR) that was implied by the then prevailing risk free rate, and a market risk premium that is largely based on historical returns (as we have applied in this report) was below the return that would be expected by investors, and indeed lower than that applied by market analysts and regulators in other countries. Those same commentators recommended applying either an upward adjustment to the risk free rate, or an alternative estimate of the market risk premium. However, we consider the risk free rate is currently at a level that would not warrant adjustments being made by market analysts and regulators'.³²

²⁷ NZCC Final 2023 Decision at [4.192].

²⁸ NZCC Final 2023 Decision at [4.190] – [4.194], [4.204].

²⁹ ACCC, Final Decision on Price Notification (22 August 2011) (**ACCC 2011 Airservices Decision**) at page 32.

³⁰ *Perth Airport Pty Ltd v Qantas Airways Ltd [No 3]* [2022] at [287], [291], and [314].

³¹ Incenta WACC report dated November 2023, page 1.

³² Incenta WACC report dated November 2023, page 11.

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- 50 PAPL agrees that it is important to ensure that the market wide parameters used in the CAPM (being risk-free rate and MRP) are internally consistent with regard to 'prevailing' and 'long term' estimates. The significance of internal consistency was central during periods of very low *prevailing* interest rates following the GFC, where it was inaccurate to '*mechanistically*' combine a prevailing risk free rate with a very long term average MRP. In such circumstances a '*mechanistic*' regulatory approach resulted in biased outcomes which materially 'diverged' from market based approaches. In this respect, PAPL considers that IPART's 2018 Methodology applied consistently over time appropriately considers prevailing and long term estimates over time and is superior in all financial market circumstances including periods of abnormally low risk-free-rates.
- 51 However, in 2023-2024, with persistent increases in the cash rate and reversion of interest rates (and the RFR) to more 'normal' levels, PAPL agrees with Incenta that there is less inaccuracy with a '*mechanistic*' combination of prevailing risk-free-rates with very long term average MRP.
- 52 For the above reasons, PAPL does not object with Incenta's approach to adopting the AER's approach to the RFR, MRP, and cost of debt in the current market circumstances where prevailing interest rates are more similar to their long run historical averages.
- 53 With respect to gamma, Incenta has adopted the AER's most recent estimate of gamma of 0.57. The adoption of the AER's estimate of gamma is consistent with the approach of the Court in the Perth Airport case which accepted the expert opinion which relied on the AER's 2018 views on gamma.³³ Accordingly PAPL agrees with Incenta's approach to gamma.

6 Conclusion

PAPL reiterates that it appreciates the opportunity to comment on the ACCC's Issues Paper and would welcome the opportunity to meet with the ACCC if required to discuss or clarify any of the above.

³³ *Perth Airport Pty Ltd v Qantas Airways Ltd [No 3]* [2022] at [187], [190] and [191].

Annexure A: Differences in samples used in Perth Airport case and Incenta's preferred sample

Comparator airport	Perth Airport case sample of 19 airports	Incenta's preferred sample of 19 airports
AdP (France)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Beijing (China)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Zurich (Switzerland)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fraport (Germany)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sydney (Australia)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Auckland (NZ)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Airports of Thailand (Thailand)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Wien (Vienna)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> liquidity
Guangzhou	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Shanghai	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Shenzhen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Xiamen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GMR (India)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Japan Airport Terminal	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Malaysia	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Norte (Mexico)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pacifico (Mexico)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sureste (Mexico)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
TAV (Turkey)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Airport Facilities Co (Japan)	<input checked="" type="checkbox"/> Insufficient aeronautical operations	<input checked="" type="checkbox"/>

There are two minor differences between the samples.

First, Incenta excludes Vienna for liquidity reasons consistent with the NZCC's Final 2023 Decision.³⁴ PAPL agrees with Incenta's decision to exclude Vienna for this reason.

Second, Incenta includes *both* of the two Japanese listed firms, whereas the WASC sample excludes *one* of the two listed Japanese firms being Airport Facilities Co (Japan) which, unlike Japan Airport Terminal, derives virtually no revenues/earnings from aeronautical operations.³⁵

PAPL agrees with the *inclusion* of Japan Airport Terminal as it is the listed terminal operator of Haneda, Narita and Kansai airports, and has higher aeronautical earnings share than other firms included such as Fraport and AdP. Further, PAPL, suggests that there is merit in considering the *exclusion* of Airport Facilities which has virtually no aeronautical revenues/earnings for consistency with the Perth Airport case.

³⁴ NZCC Final 2023 Decision at [4.157.2].

³⁵ *Perth Airport Pty Ltd v Qantas Airways Ltd* [No 3] [2022] at [267] records that:

'As to the issue of the Japanese airports, Japan Airport Terminal Co Ltd and Airport Facilities Co Ltd, I accept PAPL's submission that the fact non-aeronautical services comprise a significant part of Japan Airport Terminal Co Ltd's operations is not a basis for excluding it as a comparator. Dr Hern's [Qantas' expert] primary and Tier 2 comparators each earn a significant amount of their revenues from non-aeronautical activities. PAPL did not make the same submission in respect of Airport Facilities Co Ltd given it is in a position where almost all of its revenues come from non-aeronautical services, placing it in a different position from Japan Airport Terminal Co Ltd. I consider Airport Facilities Co Ltd should be excluded from the sample set, and that the preferred sample set is the remaining 19 airports.'