

Application Form: Non-merger authorisation

Parties to the proposed conduct

1. Provide details of the applicants for authorisation, including:

1.1. name, address (registered office), telephone number and ACN

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Level 11, 275 Grey Street
South Brisbane, QLD 4101
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(collectively, the Virgin Australia entities are referred to as **Virgin Australia**)

Alliance Aviation Services Limited
ACN 153 361 525
81 Pandanus Avenue
Eagle Farm, QLD 4009
(07) 3212 1212

Alliance Airlines Pty Limited
ACN 153 361 525
81 Pandanus Avenue
Eagle Farm, QLD 4009
(07) 3212 1212

(collectively, the Alliance Airlines entities are referred to as **Alliance Airlines**)
(together, the **Applicants**)

This Application is to be read and determined together with the submission supporting the Application (the **Submission**), which is lodged with this form.

1.2. contact person's name, position, telephone number and email address

Louise Klamka
Partner
Gilbert + Tobin (solicitors for Virgin Australia)
T [REDACTED]

Caroline Coops
Partner
King & Wood Mallesons (solicitors for Alliance Airlines)
T [REDACTED]

1.3. a description of business activities

Please see section 1.1 of the Submission.

1.4. email address for service of documents in Australia.

2. If applicable, provide details of the other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct and on whose behalf authorisation is sought. Where relevant provide:

2.1. name, address (registered office), telephone number and CAN

N/A

2.2. contact person's name, telephone number and email address

N/A

2.3. a description of business activities.

N/A

The proposed conduct

3. Provide details of the proposed conduct, including:

3.1. a description of the proposed conduct and any documents that detail the terms of the proposed conduct

The Applicants seek re-authorisation, including interim authorisation, to enter into and give effect to an extension of the Charter Alliance Agreement, that enables the Applicants to jointly tender and supply services to corporate customers, principally for fly-in fly-out (**FIFO**) employees, including by:

- jointly bidding for, and contracting with, corporate customers, including joint pricing and scheduling of services for those customers;
- sharing information about relevant routes (including in relation to costs, willingness to operate a route, capacity, utilisation, demand and pricing);
- agreeing capacity, flight schedules and aircraft type and whether an Applicant will suspend a relevant route;
- cooperating in relation to check-in, airport operations, airport handling, service policies and other matters;
- agreeing which Applicant will operate relevant routes and under what commercial arrangements and discussing and agreeing ways of providing services on the relevant routes (**Proposed Conduct**).

For more information, please see section 1.4 of the Submission.

3.2. the relevant provisions of the *Competition and Consumer Act 2010* (Cth) (the Act) which might apply to the proposed conduct.

Please see section 5 of the Submission.

3.3. the rationale for the proposed conduct

Please see section 4 of the Submission.

3.4. the term of authorisation sought and reasons for seeking this period. By default, the ACCC will assume you are seeking authorisation for five years. If a different period is being sought, please specify and explain why.

The Applicants seek re-authorisation for a period of five years.

In addition, the Applicants seek urgent interim authorisation prior to the expiry of the current authorisation on 9 June 2022.

- 4. Provide documents submitted to the applicant's board or prepared by or for the applicant's senior management for purposes of assessing or making a decision in relation to the proposed conduct and any minutes or record of the decision made.**

A confidential document prepared for the board of Virgin Australia is enclosed.

Alliance Airlines has confirmed that it has no such documents.

- 5. Provide the names of persons, or classes of persons, who may be directly impacted by the proposed conduct (e.g. targets of a proposed collective bargaining arrangement; suppliers or acquirers of the relevant products or services) and detail how or why they might be impacted.**

The conduct is of general relevance to participants in the Australian FIFO industry (including airlines and airports), as well as corporate customers for these services.

Market information and concentration

- 6. Describe the products and/or services, and the geographic areas, supplied by the applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).**

Virgin Australia provides RPT and charter aviation services and operates approximately 62 routes around Australia. Virgin Australia is focused on providing charter services to support the resources industry in Western Australia. Virgin Australia operates its RPT services both domestically and nationally.

Alliance Airlines is principally a provider of charter services in regional Australia. It has a large customer base in the mining, energy, tourism and government sectors, and provides charter services to a range of sites throughout Queensland, South Australia, Western Australia and the Northern Territory. Alliance Airlines also provides specialised aviation services to airlines and other clients including aircraft dry and wet leasing, airport management services, some sales and leasing of spare parts and replacement engines, and ad hoc wheel maintenance.

There is no material overlap between the parties for the provision of FIFO services outside of Western Australia. For more information, please see section 9 of the submission.

- 7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.**

The relevant industry is the Australian FIFO industry. Please see sections 2 and 3 for details on the industry.

- 8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.**

Estimated market shares will separately be provided by Virgin Australia.

- 9. Describe the competitive constraints on the parties to the proposed conduct, including any likely change to those constraints should authorisation be granted.**

You should address:

- 9.1. existing or potential competitors**
- 9.2. the likelihood of entry by new competitors**
- 9.3. any countervailing power of customers and/or suppliers**
- 9.4. any other relevant factors**

Various other competitors operate in the FIFO industry, including Qantas Group, Cobham, Airnorth, and Skippers, among others. FIFO customers are typically large mining or resource companies which exercise significant bargaining power by carrying out competitive tender processes.

For further detail, please see sections 3 and 9 of the Submission.

Public benefit

- 10. Describe the benefits to the public that are likely to result from the proposed conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.**

Please see section 8 of the Submission.

Public detriment (including likely competitive effects)

- 11. Describe any detriments to the public likely to result from the proposed conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.**

Please see section 9 of the Submission.

Contact details of relevant market participants

- 12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, key customers and suppliers, trade or industry associations and regulators.**

The conduct is of general relevance to participants in the Australian FIFO industry (including airlines and airports), as well as corporate customers for these services.

Additional information

- 13. Provide any other information or documents you consider relevant to the ACCC's assessment of the application.**

Please refer to the Submission.

Declaration by Virgin Australia

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Solicitor for Virgin Australia, authorised to sign declaration

Office held

Louise Klamka

This 27 day of May 2022

Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.

Declaration by Alliance Airlines

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Solicitor for Alliance Airlines, authorised to sign declaration

Office held

Caroline Coops

This 27 day of May 2022

Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.

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Charter Alliance between Virgin Australia Regional Airlines and Alliance Airlines

Submission in support of application for authorisation

27 May 2022

Contents		Page
	Executive summary	3
1	Overview of the Applicants and the Charter Alliance	6
	1.1 The Applicants	6
	1.2 Airlines suffer further loss as pandemic enters its 3 rd year	8
	1.3 Existing commercial arrangements between Virgin Australia and Alliance Airlines	9
	1.4 Charter Alliance Agreement	10
2	Demand for FIFO services	11
	2.1 Demand for FIFO services	11
	2.2 FIFO customers	11
	2.3 FIFO procurement processes	11
	2.4 FIFO solutions	12
	2.5 Services agreements for FIFO services	12
3	Suppliers of FIFO services	13
	3.1 Qantas	13
	3.2 Cobham	15
	3.3 Airnorth	15
	3.4 Skippers Aviation	16
	3.5 HEVILIFT	16
	3.6 Pel-Air	16
	3.7 Other operators	16
4	Rationale for the Charter Alliance	17
	4.1 Rationale for renewal of Charter Alliance	17
	4.2 Successful joint tenders by the Charter Alliance	18
5	Potential application of Division 1 Part IV, sections 45 and 47 of the <i>Competition and Consumer Act 2010</i> (Cth)	18
	5.1 Conduct that may contravene Division 1 Part IV, sections 45 and 47 of the Act	19
6	Application for interim authorisation and final authorisation	19
	6.1 Interim authorisation	19

6.2	Final authorisation	19
7	Framework for competitive analysis of the Charter sAlliance	20
7.1	ACCC's previous approach to competitive analysis	20
7.2	Counterfactual	20
8	Significant public benefits	21
8.1	Overview	21
8.2	Operational efficiencies	21
8.3	Enhanced products and services	23
9	No material competitive detriment	24
9.1	Unilateral effects unlikely	24
9.2	No increase in likelihood of co-ordinated effects	25
10	Conclusion	25
	Attachment A – VARA and Alliance Airlines' current offering	26
	Confidential Attachment B – Executed copy of Charter Alliance Agreement	31
	Confidential Attachment C – Executed copy of Variation Letter to Charter Alliance Agreement	32
	Attachment D – Overview of FIFO Operations in Australia	33
	Attachment E - Key resource companies requiring FIFO services in Australia	35
	Confidential Attachment F – Successful Joint Tenders	36

Executive summary

Proposed Charter Alliance

Virgin Australia Regional Airlines Pty Ltd (**VARA**), Virgin Australia Airlines Pty Ltd (**Virgin Australia**), Alliance Airlines Pty Limited and Alliance Aviation Services Limited (**Alliance Airlines**) (together, the **Applicants**) seek authorisation for 5 years to enter into, and give effect to, an extension of the Charter Alliance Agreement (the **Charter Alliance Agreement**) which provides for the joint tender and supply of services to corporate customers, principally for fly-in fly-out (**FIFO**) employees (together, the **Charter Alliance**).

The ACCC has previously authorised the Charter Alliance, which came into effect on 9 June 2017 and applies until 8 June 2022.

Re-authorisation of the Charter Alliance will allow the Applicants to continue to offer a more competitive product to corporate customers. There have been no amendments to the Charter Alliance Agreement since originally authorised.

If re-authorisation of the Charter Alliance is granted, this will allow the Applicants to continue to:

- achieve operational efficiencies and flexibility in airline operations for corporate customers, through enhanced fleet flexibility, aircraft maintenance efficiencies, joint procurement of aircraft and parts, co-operative wet leasing arrangements¹ and alignment of airport and ground handling procedures and processes at Perth airport for common charter customers; and
- deliver an integrated offering of charter and regular passenger transport (**RPT**)² services with value-added products and services, including a comprehensive frequent flyer program, frequent flyer points and associated benefits (including priority check-in and booking services), through check-in on connecting charter and RPT services as well as access to airport lounges.

Rationale for the proposed extension of the Charter Alliance

The Applicants have executed a variation to extend the Charter Alliance Agreement for 3 years until 9 June 2025, with a further 2-year option to extend the Charter Alliance Agreement until 9 June 2027.

Since 2017, the Charter Alliance has permitted the two businesses to offer an integrated customer offering by combining their complementary operational footprints. As a result of the Charter Alliance, both VARA and Alliance Airlines have achieved successful outcomes including jointly winning five major contracts valued at a total of **[RESTRICTION OF PUBLICATION CLAIMED]**.

The proposed extension of the Charter Alliance enables:

- VARA to incorporate Alliance Airlines' fleet, which includes a mix of smaller aircraft, into its charter offering, providing greater flexibility for charter customers and access to Alliance capacity in regions where VARA does not have its own charter services; and

¹ A wet lease is a leasing arrangement whereby one airline (the lessor) provides an aircraft, crew, maintenance, and insurance (ACMI) to another airline (the lessee), which pays by hours operated.

² "Regular Passenger Transport" refers to airline travel by scheduled flights and routes by the Australian public, as opposed to charter flights.

- Alliance Airlines to integrate into its charter offering access to value-added services such as Virgin Australia's Velocity frequent flyer program and connectivity to Virgin Australia's network.

Charter Alliance has created and will continue to create significant public benefits

The Charter Alliance has created, and will continue to create, significant public benefits, including:

- **Key operational efficiencies**, including by giving the Applicants the opportunity to:
 - offer Charter Alliance customers an integrated solution by unlocking access to a diverse range of aircraft, increasing fleet scalability and aligning their airport and ground handling procedures and processes at Perth airport;
 - avoid the costs of fleet expansion and aircraft engine replacement costs by sharing spare aircraft parts, reduce aircraft, crew, maintenance and insurance (**ACMI**) costs, and allow VARA to negotiate reduced passenger taxes at Perth Airport, a key FIFO port.
 - pass on cost savings and efficiencies to customers. For example, from FY2018 to FY2019, VARA was able to negotiate a reduction of **[RESTRICTION OF PUBLICATION CLAIMED]** in the per passenger tax at terminal 2 of Perth Airport.
- **Enhanced products and services**, including giving the Applicants the opportunity to:
 - implement a flight schedule that better aligns with individual customer requirements;
 - reduce flight delays and minimise the impact of flight disruptions by giving the Applicants access to a combined fleet; and
 - provide Charter Alliance customers the opportunity to access VARA's frequent flyer program, broader RPT network, codeshare arrangements, and access to the latest in-flight services and technology. As a result, customers have the option of tailored products and services that may better suit their needs, and that can provide improved connectivity, flexibility, and a better travel experience.
- **Promoting competition between suppliers of FIFO services**, including by providing an alternative integrated offer to customers.

No material competitive detriment

The Charter Alliance has not resulted in a reduction in competition for FIFO services or any other airline services in Australia. In its Draft Determination, the ACCC expressed some concern that the Charter Alliance may have an anti-competitive effect on competition for FIFO services in WA. These concerns have not manifested. The Charter Alliance has given VARA and Alliance Airlines the opportunity to tender for contested volume and retain their combined FIFO capacity in WA.

Authorisation sought for 5 years

The Applicants have agreed to extend the Charter Alliance by 3 years, with an option to extend for a further 2 years and to seek reauthorisation for a period of 5 years.

The Applicants also seek urgent interim authorisation prior to expiry of the current authorisation on 9 June 2022 and until the date the ACCC makes a final

determination. The Applicants have been delayed in filing for reauthorisation as a result of uncertainty created by Qantas' bid to acquire the remaining 80.1% of Alliance Airlines, which was announced on 5 May 2022, and the pending ACCC merger clearance process. Alliance wishes to continue with its business-as-usual operations, pending ACCC and other customary approvals for Qantas' proposed acquisition and completion of the same, while Virgin Australia sees real commercial and consumer benefit to continuing with the Charter Alliance. If the Charter Alliance lapses on 9 June 2022, the status quo will alter before the ACCC has had the opportunity to consider Qantas' merger clearance application.

The Applicants respectfully request interim authorisation by 9 June 2022 in these exceptional circumstances. If Qantas completes its acquisition of the remaining shares in Alliance Airlines, VARA would exercise its right to terminate the Charter Alliance Agreement under contractual change of control provisions. In order to provide the ACCC with comfort that the Charter Alliance would not continue if Alliance was to be owned by Qantas, the Applicants suggest that authorisation could be made conditional on Alliance not being acquired by Qantas.

1 Overview of the Applicants and the Charter Alliance

1.1 The Applicants

The Applicants are VARA, Virgin Australia and Alliance Airlines.

(a) VARA / Virgin Australia

VARA

VARA (previously, Skywest) is headquartered in Perth and was acquired by the Virgin Australia Group in April 2013. VARA operates charter and RPT services between Perth and 21 regional destinations in WA.³

VARA's operational base is located at Terminal 2 of Perth Airport, in its charter terminal shared with Alliance Airlines. VARA's operations are limited to WA.⁴ Details about VARA's current FIFO services and routes are set out in **Attachment A**.

VARA is primarily focused on providing charter services to support the resources industry in WA. VARA's major charter clients include Rio Tinto Iron Ore, BHP Billiton (**BHPB**) Iron Ore, Chevron, Consolidated Minerals and Gold Fields. VARA also operates regional RPT services on behalf of Virgin Australia's mainline business in WA.

VARA's fleet currently consists of 17 aircraft. Details about VARA's fleet is set out below.

Table 1: VARA fleet

Aircraft type	Passenger seats per plane	Number of aircraft in fleet
Fokker 100 (F100)	100	10
Airbus 320 (A320)	168 - 180	7

Virgin Australia

Virgin Australia is an airline that operates a network of domestic and international RPT services from its main hub at Brisbane Airport in Queensland (**Qld**).

Virgin Australia was founded in Australia in 2000 as Virgin Blue, a challenger brand providing low-cost fares in Australia. Since then, Virgin Australia has evolved, setting its sights on becoming Australia's most loved airline, regarded for its great customer value, award-winning service, and supported by its loyalty program, Velocity Frequent Flyer. Together with its group companies including VARA, Virgin Australia Cargo and Virgin Australia International Airlines, Virgin Australia services all key segments of Australian domestic airline services, including leisure, corporate and government, regional and charter travellers, and air freight customers.

Virgin Australia operates a single fleet of 77 Boeing 737s (128-176 passenger seats each), which is used to service its domestic RPT and charter operations.

³ The number of services operated by VARA will vary from week to week based on customer needs.

⁴ In addition to VARA's own dedicated charter operations, VARA sells charter services using the mainline fleet where there is capacity to do so.

In November 2020, Bain Capital acquired Virgin Australia Holdings Limited. In FY2021, Virgin Australia flew over 6.2 million passengers and had RPT operations in over 56 city and regional routes in Australia.⁵ Virgin Australia increased its network coverage from 58 to 62 routes between October 2021 and January 2022.⁶

(b) Alliance Airlines

Alliance Airlines is an ASX listed charter provider based in Brisbane, Qld. Alliance Airlines has operational charter bases in Brisbane, Townsville, Cairns, Adelaide, Perth, Melbourne and Darwin, with a maintenance base at Rockhampton under construction.

Alliance Airlines provides charter services to a wide range of regional sites and mines throughout Qld, South Australia (**SA**), Western Australia (**WA**), and the Northern Territory (**NT**). Alliance Airlines offers RPT services on a single route, being Brisbane/Moranbah (which is largely contracted out to corporate customers on a block seat basis), and five of Alliance Airlines' charter services include incidental numbers of RPT seats for a variety of regulatory and customer-driven reasons (these charter services are on the following routes: Adelaide/Olympic Dam; Perth/Kalgoorlie-Boulder; Brisbane/Weipa; Cairns/Weipa; and Cairns/Groote Eylandt).

Alliance Airlines has FIFO service relationships with some of Australia's largest resource companies, including BHP Billiton, Minerals and Metals Group, Gold Fields and Newmont Mining.

Alliance Airlines also provides specialised aviation services to airlines and clients including aircraft dry and wet leasing, airport management for a number of its FIFO customers, and some sales and leasing of spare parts and replacement engines, and ad hoc wheel maintenance services. Alliance Airlines' wet leasing customers are Qantas and Virgin Australia, and its only dry leasing customer is Airnorth.

Details about Alliance Airline's fleet is set out below.⁷

Aircraft type	Passenger seats per plane	Number of Aircraft in fleet
Fokker 50 (F50)	50	5 ⁸
Fokker 70 (F70)	80	14
Fokker 100 (F100)	100	24
E190 jet	94-100 depending on cabin configuration	33 (17 in service, with the remaining 16 settled but yet to be put into service)

Despite the challenges of COVID-19, Alliance Airlines performed well financially in FY 2020- 21, largely due to a spike in demand for short term and ad hoc charter services (which Alliance Airlines believes is due to the cancellation of RPT services during this time) and long-term contract / charter services (which was driven by sustained activity in the resources sector). The demand for its short term and ad hoc charter services has recently fallen, and Alliance Airlines believes it will continue to fall, and be subdued going forward. In February 2019, Qantas acquired a ~19.9% shareholding in Alliance Airlines for \$60

⁵ 'Virgin Australia Group Modern Slavery Statement FY21', *Virgin Australia* (Statement, 15 December 2021) 7 <<https://www.virginaustralia.com/content/dam/vaa/docs/FY21-Modern-Slavery-Statement.pdf>>.

⁶ ACCC, *Airline Competition in Australia* (Report, 7 March 2022), 12 <<https://www.accc.gov.au/publications/serial-publications/airline-competition-in-australia/airline-competition-in-australia-march-2022-report>>.

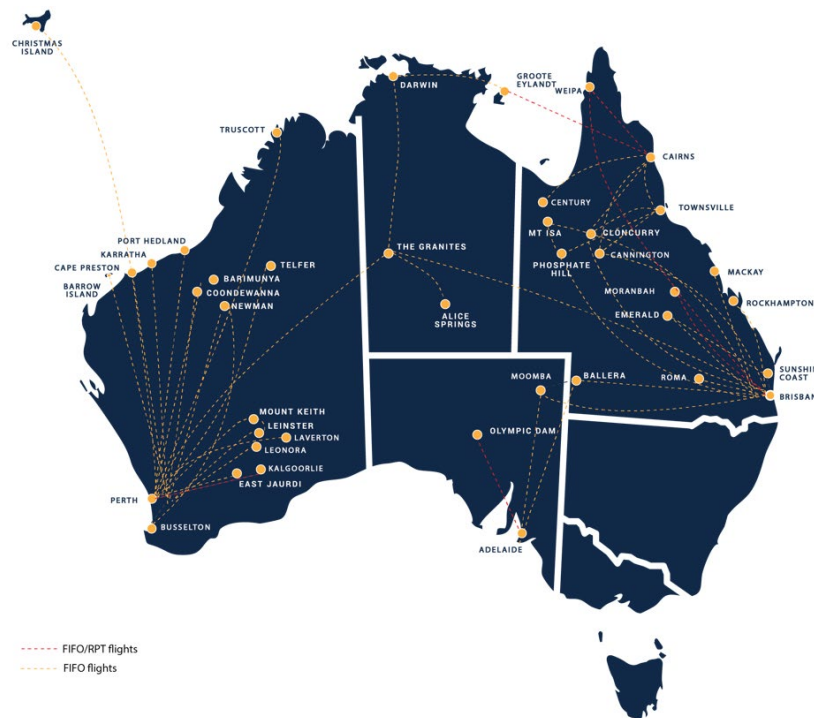
⁷ Alliance Airlines, *Annual Report for the year ended 30 June 2021* (Report, 11 August 2021), 6.

⁸ [RESTRICTION OF PUBLICATION CLAIMED]

million.⁹ In April 2022, the ACCC advised Alliance Airlines that it had completed its post-acquisition investigation of this transaction and would not be taking any further action at that time.¹⁰ On 5 May 2022, Qantas announced its intention to acquire the remaining shares in Alliance Airlines it does not already own. This proposed acquisition is currently subject to public informal merger review by the ACCC.

Set out below in Figure 1 is a map of the current destinations serviced by Alliance Airlines under long term charter contracts as at May 2022.

Figure 1: Alliance long term charter route map



A detailed overview of the long-term charter operations of Alliance Airlines is set out in **Attachment A**.

1.2 Airlines suffer further loss as pandemic enters its 3rd year

Demand for charter services increased 35.4% in 2020-21 compared with pre-COVID-19 levels.¹¹ However, since the ACCC's Final Determination in 2017, the Virgin Australia Group has suffered significantly due to COVID-19. In March 2020, Virgin Australia reduced its domestic capacity by 90% and stood down 8000 staff. In April 2020, Virgin Australia entered voluntary administration, resulting in the loss of 3000 jobs, the discontinuation of the Tigerair brand, streamlining of Virgin Australia's aircraft fleet and the suspension of international flight routes.¹² The emergence of COVID-19's Delta variant in

⁹ Qantas, 'Qantas acquires 19.9% stake in Alliance Airlines' (Media Release, 1 February 2019) <<https://www.qantasnewsroom.com.au/media-releases/qantas-acquires-19-9-per-cent-stake-in-alliance-airlines/>>.

¹⁰ Lucas Baird, 'ACCC ends Qantas, Alliance probe without action', *Australian Financial Review* (online, 5 April 2022) <<https://www.afr.com/companies/transport/accc-ends-qantas-alliance-probe-without-action-20220405-p5aavv>>.

¹¹ ACCC, *Airline Competition in Australia* (Report, September 2021) <<https://www.accc.gov.au/system/files/Airline%20competition%20in%20Australia%20-%20September%202021%20report.pdf>>

¹² 'Virgin Australia Group announces plan to focus on core strengths, re-establishing itself as an iconic Australian airline', *Virgin Australia* (Web Page, 5 August 2020) <<https://newsroom.virginaustralia.com/release/virgin-australia-group-announces-plan-focus-core-strengths-re-establishing-itself-iconic>>.

July 2021, and then Omicron in November 2021 have resulted in state border closures and reduced consumer confidence, which have significantly delayed the passenger airline industry's recovery. By January 2022, passenger RPT travel was at 50% of pre-COVID-19 levels.¹³ Despite the removal of travel restrictions for vaccinated Australians, consumer responses to future spikes and variants of COVID-19 remain uncertain and, as identified by the ACCC, airlines must continue to "anticipate and respond to consumer demand in a changing COVID-19 environment".¹⁴

In addition, the prolonged pandemic has impacted negatively on the planned utilisation and deployment of Alliance's Embraer E190 aircraft under significant wet lease arrangements with Qantas. However, as of 8 March 2022, Qantas has exercised 14 out of the 18 available options for E190 aircraft and is expected to increase its E190 utilisation to all 18 available aircraft by October 2022.¹⁵

Alliance Airlines has delivered good financial results despite the change in industry conditions caused by COVID-19. This is largely due to Alliance Airlines' focus on contract and charter flight services, which remained steady throughout the pandemic.¹⁶

1.3 Existing commercial arrangements between Virgin Australia and Alliance Airlines

In addition to the Charter Alliance, Virgin Australia and Alliance Airlines have a Wet Lease Agreement on foot.

(a) Wet Lease Agreement

A wet lease is an arrangement whereby one airline provides ACMI to another airline, which markets and sells tickets for the flight and pays the operating airline by hours operated. This means the operating airline receives a fixed payment for operating the flight and the marketing airline's revenue is dependent on tickets sold.¹⁷

Virgin Australia contracts Alliance Airlines to provide wet leasing for various RPT services on flights from Brisbane to Alice Springs, Brisbane to Emerald, Brisbane to Gladstone, Brisbane to Mount Isa, Brisbane to Newcastle and Brisbane to Rockhampton (**the Wet Lease Agreement**). Alliance Airlines provides the ACMI, with Virgin Australia retaining responsibility for all other inputs. The aircraft remain in Alliance Airlines' fleet with aircraft and crew in Alliance Airlines' livery; however, flights are sold as Virgin Australia services on the Virgin Australia code through Virgin Australia's distribution channels, and Virgin Australia makes scheduling and ticket pricing decisions.¹⁸

In early 2020, the Wet Lease Agreement was temporarily suspended as part of the response to the COVID-19 pandemic and associated travel restrictions but has since recommenced on the routes listed above which are set out in a number of Statements of Work. **[RESTRICTION OF PUBLICATION CLAIMED]**

¹³ ACCC, *Airline Competition in Australia* (n 6) 2.

¹⁴ Ibid 5.

¹⁵ Alliance ASX release 8 March 2022 <https://www.allianceairlines.com.au/docs/default-source/default-document-library/2022-03-08---wet-lease-agreement-options-with-qantas-airways-limited.pdf?Status=Master&sfvrsn=149b199e_7%202022-03-08---Wet-lease-agreement-options-with-Qantas-Airways-Limited%20.pdf>

¹⁶ 'ASX FY 2021 Results Release', *Alliance Airlines* (Web Page, 11 August 2021) <https://www.allianceairlines.com.au/docs/default-source/default-document-library/2021-08-11---results-release---fy21.pdf?Status=Master&sfvrsn=2ef0199e_8>.

¹⁷ ACCC, *Determination of Applications for authorisation lodged by Alliance Aviation Services Limited, Virgin Australia Airlines Pty Ltd and Virgin Australia Regional Airlines Pty Ltd in respect of a proposed Charter Alliance Agreement* (Determination, 17 May 2018) [24] (**Final Determination**).

¹⁸ Ibid [27].

1.4 Charter Alliance Agreement

Under the Charter Alliance Agreement, the Applicants are permitted to:

- jointly bid for, and contract with, corporate customers, including joint pricing and scheduling of services for those customers;
- offer eligible passengers of those customers access to the Velocity frequent flyer program;
- offer eligible passengers of those customers access to Virgin Australia's airport lounges as part of an integrated corporate offering;
- cooperate in relation to check-in, airport operations, airport handling, service policies and other matters to improve the overall quality of service offered to corporate customers; and
- jointly optimise operations, including procurement and deployment of aircraft engines and spare parts, and maintenance and ground-handling services, to achieve cost savings and efficiencies **(the Proposed Conduct)**.

The Charter Alliance is limited to operations in Australia.

Since 2017, the provision of charter services to resource companies forms the entirety of the work that the Applicants have jointly bid for under the Charter Alliance. In each case, the customer has contracted for a dedicated charter service.

Otherwise, the Applicants have continued to independently supply air transport services to certain customers on a standalone basis, including to pre-existing customers,¹⁹ charter brokers²⁰ and ad-hoc charter customers (generally supplied on a short-term basis).²¹

While the supply of services to corporate customers under the Charter Alliance may include an RPT service on Virgin Australia's domestic network, the Charter Alliance does not extend to the supply of RPT services more generally.

Since the ACCC granted authorisation in June 2017, the only variation to the Charter Alliance Agreement (attached at **Confidential Attachment B**) has been a variation to provide for a renewal term of 3 years, with an option to renew the Agreement for a further 2-year term. The executed variation letter is attached at **Confidential Attachment C**.

Virgin Australia and Alliance Airlines have also received authorisation to cooperate in relation to the provision of RPT services on 41 regional routes and 2 short haul international routes.²²

¹⁹ [RESTRICTION OF PUBLICATION CLAIMED]

²⁰ A charter broker means a specialist agent who acts as a representative for the chartering of an aircraft and is paid an agreed commission by the client for finding aircraft available for charter. The charter broker acts as an intermediary in negotiations between a charterer and an aircraft operator. Examples of Charter Broker businesses include Adagold and Avmin.

²¹ [RESTRICTION OF PUBLICATION CLAIMED]

²² See: <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/virgin-australia-alliance-airlines>.

2 Demand for FIFO services

Section 2 of this submission sets out background about demand for FIFO services, FIFO customers, the FIFO tender process and characteristics of agreements for FIFO services. Further information can be found in the ACCC's Final Determination dated 18 May 2017.²³

2.1 Demand for FIFO services

FIFO services involve the movement of workforces from their homes to remotely located worksites and back. Most FIFO services in Australia are supplied to resource companies because of the remote nature of Australia's mine sites. The demand for these services is therefore directly related to the construction developments of new mining projects, and ongoing mining operations of established projects. Consequently, the demand for FIFO services reflects the geographic location and the cyclical or fluctuating nature of resource prices and demand.

2.2 FIFO customers

FIFO flight services are utilised by a range of resource companies. The largest concentration of resource operations in Australia are in WA and QLD, and principally include iron ore and coal operations as well as large oil and gas projects. There is also a range of smaller (though substantial) mining and resource related operations in SA, New South Wales (**NSW**) and the NT.

Resource companies are generally large, well-resourced and run sophisticated procurement processes. These processes are outlined in more detail below. A summary of the key companies requiring FIFO services in Australia are set out in **Attachment E** below. These companies include Rio Tinto, Consolidated Minerals, Gold Fields and Chevron.

2.3 FIFO procurement processes

Typically, FIFO customers will conduct a procurement process for FIFO aviation services, where suppliers of FIFO services are invited to participate in a tender process to supply services to the customer according to detailed specifications. FIFO customers determine the tender terms and processes.

As previously submitted to the ACCC in 2017,²⁴ suppliers of FIFO services are typically asked to specify: the services that will be supplied (RPT and/or charter), the aircraft to be used and the total passengers, fuel and cargo capacity, the proposed schedule, capability to meet prescribed service standards including safety, risk management, compliance and auditing processes, an outline of operational capacity in the event of schedule disruption, price for services, other provisions including parameters around when the provider will down-gauge or up-gauge services to meet changes in demand and other benefits (such as frequent flyer or lounge access).

Following submission and assessment of the proposals, FIFO customers enter commercial discussions and negotiations with one or more operators about requirements. Customers typically contract with a preferred operator for the provision of these services for a 3–5-year term with options of up to 3 -5-year extensions in favour of the customer.

²³ Final Determination (n 17) [28]-[46].

²⁴ Final Determination (n 17) [39].

2.4 FIFO solutions

FIFO solutions can involve a combination of different air transport solutions. For instance, FIFO solutions may involve any of the below.

- **Charter only:** a charter flight from a location close to a worker's residence to the mine/work site). These are the types of services supplied by VARA and Alliance Airlines.
- **RPT only:** purchasing a block of seats on a RPT flight from a location close to a worker's residence to a suitably located RPT airport and then transport by road to the mine/work site). These are the types of services supplied by Virgin Australia; or
- **combination of RPT and charter:** an RPT flight (provided by Virgin Australia) followed by a charter flight (provided by VARA or Alliance Airlines) to the mine/work site, or a charter flight (provided by VARA or Alliance Airlines) followed by an RPT flight (provided by Virgin Australia) – for example, in the case of overflow charter passengers changing to an available RPT flight at RPT/FIFO ports.

(a) Charter services

Charter services (of the type provided by Alliance Airlines and VARA) involve the supply of an entire aircraft, generally supplied at a fixed trip rate (per trip). Trip rates, while fixed in the contracts, are typically subject to adjustments for external factors. For example, the trip rate is adjusted in line with changes in fuel costs, the exchange rate and Consumer Price Index. In addition to the per trip charge, fixed passenger fees and charges may be applied separately. Charter services are generally operated to remote aerodromes to support mine sites/resource operations with dedicated airport infrastructure owned and operated by, or on behalf of, the resources company. Some charter services are also operated to small regional airports in remote areas, including on unsealed airstrips which can only take certain aircraft types.

(b) RPT services

RPT services (of the type provided by Virgin Australia) may also be used for FIFO purposes, where there is an RPT airport close to operations that can be reached by road. When a corporate customer chooses to use an RPT service as part of its FIFO solution, the customer only pays for the seats they use on that service. In some cases, to ensure security of supply, customers will book a block of seats on an RPT service. The advantage of an RPT solution is therefore potentially lower cost and greater flexibility to adapt to changing FIFO needs, where the customer's capacity demands do not make a charter solution viable.

2.5 Services agreements for FIFO services

Once the corporate customer selects a winner or multiple winners of the tender, the supplier of FIFO services and the customer will enter into a services agreement.

As the ACCC is aware, services agreements will typically specify the price for the core services (per trip) to be supplied and a price for additional ad-hoc services as required. Most contracts allow for the specified prices to be adjusted during the contract to account for changes in the price of aviation fuel, currency fluctuations, and the Consumer Price Index.²⁵

²⁵ Final Determination (n 17) [41].

3 Suppliers of FIFO services

There is a diverse range of suppliers of FIFO services in Australia. Some operators have a strong presence in a particular Australian state/territory or on a particular route, whereas other operators have a broader range of operations across a region or even on a national basis.

Operators supplying FIFO services to customers include RPT operators (where an RPT service can wholly meet those requirements), charter only operators such as Alliance Airlines, Cobham Aviation Services (**Cobham**) and Skippers Aviation (**Skippers**) and integrated RPT and charter operators. Qantas and Virgin Australia/VARA are the only integrated RPT and charter operators.

Attachment D presents key information on the major suppliers of FIFO services in Australia. Since ACCC authorisation was previously granted in 2017, the key trends for other suppliers of FIFO services competing with the Applicants is set out below.

- **Fleet expansion of existing suppliers of FIFO services.** Since 2017, many operators including Qantas/QantasLink, Cobham and Pel Air Aviation (**Pel Air**) have expanded their fleets. In December 2021, the Qantas Group (which includes QantasLink and Jetstar) announced its plans to purchase the “*largest aircraft order in Australian aviation history*”.²⁶ Qantas has made a commitment to purchase 40 new aircraft (20 A321 (extra long-range) aircraft seating ~180 passengers and 20 A220 aircraft seating ~ 150 passengers) by end of FY2022.²⁷ In addition, Qantas has a total of 18 options to wet lease E190 planes from Alliance Airlines. As of 8 March 2022, Qantas had exercised 14 of these 18 options.²⁸ QantasLink has grown its F100 fleet from 14 to 18 aircraft and its A320 fleet has increased from 0 to 11 aircraft. QantasLink has also transferred 5 x Q300s from Jetstar NZ to Australia and plans to further grow its A320 fleet to 15 by mid-2023.²⁹ Cobham’s fleet comprises of 17 planes including Q400 turboprops and E190 aircraft. In February 2022, Cobham’s 6th Q400 turboprop was delivered.
- **Entry of new suppliers of FIFO services.** HEVILIFT is a new supplier of FIFO charter services in WA, positioning itself as an operator with newer aircraft and better environmental performance.³⁰ HEVILIFT commenced charter operations in 2012, based in Brisbane. More recently, in August 2021, HEVILIFT expanded into WA with a new operating base at Perth International Airport.³¹

3.1 Qantas

Qantas Airways (**Qantas**) has an extensive RPT network domestically and internationally through its mainline brand, Jetstar and QantasLink. QantasLink is the Qantas Group’s regional airline brand, operating over 2000 flights per week across its metropolitan and regional network in Australia,³² and supplies charter services through its charter division. Qantas supplies its corporate customers with an

²⁶ ‘Qantas selects Airbus as preferred aircraft for domestic fleet renewal’ *Qantas* (Web Page, 16 December 2021) <<https://www.qantasnewsroom.com.au/media-releases/qantas-selects-airbus-as-preferred-aircraft-for-domestic-fleet-renewal/>>.

²⁷ Ibid.

²⁸ Alliance ASX release 8 March 2022 <https://www.allianceairlines.com.au/docs/default-source/default-document-library/2022-03-08---wet-lease-agreement-options-with-qantas-airways-limited.pdf?Status=Master&sfvrsn=149b199e_7/202022-03-08---Wet-lease-agreement-options-with-Qantas-Airways-Limited%20.pdf>

²⁹ Geoffrey Thomas, ‘Qantaslink adds four more A320s to meet resources demand’, *The West Australian* (online, 26 May 2022) <<https://thewest.com.au/business/aviation/qantaslink-adds-four-more-a320s-to-meet-resources-demand-c-6210159>>.

³⁰ ‘Hevilift Australia opens Perth base’, *Ch-aviation* (Web Page, 11 February 2022) <<https://www.ch-aviation.com/portal/news/107241-hevilift-australia-opens-perth-base>>.

³¹ ‘Hevilift Expands Into Western Australia’, *Smart Aviation* (Web Page, 27 August 2021) <<http://www.smartaviation-apac.com/2021/08/hevilift-expands-into-western-australia/>>.

³² ‘Regional Airline for the Qantas Group’ *Qantas* (Web Page) <<https://www.qantas.com/au/en/qantas-experience/network-and-partner-airlines/qantaslink.html>>.

integrated offer connecting charter services to RPT services, and associated traveller features, such as frequent flyer points, status credits and lounge access.

The Qantas Group (including Jetstar) remains the largest airline group in Australia with a 62% share of RPT passengers across all routes in January 2022, and over a 70% share of RPT passengers from regional port to regional port routes.³³ Qantas increased its network coverage from 81 to 111 routes between October 2021 and January 2022.³⁴

Details of the fleet of Qantas Group³⁵ and QantasLink are set out below.³⁶

Table 2: Qantas Group fleet³⁷

Aircraft type	Passenger seats per plane	Number of Aircraft in fleet
Airbus A380-800	484 or 485	10
Airbus A330-200/300	200 series: 271, 251 or 230 300 series: 297	28
Boeing 737-800	174	75
Boeing 787-9	236	11
Airbus A320/A321-200 (Jetstar)	A320 series: 180 A321 series: 220-232	66
Boeing 787-8 (Jetstar)	335	11

Table 3: QantasLink fleet

Aircraft type	Passenger seats per plane	Number of Aircraft in fleet
Boeing 717-200	110 or 125	20
Dash 200/300/400	200 series: 36 300 series: 50 400 series: 74	50
Fokker 100	100	18

³³ ACCC, *Airline Competition in Australia* (n 6) 14.

³⁴ Ibid 12.

³⁵ Including Jetstar and excluding air cargo and QantasLink fleet.

³⁶ Fleets current as at 30 June 2021. See Qantas, *Annual Report 2021* (Report, 2021) 20 <https://investor.qantas.com/FormBuilder/_Resource/_module/doLLG5ufYkCyEPjF1tpgyw/file/annual-reports/2021-Annual-Report.pdf>.

³⁷ Slide 20, H1 FY22 Investor Presentation <<https://www.asx.com.au/asxpdf/20220224/pdf/456b2g5fn7tmw3.pdf>>.

Airbus A320	180	11
Embraer E190	94 or 97	12 ³⁸

3.2 Cobham

Cobham is a diversified international aviation provider, with significant operations in Australia and in the UK.

In Australia, Cobham supplies charter services and has supplied a number of air services to the Australian Government for over 25 years, including a recent contract extension for border surveillance operations on behalf of the Australian Border Force.³⁹

In 2020, Cobham's parent company (Cobham plc) was acquired by global private equity firm Advent International. Since February 2022, Cobham has been listed for sale by Advent International and is expected to be sold for in excess of \$1 billion.⁴⁰

Cobham's current fleet is set out below.⁴¹

Table 4: Cobham fleet

Aircraft type	Passenger seats per plane	Number of Aircraft in fleet
Havilland Q400	76	6
Embraer E190	104 or 110	5
British Aerospace 146-300/Avro RJ85 and RJ100	128 or 112	6

3.3 Airnorth

Airnorth is a major regional airline operator in Northern Australia, based in Darwin. Airnorth is fully owned by Bristow Helicopters Australia Pty Ltd, a division of the US-based Bristow Group. Airnorth commenced operations in 1978 and initially provided only charter services in the NT. Since then, Airnorth has expanded its operations to include over 220 RPT and charter services to 19 destinations across the NT, Qld, Victoria (**Vic**) and WA, as well as East Timor.⁴² Airnorth's charter services focus on business, mining, oil and gas, government and community customers on a contract and ad hoc basis. Overall,

³⁸ Alliance ASX release 8 March 2022 < <https://www.asx.com.au/asxpdf/20220308/pdf/456sznkkp8nnhj.pdf>>.

³⁹ See, for example, 'Cobham awarded six-year contract extension to provide border surveillance', *Cobham* (Web Page, 29 October 2021) <<https://www.cobham.com.au/news/cobham-awarded-six-year-contract-extension-to-provide-border-surveillance>>.

⁴⁰ Anthony Macdonald, Sarah Thompson and Kanika Sood, 'MacCap flies in to sell No.3 aviation player Cobham Aviation Services', *Australian Financial Review* (Article, 8 February 2022) <<https://www.afr.com/street-talk/maccap-flies-in-to-sell-no-3-aviation-player-cobham-aviation-services-20220206-p59u61>>.

⁴¹ 'Cobham continues to grow its greener fleet', *Cobham Aviation* (Media Release, 8 February 2022) <<https://www.cobham.com.au/news/cobham-continues-to-grow-its-greener-fleet>>; 'Cobham continues to grow its fleet of Embraer E190 aircraft', *Cobham Aviation* (Media Release, 18 March 2022) <<https://www.cobham.com.au/news/cobham-continues-to-grow-its-fleet-of-embraer-e190-aircraft#:~:text=Cobham's%20fleet%20of%20E190%20aircraft,in%20Perth%20on%2017%20March>>.

⁴² 'Charters', *Airnorth* (Web Page, 10 February 2022) <<https://www.airnorth.com.au/home/charters/>>.

Airnorth carries over 330,000 passengers annually.⁴³ Airnorth also supplies some wet leasing services to Virgin Australia on a number of RPT routes.

3.4 Skippers Aviation

Skippers is a strong regional airline operator in WA, based in Perth and Broome. Skippers commenced operations in 1990.⁴⁴ It offers RPT and charter services with a focus on the WA mining industry. From its inception, Skippers has pursued a program of maintaining a modern fleet of aircraft to enable a lower cost base and access to remote locations for customers.⁴⁵ Today, Skippers currently operates over 100 regular flights per week in support of 15 major mining companies.⁴⁶

3.5 HEVILIFT

HEVILIFT is a specialist aviation operator in Qld and WA. It has a fleet of aircraft and helicopters and has operational bases in Brisbane and Perth. HEVILIFT commenced Australian operations in 2012. It specialises in charter services, resources industry support, and Search and Rescue (**SAR**) and Emergency Medical Services (**EMS**).⁴⁷ Since the ACCC issued its Final Determination in 2017, HEVILIFT has expanded into WA with a new operating base at Perth International Airport.⁴⁸ In this state, HEVILIFT is positioning itself as providing newer aircraft with better environmental performance.⁴⁹

3.6 Pel-Air

Pel-Air is an established regional charter operator on the eastern seaboard, based in Mascot, NSW. Pel-Air commenced charter operations in 1984.⁵⁰ It currently operates in NSW, Qld, SA, and Vic.⁵¹ Pel-Air specialises in providing FIFO, corporate jet, freight and air tour charters, and aeromedical services for NSW Ambulance and Ambulance Victoria.⁵²

Pel-Air is a wholly owned subsidiary of Regional Express Holdings Limited (**REX**).⁵³

3.7 Other operators

(a) Link Airways

Link Airways (previously trading as Corporate Air) is a smaller airline operator on the eastern seaboard, primarily based in Canberra. Link Airways commenced operations in 1972.⁵⁴ It currently operates in the ACT, NSW, Qld, and Vic with bases in Canberra, Brisbane, Goulburn, Melbourne and Sydney.⁵⁵ Link Airways specialises in providing corporate and business charter flights, FIFO services, overnight freight, airborne remote sensing services, search and rescue, and outback tour services.⁵⁶ Link Airways also supplies wet leasing to Virgin Australia on Sydney/Canberra.

⁴³ Ibid.

⁴⁴ 'About Skippers', *Skippers* (Web Page, 11 February 2022) <<http://www.skippers.com.au/ProfileAbout.asp>>.

⁴⁵ 'About Skippers Aviation', *Skippers* (Web Page, 11 February 2022) <<https://www.skippers.com.au/about-skippers-aviation/>>.

⁴⁶ 'Skippers Charters', *Skippers* (Web Page, 11 February 2022) <<http://www.skippers.com.au/Charter.asp>>.

⁴⁷ 'Hevilift', *Hevilift* (Web Page, 11 February 2022) <<https://hevilift.com/>>.

⁴⁸ 'Hevilift Australia opens Perth base', *Ch-aviation* (n 37).

⁴⁹ Ibid.

⁵⁰ 'Pel-Air', *Pel-Air* (Web Page, 11 February 2022) <<http://www.pelair.com.au/default.aspx>>.

⁵¹ 'FIFO', *Pel-Air* (Web Page, 11 February 2022) <<http://www.pelair.com.au/Charter/FIFO.aspx>>.

⁵² 'Pel-Air', *Pel-Air* (n 55).

⁵³ Ibid.

⁵⁴ 'Our Company', *Corporate Air* (Web Page, 11 February 2022) <<https://corporate-air.com.au/about-us/our-company/>>.

⁵⁵ Ibid.

⁵⁶ Ibid.

(b) Skytrans

Skytrans is a regional Qld-owned and operated airline, based in Cairns. Skytrans commenced charter operations in 1990, and RPT services in 1993. It specialises in services – passenger, mail and charter – for communities in the Cape York and the Torres Strait regions.⁵⁷

(c) Pearl Aviation

Pearl Aviation is a small, fixed base charter operator in the NT, primarily based in Darwin. It provides services across fuel, Fixed Base Operators, charter, ground handling and trip planning.⁵⁸ Pearl Aviation is a subsidiary of the Paspaley Group.⁵⁹

(d) Maroomba Airlines

Maroomba Airlines (**Maroomba**) is a small regional charter operator in WA, based in Perth. Maroomba commenced operations in 1985.⁶⁰ It provides a range of services including charter flights, aircraft management, fixed base operations, freight and FIFO.⁶¹

(e) Hardy Aviation

Hardy Aviation is a small regional charter operator in the NT, based in Darwin. Hardy Aviation commenced operations in 1991 and remains family owned.⁶² It specialises in connecting people from remote NT communities with Darwin.⁶³

(f) Shoal Air

Shoal Air is another small regional charter operator in WA, based in Kununurra. Shoal commenced operations in 2004.⁶⁴ It specialises in services in the East Kimberley region, linking the primary service towns of Kununurra, Wyndham, Derby and Broome with remote sites and communities.⁶⁵

(g) Pionair Australia

Pionair Australia (**Pionair**) is a small charter operator based at Bankstown Airport, Sydney. It offers both domestic and international charter flights servicing the FIFO market and operates cargo services for Qantas. Pionair commenced operations in 2000.⁶⁶

4 Rationale for the Charter Alliance

4.1 Rationale for renewal of Charter Alliance

Since authorisation was granted in 2017, the Charter Alliance has allowed Alliance Airlines and VARA to jointly tender for and supply FIFO services on an integrated basis, by leveraging each airline's complementary businesses, diverse geographic footprint and scalable fleet, and the opportunity to

⁵⁷ 'About us', *Skytrans* (Web Page, 11 February 2022) <<https://www.skytrans.com.au/company/about-us/>>.

⁵⁸ 'Services', *Pearl Flight Centre* (Web Page, 11 February 2022) <<https://www.pearlflightcentre.com.au/fuel/>>.

⁵⁹ 'About', *Pearl Flight Centre* (Web Page, 11 February 2022) <<https://www.pearlflightcentre.com.au/about/>>.

⁶⁰ 'About us', *Maroomba Airlines* (Web Page, 11 February 2022) <<https://www.maroomba.com.au/about-us/>>.

⁶¹ 'Services', *Maroomba Airlines* (Web Page, 11 February 2022) <<https://www.maroomba.com.au/services/>>.

⁶² 'About us', *Hardy Aviation* (Web Page, 11 February 2022) <<https://hardyaviation.com.au/about-us/>>.

⁶³ Ibid.

⁶⁴ 'About us', *Shoal Air* (11 February 2022) <<https://www.shoalair.com/about-us/>>.

⁶⁵ *Shoal Air* (Web Page 11 February 2022) <<https://www.shoalair.com/>>.

⁶⁶ 'About us' *Pionair* (26 May 2022) <<https://www.pionair.com.au/>>.

combine value-adds such as access to Virgin Australia's frequent flyer program, express check-in and lounge access.

4.2 Successful joint tenders by the Charter Alliance

Under the Charter Alliance, VARA and Alliance Airlines have made several successful joint tenders, which are detailed in **Confidential Attachment F**. In summary these joint tenders:

- give VARA and Alliance Airlines the opportunity to provide an integrated service offering;
- may include value adds on Alliance services such as access to the Velocity Frequent Flyer program, membership lounge access and benefits from Virgin Australia Group's international partnerships with Singapore Airlines, Etihad Airways and others;
- provide individual customers with better scheduling, flexibility and coverage through pooled aircraft fleets; and
- open up access to a wider range of fleet options (including Alliance Airlines' fleet of smaller planes and VARA's fleet of larger planes) that can flexibly suit particular corporate customers' needs.

In addition to the successful joint bids made under the Charter Alliance, VARA and Alliance Airlines have continued to successfully tender for contracts on an individual basis, including as permitted under the Alliance Agreement for Pre-Existing & Common Charter Customers and/or Ad Hoc Charter Services on a stand-alone basis.⁶⁷ For example, VARA has successfully renewed and/or extended contracts with customers on a standalone basis, such as **[RESTRICTION OF PUBLICATION CLAIMED]**. Alliance Airlines has also tendered and sought extensions on a standalone basis for various pre-existing and common charter customers, including **[RESTRICTION OF PUBLICATION CLAIMED]**.

5 Potential application of Division 1 Part IV, sections 45 and 47 of the *Competition and Consumer Act 2010* (Cth)

The Applicants are applying to the ACCC for:

- interim authorisation pursuant to sub-section 91(2)(d) of the *Competition and Consumer Act 2010* (Cth) (**Act**) to continue engaging in the Proposed Conduct after the end of the current authorisation period on 9 June 2022; and
- authorisation under sub-section 88(1) of the Act for a period of 5 years.

In the absence of authorisation, the relevant provisions of the Act which could apply to the Proposed Conduct are:

- cartel provisions within the meaning of Division 1 of Part IV of the Act;
- sections 45(1)(a) and (b) in relation to provisions of contracts, arrangements or understandings that are likely to have the effect of substantially lessening competition in a market;
- section 45(1)(c) in relation to concerted practices; and
- section 47 in relation to exclusive dealing.

For the avoidance of doubt, the Applicants do not consider the Charter Alliance Agreement has the purpose, effect or likely effect of substantially lessening competition, in contravention of sections 45(1) and (b) in relation to anti-competitive agreements, s 45(1)(c) in relation to concerted practices and s 47

⁶⁷ **[RESTRICTION OF PUBLICATION CLAIMED]**

in relation to exclusive dealing. However, the Applicants seek authorisation in relation to these provisions for completeness and out of an abundance of caution.

5.1 Conduct that may contravene Division 1 Part IV, sections 45 and 47 of the Act

The Applicants seek to continue to cooperate in relation to the provision of FIFO services by jointly tendering for customer contracts; sharing information about relevant routes (including in relation to costs, willingness to operate a route, capacity, utilisation, demand and pricing); agreeing capacity, flight schedules and aircraft type and whether an Applicant will suspend a relevant route; agreeing which Applicant will operate relevant routes and under what commercial arrangements and discussing and agreeing ways of providing services on the relevant routes.

6 Application for interim authorisation and final authorisation

6.1 Interim authorisation

The Applicants are seeking urgent interim authorisation prior to the expiry of the current authorisation, being 9 June 2022. The Applicants respectfully ask the ACCC to make its decision to grant interim authorisation by end of 9 June 2022 to allow the Applicants to continue the Proposed Conduct through the continued operation of the Charter Alliance pending the ACCC's final decision on authorisation. As set out in the ACCC's Authorisation (Non-merger) Guidelines:⁶⁸

- the ACCC is more likely to grant interim authorisation when it will maintain the status quo. Given the Applicants are applying for re-authorisation, interim authorisation is very unlikely to permanently alter the competitive dynamics of the industry or inhibit the industry from returning to its pre-interim authorisation state if authorisation is later denied. Further, a decision not to grant interim authorisation, and let the Charter Alliance lapse as at 9 June 2022, will change the status quo, pre-empting the ACCC's consideration of Qantas' application for informal merger review of its proposed acquisition of the remaining shares it does not already own in Alliance Airlines; and
- the ACCC will consider if there is an urgent need for interim authorisation. The Applicants are seeking interim authorisation prior to the expiry of the current authorisation, being 9 June 2022. To prevent unnecessary delay and ensure continuity of business operations, the Applicants respectfully require interim authorisation prior to final authorisation. The Applicants note that their application for reauthorisation of the Charter Alliance is made much later than is customary and has created the urgency necessitating interim authorisation. This arises from the unusual circumstances which firstly saw the Applicants' application delayed by ongoing management of the COVID-19 crisis, and then by uncertainties created by Qantas' acquisition bid.
- the ACCC will consider the possible harm to the Applicants and third parties if a grant of interim authorisation is denied. If interim authorisation is denied and final authorisation is ultimately granted, this will cause significant disruption to the joint operations of the Applicants and to their corporate customers. Business certainty and continuity is vital, particularly given the challenges faced by the aviation sector during COVID-19.

6.2 Final authorisation

The Applicants submit that:

⁶⁸ ACCC, *Guidelines for Authorisation of Conduct (non-merger)* (5 March 2019) 54-55.

- the Charter Alliance has not had and will not have the effect, or likely effect of substantially lessening competition; and
- in any event, any competitive detriments of the Charter Alliance have been and will continue to be outweighed by the public benefits generated by the Charter Alliance.

Qantas recently announced its intention to acquire the remaining shares in Alliance Airlines on 5 May 2022. The Applicants have agreed that if it is re-authorised, the Charter Alliance would only continue if Qantas' proposed acquisition of the remaining shares it does not already own in Alliance Airlines does not proceed. If Qantas completes its acquisition of the remaining shares in Alliance Airlines, VARA will exercise its right to terminate the Charter Alliance Agreement under the change of control provisions in the Agreement. The Applicants suggest that authorisation could be made conditional on Alliance remaining independent of Qantas.

7 Framework for competitive analysis of the Charter Alliance

7.1 ACCC's previous approach to competitive analysis

In 2017, the ACCC considered the relevant area of competition for assessing the Charter Authorisation was:

*provision of FIFO services (inclusive of charter and RPT services) to corporate customers within Australia, and particularly within Western Australia being the one state or territory where there is significant horizontal overlap between FIFO services provided by the Applicants.*⁶⁹

The ACCC also noted that:

- corporate customers generally have unique requirements when procuring FIFO services and will often contract for FIFO services on a route-by-route basis, with the origin, destination and scheduling of services being determined in accordance with the operational requirements of the customer;⁷⁰ and
- FIFO service operators are generally regional in scope with services generally offered directly to and from specific worksites from dedicated operating bases ('out and back services'). Given the nature of FIFO services, operational efficiencies and maximising aircraft utilisation are best achieved through operating regionally.⁷¹

7.2 Counterfactual

In 2017, the ACCC noted that VARA could potentially consider expanding its FIFO operations into states and territories other than WA.⁷² This has not occurred, and this is highly unlikely to occur in the future without the authorisation due to VARA's strategic focus on WA, which has Australia's largest FIFO demand. VARA would likely maintain this focus absent the Charter Alliance. In addition, VARA would have no commercial incentive to offer Alliance Airlines access to comprehensive frequent flyer benefits (as is permitted under the Charter Alliance).

For Alliance Airlines, in the counterfactual, it would not allow VARA to use its aircraft as is currently permitted under the Charter Alliance in charter tender processes. However, Alliance Airlines may have commercial incentives to enter into wet lease agreements with VARA for the supply of ACMI, unless

⁶⁹ Final Determination (n 17) [91].

⁷⁰ Final Determination (n 17) [92].

⁷¹ Ibid [93].

⁷² Ibid [96].

and until Qantas completes on its proposed acquisition of the remaining shares it does not already own in Alliance Airlines.

Consequently, the likely benefits to the Applicants and their corporate customers would not be realised if authorisation is not granted.

8 Significant public benefits

8.1 Overview

In 2017, the ACCC considered that the Charter Alliance would likely result in net public benefits in the form of:

- operational efficiencies;
- enhanced products and services; and
- promoting competition between suppliers of FIFO services.

Each of the above public benefits have been realised by the Charter Alliance and the Applicants have passed on such benefits to their Charter Alliance customers in the form of lower pricing and better services (such as value-add services).

8.2 Operational efficiencies

(a) Key operational efficiencies realised

In its Final Determination, the ACCC said:

The ACCC has previously accepted that improved operating efficiencies and/or avoidance of duplicated fixed costs through airline alliances are likely to result in a public benefit. However, the ACCC has generally not placed a significant weight on this as a public benefit absent strong evidence about how such savings will be achieved and whether they are likely to be passed on to customers.⁷³

The Charter Alliance has resulted in a number of operational efficiencies, which have allowed VARA and Alliance Airlines to improve efficiency and flexibility, reduce both fixed and variable costs and pass those cost reductions on to customers.

As discussed in section 4, key examples of operational efficiencies realised under the Charter Alliance include:

- **Integrated offering.** Under the Charter Alliance, VARA and Alliance Airlines can provide an integrated customer solution by combining their complementary operations. In circumstances where VARA does not have charter operations outside of WA, the Charter Alliance enables the Applicants to offer a charter solution to joint corporate customers through access to Alliance Airlines' network. For example, **[RESTRICTION OF PUBLICATION CLAIMED]**.
- **Alignment of procedures and processes at Perth Airport.** VARA and Alliance Airlines have been able to align their airport and ground handling procedures and processes at Perth airport for Charter Alliance customers, which has reduced costs. In particular, as the Applicants predicted,⁷⁴ the Charter Alliance has allowed VARA and Alliance Airlines to improve T1 (international terminal)

⁷³ Final Determination (n 17) [107].

⁷⁴ Final Determination (n 17) [109].

to T2 (VARA and Alliance domestic terminal) connections at Perth Airport, reducing connection transfer time for FIFO passengers.

- **Access to complementary fleets.** Combining fleets gives each Applicant access to a diverse range of aircraft, fleet scalability and unlocks operational flexibility. Following VARA's recent transition from F100 (100 seat) to B737-700 (138 seat) aircraft, it is able to offer seating capacities of 80, 100, 138, 168 or 176 passengers on its services in Western Australia. However, as Virgin Australia is only able to offer seating capacities of 138-176 passengers, access to Alliance Airlines' complementary fleet allows the parties to offer 80 or 100 passenger aircraft services on the East Coast and Central Australia. This allows the parties to compete more effectively with Qantas, which is able to offer aircraft with capacities ranging between 36 and 174 passengers on a nation-wide basis. The Charter Alliance provides VARA and Alliance Airlines the ability to provide an aircraft with appropriate seating capacity for the customer's needs, reducing overall trip costs. For example, [REstriction of Publication Claimed]
- **Avoiding costs of expanding fleet.** By combining fleet capacity, VARA and Alliance Airlines have not had to unnecessarily invest in additional aircraft. The Charter Alliance has enabled VARA and Alliance Airlines to avoid the costs involved in investing in expanding their fleets where doing so would be uneconomical (for example, due to insufficient scale or lack of sustained activity), by relying on cross-hiring aircraft from one another instead. For example, [REstriction of Publication Claimed]
- **Avoiding costs of replacing F100 engines.** There is an industry-wide issue with F100 aircraft Rolls-Royce engine blades having to be replaced before the end of their expected design lives, which incurs significant cost. Under the Charter Alliance, VARA has been able to avoid incurring costs of approximately [REstriction of Publication Claimed] per F100 aircraft by taking advantage of Alliance Airlines' spare aircraft parts, inventory and cross-hire of fleet enabling it to avoid replacing those engine blades. Alliance Airlines has contracted Rolls-Royce to maintain F100 aircraft engines as part of a total care program. Rolls-Royce supplies replacement aircraft engines, spare engines and parts in exchange for a monthly fee.⁷⁵ VARA has a fleet of 10 F100 aircraft and estimates it has avoided a total of [REstriction of Publication Claimed] in engine replacement costs.⁷⁶
- **Reducing ACMI costs.** As a result of integrating services, VARA and Alliance Airlines have experienced fixed cost savings including ACMI costs. The most significant of these savings have been in relation to maintenance costs, particularly for F100 engines and major components. For example, in 2017 and 2018, VARA entered an arrangement for the maintenance of F100 aircraft with Austrian Airlines Technik Bratislava (**Austrian**), Alliance Airlines' supplier of heavy maintenance services at the time.⁷⁷ VARA carried out a competitive tender process involving three suppliers. The outcome of this tender resulted in [REstriction of Publication Claimed] in total cost savings for VARA over a 2-year period (comprising a [REstriction of Publication Claimed] on each biennial check of VARA's 14 Fokker aircraft in 2017/18). The Applicants have also shared ground support equipment and tooling, which allows for a reduction in maintenance costs.
- **Reducing variable costs.** Due to its improved negotiating position under the Charter Alliance, VARA has benefited from variable cost savings. These cost savings include reductions in per passenger terminal charges at Perth Airport, as discussed in section 8.2(b) below. While Perth Airport negotiates aeronautical charges separately with each airline, the Charter Alliance has

⁷⁵ Alliance Airlines, *Annual Report for the year ended 30 June 2021* (n 8) 39.

⁷⁶ In April 2022, Virgin Australia announced the upcoming retirement of VARA's ten F100s.

⁷⁷ Heavy maintenance is generally required once every 12 months to 6 years, based on the type and the age of the aircraft. It includes 'C checks' and 'D checks', which take three and six weeks, respectively. In contrast, line maintenance, which involves checking wheels, brakes and fluid levels, is performed regularly, often while the aircraft is in transit. Line maintenance also includes 'A checks' of filters and key systems which are performed once every 8 to 10 weeks. See 'The A, C and D of aircraft maintenance', Qantas (Web Page, 18 July 2016) <<https://www.qantasnewsroom.com.au/roo-tales/the-a-c-and-d-of-aircraft-maintenance/>>.

supported sustained growth and allowed VARA to rely on higher passenger movement numbers in negotiations with Perth Airport for improved aeronautical charges in 2018.

(b) Operational efficiencies passed on to customers

In its Final Determination, the ACCC accepted that the Charter Alliance was “likely to result in some pass through of savings to customers as a result of operational efficiencies”.⁷⁸ As the ACCC anticipated, the operational efficiencies realised under Charter Alliance enabled VARA and Alliance Airlines to pass on savings to their customers and / or to shield them from price increases. Specifically:

- **Perth Airport passenger tax.** The Charter Alliance Agreement came into effect on 9 June 2017. This increased the Applicants’ bargaining power in respect of Perth Airport’s per passenger taxes, resulting in reductions of per passenger taxes paid by VARA. For example, from FY2018 to FY2019, VARA was able to negotiate a reduction of [RESTRICTION OF PUBLICATION CLAIMED] in the per passenger tax at terminal 2 of Perth Airport (the Applicants’ operational base), resulting in a reduction of [RESTRICTION OF PUBLICATION CLAIMED] per passenger from [RESTRICTION OF PUBLICATION CLAIMED] to [RESTRICTION OF PUBLICATION CLAIMED] per passenger.⁷⁹ VARA was also able to negotiate a significant reduction in per passenger taxes paid at terminal 1. VARA generally passes the entirety of the reduction in the per passenger terminal charge at Perth Airport on to customers. Airport charges generally represent on average 10-12% of a passenger’s ticket.⁸⁰ As the ACCC has noted, “Excessive airport charges can harm consumers on some routes through higher airfares, or through reduced competition or connectivity where high airport charges make the route unprofitable.”⁸¹ The ACCC has described major airports as natural monopolies that face limited constraints on their prices through competition.⁸²
- **Cost savings from spare parts passed on to customers.** By avoiding unnecessary fleet investment and highly costly F100 engine blade replacements, VARA has been able to avoid passing on significant cost increases to customers in the form of increased charter prices.

8.3 Enhanced products and services

In its Final Determination, the ACCC concluded that:

the Charter Alliance [was] likely to result in a public benefit by allowing the Applicants to offer a substantially more extensive integrated charter and RPT service than either airline could otherwise offer. The ACCC also consider[ed] that the Charter Alliance [was] likely to result in some, small public benefits through improving connectivity of passengers transferring between a Virgin Australia RPT service and an Alliance Airlines charter service and through eligible Alliance Airlines passengers being able to accrue Velocity Frequent Flyer program points and/or access Virgin Australia lounges.

Public benefits in the form of an enhanced product and service offering have been realised under the Charter Alliance, including:

- **Better scheduling and less flight delays.** The ability to jointly schedule services for corporate customers, access to a larger combined fleet with 25 aircraft based in Perth and access to a larger pool of pilots and cabin crew has provided the Applicants with the opportunity to optimize the timing and frequency of services to minimize delays and respond to last minute flight disruptions. In addition, improved connectivity delivers greater convenience to customers and reduces the risk

⁷⁸ Final Determination (n 17) [114].

⁷⁹ [RESTRICTION OF PUBLICATION CLAIMED]

⁸⁰ ACCC, *Airline Competition in Australia* (n 6) 3.

⁸¹ *Ibid* 3.

⁸² *Ibid* 23.

of issues such as missed connections or lost luggage. For example, [RESTRICTION OF PUBLICATION CLAIMED].

In addition, the Charter Alliance gives the Applicants the opportunity to provide clients with better flight times during peak flying times and better flight connectivity. For example, [RESTRICTION OF PUBLICATION CLAIMED]

Frequent flyer benefits and other value adds. The Charter Alliance enables Alliance Airlines to provide eligible passengers with access to the Velocity Frequent Flyer program, including accrual of frequent flyer points, in-flight entertainment and Velocity member lounge access. For example, [RESTRICTION OF PUBLICATION CLAIMED]. In addition, the Charter Alliance enables the Applicants to jointly design and develop optimal product offerings for their customers. For example, [RESTRICTION OF PUBLICATION CLAIMED]

The above enhancements in products and services offered under the Charter Alliance flow directly to customers. As a result, customers have the option to access the benefits of a joint offering from the Applicants, including tailored products and services that better suit their needs, and that provide improved connectivity, flexibility and a better travel experience.

9 No material competitive detriment

The Charter Alliance has not resulted in any competitive detriment and is unlikely to in the future. To the contrary, the ability of the Applicants to jointly supply services has promoted customer choice and stimulated competitive responses from other airlines.

The ACCC initially expressed concerns that the Charter Alliance may have an anti-competitive effect on FIFO services in WA. However, it ultimately concluded that:

- **Unilateral Effects:** any increased ability and incentive to unilaterally raise fares or reduce or limit services by the Applicants was unlikely to be significant;⁸³ and
- **Coordinated Effects:** any detriment as a result of coordinated conduct by the Applicants in WA is unlikely to be significant.⁸⁴

In reality, the Charter Alliance has not given rise to any of these public detriments, however insignificant.

There is no material overlap between VARA and Alliance Airlines for FIFO services outside WA.

9.1 Unilateral effects unlikely

Any potential risk of unilateral effects will continue to be mitigated by the factors summarised below.

- There are many competitors to the Charter Alliance, in particular large operators such as Qantas;
- There are many smaller competitors who successfully compete with the Charter Alliance and Qantas, such as Skippers, Cobham and HEVILIFT; and
- In addition, most (if not all) FIFO customers are resource companies who have significant bargaining power which they exercise through their procurement process.

These constraints are such that the Charter Alliance has had, and will continue to have, no material adverse effect on competition.

⁸³ Final Determination (n 17) [164].

⁸⁴ Ibid [178].

9.2 No increase in likelihood of co-ordinated effects

The Charter Alliance has not resulted in any co-ordinated conduct among suppliers of FIFO services, including in WA. Suppliers of FIFO services have continued to compete aggressively for customers, driven by excess capacity as a result of the COVID-19 pandemic, fleet expansions by existing operators, and competition from new entrants.

The Applicants submit that any accommodating commercial strategies between suppliers of FIFO services, including in WA, are unlikely to occur in the future. The nature of FIFO services means that commercial terms, including prices, usually remain confidential between the contract parties. Furthermore, the services required are tailored to each customer such that multiple airlines are rarely providing the same service on the same route. The long-term nature of FIFO contracts means that operators are only periodically competing for customers when those contracts come up for renewal.

Furthermore, customers' strong bargaining power in contract negotiations with suppliers of FIFO services, and the existence of other viable alternatives such as Qantas and Cobham, further mitigates against the possibility of coordinated conduct. Smaller and medium operators have also proven capable of successfully competing with the Charter Alliance for larger corporate customers, including in WA. **[RESTRICTION OF PUBLICATION CLAIMED]** This demonstrates that industry conditions remain such that operators are incentivised to compete strongly with each other to win FIFO customers, rather than to engage in any accommodating behaviour.

10 Conclusion

For the reasons set out in this submission, the Applicants submit that the ACCC ought to grant interim authorisation and final authorisation of the Charter Alliance for a period of five years. The Charter Alliance has created and will continue to create significant public benefits without material competitive detriments.

Attachment A – VARA and Alliance Airlines’ current offering

The below table shows services offered by VARA to FIFO customers by route.

	Route	Type of service
1.	Perth (WA) – Barimunya (WA) – Boolgeeda (WA) – Perth (WA)	Charter
2.	Perth (WA) – Busselton (WA) – Barimunya (WA) – Busselton (WA) – Perth (WA)	Charter
3.	Perth (WA) – Busselton (WA) – Boolgeeda (WA) – Busselton (WA) – Perth (WA)	Charter
4.	Perth (WA) – Busselton (WA) – West Angelas (WA) – Busselton (WA) – Perth (WA)	Charter
5.	Perth (WA) – Barimunya (WA) – Perth (WA)	Charter
6.	Perth (WA) – Exmouth (WA) – Cocos (Keeling) Islands – Christmas Island – Perth (WA)	Charter
7.	Perth (WA) – Coondewanna (WA)	Charter
8.	Perth (WA) – Geraldton (WA) – Boolgeeda (WA) – Geraldton (WA) – Perth (WA)	Charter
9.	Perth (WA) – Argyle (WA) – Perth (WA)	Charter
10.	Perth (WA) – Gruyere (Vic) – Perth (WA)	Charter
11.	Perth (WA) – Karratha (WA) – Perth (WA)	Charter
12.	Perth (WA) – Boolgeeda (WA) – Albany (WA) – Perth (WA)	Charter
13.	Perth (WA) – Boolgeeda (WA) – Busselton (WA) – Perth (WA)	Charter
14.	Perth (WA) – Boolgeeda (WA) – Geraldton (WA) – Albany (WA) – Perth (WA)	Charter
15.	Perth (WA) – Boolgeeda (WA) – Geraldton (WA) – Perth (WA)	Charter
16.	Perth (WA) – Boolgeeda (WA) – Perth (WA)	Charter
17.	Perth (WA) – Onslow (WA) – Perth (WA)	Charter
18.	Perth (WA) – Port Hedland (WA) – Perth (WA)	Charter
19.	Perth (WA) – Oodnadatta (SA) – Perth (WA)	Charter
20.	Perth (WA) – Ravensthorpe (WA) – Perth (WA)	Charter
21.	Perth (WA) – West Angelas (WA) – Broome (WA) – West Angelas (WA) – Perth (WA)	Charter
22.	Perth (WA) – West Angelas (WA) – Busselton (WA) – Perth (WA)	Charter
23.	Perth (WA) – West Angelas (WA) – Perth (WA)	Charter
24.	Perth (WA) – Woodie Woodie (WA) – Perth (WA)	Charter
25.	Perth (WA) – Christmas Island – Cocos (Keeling) Islands – Perth (WA)	Charter
26.	Perth (WA) – Broome (WA) – Perth (WA)	Charter
27.	Perth (WA) – Barimunya (WA) – Busselton (WA)	Charter
28.	Busselton (WA) – West Angelas (WA) – Busselton (WA) – Perth (WA)	Charter
29.	Albany (WA) – Geraldton (WA)	Charter
30.	Albany (WA) – Boolgeeda (WA)	Charter
31.	Busselton (WA) – Karratha (WA)	Charter
32.	Laverton (WA) – Perth (WA)	Charter
33.	Boolgeeda (WA) – Paraburdoo (WA)	Charter
34.	Paraburdoo (WA) – Perth (WA)	Charter
35.	Oodnadatta (SA) – West Angelas (WA)	Charter

	Route	Type of service
36.	Adelaide (SA) – Alice Springs (NT)	RPT
37.	Adelaide (SA) – Brisbane (Qld)	RPT
38.	Adelaide (SA) – Canberra (ACT)	RPT
39.	Adelaide (SA) – Cairns (Qld)	RPT
40.	Adelaide (SA) – Darwin (NT)	RPT
41.	Adelaide (SA) – Gold Coast (Qld)	RPT
42.	Adelaide (SA) – Hobart (Tas)	RPT
43.	Adelaide (SA)– Launceston (Tas)	RPT
44.	Adelaide (SA)– Melbourne (Vic)	RPT
45.	Adelaide (SA)– Perth (WA)	RPT
46.	Adelaide (SA)– Sunshine Coast (Qld)	RPT
47.	Adelaide (SA) – Sydney (NSW)	RPT
48.	Alice Springs (NT) – Brisbane (Qld)	RPT
49.	Broome (WA) – Perth (WA)	RPT
50.	Brisbane (Qld) – Canberra (ACT)	RPT
51.	Brisbane (Qld) – Cairns (Qld)	RPT
52.	Brisbane (Qld) – Denpasar	RPT
53.	Brisbane (Qld) – Darwin (NT)	RPT
54.	Brisbane (Qld) – Emerald (Qld)	RPT
55.	Brisbane (Qld) – Gladstone (Qld)	RPT
56.	Brisbane (Qld) – Hobart (Tas)	RPT
57.	Brisbane (Qld) – Hamilton Island (Qld)	RPT
58.	Brisbane (Qld) – Mount Isa (Qld)	RPT
59.	Brisbane (Qld) – Launceston (Tas)	RPT
60.	Brisbane (Qld) – Melbourne (Vic)	RPT
61.	Brisbane (Qld) – Mackay (Qld)	RPT
62.	Brisbane (Qld) – Nadi	RPT
63.	Brisbane (Qld) – Newcastle (NSW)	RPT
64.	Brisbane (Qld) – Perth (WA)	RPT
65.	Brisbane (Qld) – Proserpine (Qld)	RPT
66.	Brisbane (Qld) – Rockhampton (Qld)	RPT
67.	Brisbane (Qld) – Sydney (NSW)	RPT
68.	Brisbane (Qld) – Townsville (Qld)	RPT
69.	Brisbane (Qld) – Queenstown	RPT
70.	Byron (NSW) – Melbourne (Vic)	RPT
71.	Byron (NSW) – Sydney (NSW)	RPT
72.	Canberra (ACT) – Melbourne (Vic)	RPT
73.	Canberra (ACT) – Gold Coast (Qld)	RPT

	Route	Type of service
74.	Canberra (ACT) – Sydney (NSW)	RPT
75.	Cocos Keeling Islands – Perth (WA)	RPT
76.	Cocos Keeling Islands – Christmas Island	RPT
77.	Coffs Harbour (NSW) – Melbourne (Vic)	RPT
78.	Coffs Harbour (NSW) – Sydney (NSW)	RPT
79.	Cairns (Qld) – Melbourne (Vic)	RPT
80.	Cairns (Qld) – Gold Coast (Qld)	RPT
81.	Cairns (Qld) – Perth (WA)	RPT
82.	Cairns (Qld) – Sydney (NSW)	RPT
83.	Denpasar – Melbourne (Vic)	RPT
84.	Denpasar – Port Hedland (WA)	RPT
85.	Denpasar – Sydney (NSW)	RPT
86.	Darwin (NT) – Melbourne (Vic)	RPT
87.	Darwin (NT) – Perth (WA)	RPT
88.	Darwin (NT) – Sydney (NSW)	RPT
89.	Hobart (Tas) – Melbourne (Vic)	RPT
90.	Hobart (Tas) – Gold Coast (Qld)	RPT
91.	Hobart (Tas) – Perth (WA)	RPT
92.	Hobart (Tas) – Sydney (NSW)	RPT
93.	Hamilton Island (Qld) – Melbourne (Vic)	RPT
94.	Hamilton Island (Qld) – Sydney (NSW)	RPT
95.	Kalgoorlie-Boulder (WA) – Perth (WA)	RPT
96.	Kununurra (WA) – Perth (WA)	RPT
97.	Karratha (WA) – Perth (WA)	RPT
98.	Launceston (Tas) – Melbourne (Vic)	RPT
99.	Launceston (Tas) – Gold Coast (Qld)	RPT
100.	Launceston (Tas) – Sydney (NSW)	RPT
101.	Sunshine Coast (Qld) – Melbourne (Vic)	RPT
102.	Sunshine Coast (Qld) – Sydney (NSW)	RPT
103.	Melbourne (Vic) – Nadi	RPT
104.	Melbourne (Vic) – Newcastle (NSW)	RPT
105.	Melbourne (Vic) – Gold Coast (Qld)	RPT
106.	Melbourne (Vic) – Perth (WA)	RPT
107.	Melbourne (Vic) – Sydney (NSW)	RPT
108.	Melbourne (Vic) – Townsville (Qld)	RPT
109.	Melbourne (Vic) – Queenstown	RPT
110.	Nadi – Sydney (NSW)	RPT
111.	Onslow (WA) – Perth (WA)	RPT

	Route	Type of service
112.	Gold Coast (Qld) – Sydney (NSW)	RPT
113.	Perth (WA) – Port Hedland (WA)	RPT
114.	Perth (WA) – Sydney (NSW)	RPT
115.	Perth (WA) – Christmas Island	RPT
116.	Perth (WA) – Newman (WA)	RPT
117.	Sydney (NSW) – Townsville (Qld)	RPT
118.	Sydney (NSW) – Queenstown	RPT

The below table shows the long term charter services offered by Alliance Airlines by route.

	Route	Type of service
1.	Perth – East Jaurdi	Charter
2.	Perth – Kalgoorlie-Boulder	Charter (with incidental RPT)
3.	Perth – Mount Keith	Charter
4.	Perth – Laverton	Charter
5.	Perth – Newman	Charter
6.	Perth – Barimunya	Charter
7.	Perth – Telfer	Charter
8.	Perth – Port Hedland	Charter
9.	Perth – Karratha	Charter
10.	Perth – The Granites	Charter
11.	Perth – Christmas Island	Charter
12.	Perth – Truscott	Charter
13.	Perth – Barrow Island	Charter
14.	Mount Keith – Leinster	Charter
15.	Busselton – Leonora	Charter
16.	Busselton – Leinster	Charter
17.	Busselton – Newman	Charter
18.	Busselton – Coondewanna	Charter
19.	Busselton – Cape Preston	Charter
20.	Darwin – The Granites	Charter
21.	The Granites – Alice Springs	Charter
22.	Groote Eylandt – Darwin	Charter
23.	Cairns – Groote Eylandt	Charter (with incidental RPT)
24.	Cairns – Weipa	Charter (with incidental RPT)
25.	Cairns – Cannington	Charter
26.	Cairns – Cloncurry	Charter

	Route	Type of service
27.	Cairns – Century	Charter
28.	Townsville – Cloncurry	Charter
29.	Townsville – Phosphate Hill	Charter
30.	Townsville – Cannington	Charter
31.	Townsville – Cairns	Charter
32.	Brisbane – Weipa	Charter (with incidental RPT)
33.	Brisbane – Moranbah	Charter and RPT
34.	Brisbane – Moomba	Charter
35.	Brisbane – Ballera	Charter
36.	Brisbane – Roma	Charter
37.	Brisbane – Rockhampton	Charter
38.	Brisbane – Mackay	Charter
39.	Brisbane – Emerald	Charter
40.	Brisbane – The Granites	Charter
41.	Brisbane – Phosphate Hill	Charter
42.	Brisbane – Mt Isa	Charter
43.	Brisbane – Cannington	Charter
44.	Brisbane – Cloncurry	Charter
45.	Phosphate Hill – Mt Isa	Charter
46.	Sunshine Coast – Emerald	Charter
47.	Adelaide – Olympic Dam	Charter (with incidental RPT)
48.	Adelaide – Moomba	Charter
49.	Adelaide – Moomba – Ballera	Charter
50.	Adelaide – Ballera	Charter

Confidential Attachment B – Executed copy of Charter Alliance Agreement

(enclosed separately)

Confidential Attachment C – Executed copy of Variation Letter to Charter Alliance Agreement

(enclosed separately)

Attachment D – Overview of FIFO Operations in Australia

Operators	Region/s of operations ⁸⁵	Services provided to FIFO customers	Examples of FIFO customers
	National	RPT	BHP, Rio Tinto, Fortescue Metals Group, Pilbara Minerals, Newmont, Roy Hill and Mineral Resources
	National	Charter, RPT	
	National	RPT	
	National	Charter, ⁸⁶ RPT	BHP, Chevron, Consolidated Minerals, First Quantum Minerals, Gold Fields and Rio Tinto
Virgin Australia Regional Airlines	National	Charter, RPT	
	National (excl. TAS)	Charter, RPT	BHP Billiton, Anglo American, South32, CITIC Pacific, Newcrest, Santos, Rio Tinto, Incitec Pivot, Minerals and Metals Group, Gold Fields, Mineral Resources and Newmont Mining
	SA, WA	Charter, RPT	Alliance Mineral Assets, Cyprium Metals, Galena, IGO, OZ Minerals and Westgold ⁸⁷

⁸⁵ This represents the regions of air service and is not limited to FIFO operations.

⁸⁶ Virgin Australia operates a small number of charter flights from Brisbane to other parts of Southern Queensland, including Miles and Roma. In the case of Roma, this is due to the regulatory restrictions preventing Virgin Australia flying RPT services on this route and in the case of Miles this is due to airport infrastructure restrictions.

⁸⁷ 'News', *Cobham* (Web Page, 10 February 2022) <<https://www.cobham.com.au/news>>.

Operators	Region/s of operations ⁸⁵	Services provided to FIFO customers	Examples of FIFO customers
	NT, QLD, VIC, WA	Charter, RPT	Glencore, and Jadestone ⁸⁸
	WA	Charter	AngloGold Ashanti, Gold Fields, IGO, Lynas Corporation, Northern Star, Pilbara Iron, Regis Resources, Saracen and Western Areas ⁸⁹
	QLD, WA	Charter	BHP, ConocoPhillips, ExxonMobil, Marengo Mining, Murphy Oil Corporation, Anglo American, Incitec Pivot, Newcrest Mining, Chevron, Eni, Petronas, PTTEp and Total ⁹⁰
	NSW, QLD, SA, VIC	Charter	-
	ACT, NSW, QLD, VIC	Charter	-
	QLD, Torres Strait	Charter, RPT	QGC ⁹¹
	NT, WA	Charter	-
	WA	Charter	-
	NT	Charter, RPT	-
	NT	Charter	-










⁸⁸ 'News Room', *Airnorth* (Web Page, 11 February 2022) < <https://www.airnorth.com.au/about/news-room/> >.

⁸⁹ 'Charters', *Skippers* (Web Page, 9 February 2022) < <https://www.skippers.com.au/charters/> >.

⁹⁰ 'Hevilift', *Hevilift* (Web Page, 11 February 2022) < <https://hevilift.com/> >.

⁹¹ 'Operational Bulletins', *Shell* (Web Page, 9 February 2022) < https://www.shell.com.au/about-us/projects-and-locations/qgc/news/operational-bulletins/jcr_content/par/tabbedcontent_9fd2/tab_be8d/textimage_b38f.stream/1561887742880/0b6b9e30eb65cd5628fa28007330714d9e6ff975/49210-operations-bulletin-june-2019.pdf > /

Attachment E - Key resource companies requiring FIFO services in Australia

Resource company	Description of operations
	Bechtel is a global construction and civil engineering company with an Australian portfolio spanning mines, minerals processing facilities, LNG installations, refineries, chemical plants, power stations, and telecommunications infrastructure. It has Australian operations in WA, Qld, NSW and the NT. It is a contractor for gas proponents Chevron, Santos, BG Group and Origin Energy/ConocoPhillips.
	BHP Billiton produces iron ore, copper, coal and nickel in Australia and operates over 23 mines in WA, SA, the NT and Qld.
	Chevron is an oil and gas company with three LNG projects in WA (including Gorgon and Wheatstone). It holds petroleum titles to resources located offshore WA and onshore at Barrow Island.
	Consolidated Minerals (ConsMin) is a mid-sized mining company headquartered in West Perth, WA. Its key asset is the Woodie Woodie mine located in the Pilbara region.
	First Quantum Minerals is a global copper company and owns and operates the Ravensthorpe Nickel mine in WA producing around 30,000 tonnes of contained nickel annually.
	Gold Fields is one of the world's largest gold mining mines, headquartered in South Africa. It owns a 100% interest in the St Ives, Agnew and Granny Smith mines in WA, as well as a 50% interest in the Gruyere JV with Gold Road Resources.
	MMG is a global resources company that mines, explores and develops base metal projects around the world. It operates mines in Tas, WA, and Qld, where it extracts and produces base and precious metals.
	Mineral Resources is a mining services company with mining operations across multiple commodities including iron ore and lithium throughout WA and the NT, in the Pilbara, Goldfield and Yilgarn regions.
	Newmont is the world's largest gold mining company, based in Colorado, USA. It operates the Boddington mine in WA and the Tanami mine in the NT.
	Rio Tinto produces iron ore, aluminium, copper, borates, lithium, uranium, diamonds, titanium and salt from over 30 operating sites and processing plants in Australia, mainly in WA and QLD.
	South32 is a global metals and mining company which was spun out of BHP Billiton in 2015. It produces commodities including aluminium, copper, coal, manganese, nickel and silver from its operations in Australia, Southern Africa and South America. It is headquartered in Perth and operates 4 sites in Australia.

Confidential Attachment F – Successful Joint Tenders

Date of Tender	Client / project	Contract / tender details	Value	Term (including options to extend)	Incumbent supplier/s	Benefits to customer
July 2017	Mineral Resources Limited	<ul style="list-style-type: none"> Joint tender to contract for charter and RPT to multiple ports in WA. [RESTRICTION OF PUBLICATION CLAIMED] 	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]
January 2019	Gold Fields - Gruyere and Agnew Projects	<ul style="list-style-type: none"> Joint tender to contract for charter services between Perth and Gruyere and Perth and Leinster. [RESTRICTION OF PUBLICATION CLAIMED] 	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]
May 2020	Gold Fields - Granny Smith Project	<ul style="list-style-type: none"> [RESTRICTION OF PUBLICATION CLAIMED] 	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]

Date of Tender	Client / project	Contract / tender details	Value	Term (including options to extend)	Incumbent supplier/s	Benefits to customer
August 2017	Newmont Mining Corporation – Granites Project	<ul style="list-style-type: none"> Charter services in WA and NT, domestic and international RPT [RESTRICTION OF PUBLICATION CLAIMED] 	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]	[RESTRICTION OF PUBLICATION CLAIMED]