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Tēnā koe Tracey

Airways' Service Framework Consultation

Introduction

1. This is the response of Rotorua Regional Airport Limited (**RRA**) to Airways on the consultation of its *Proposed Revised Airways Service Framework*, dated May 2021 (**the Proposal**).

Overview/summary

Safety and fit for purpose model

2. RRA's paramount consideration, is the safety of staff, all airport users and passengers, and the wider public. While we do not perceive there to be any intention to reduce air navigation services at the expense of safety, we are seriously concerned that the paramountcy of safety is not reflected by Airways recent conduct and the Proposal.
3. Our secondary concern is that the aviation system and the delivery of air navigation services within it is not fit for purpose.

Review of system, delivery and funding required

4. We consider that a wider discussion of the attributes, criteria and processes of a fit for purpose future aviation system is required, and consensus reached by all stakeholders on the framework and funding models, before a further review of Airways' services and advancement of the Proposal.
5. In the absence of a stakeholder review being carried out, it is necessary for an independent assessment and report to be prepared for consideration by the Ministry of Transport, CAA and aviation participants.
6. Our comments below, to the extent that they relate to the services and Proposal, reflect our views above.

Funding and costs

7. RRA supports the efficient delivery of all air navigation services. We do not consider that cross-subsidisation is occurring as suggested by the Proposal. We also consider that it is inappropriate to shift the costs of services from the service users (aircraft operators and passengers) to airports and their shareholders. In RRA's case, such cost shifting would result in:
 - (a) More complex cost recovery mechanisms; and
 - (b) Potentially, a significant burden on our Council shareholder and result in socialisation of costs to rate-payers, without a corresponding benefit to each individual.
8. Further, in recognition of the joint obligations under the Health and Safety at Work Act, we consider that any attempt to transfer such costs to a single party (an airport) is unfair and disproportionate. This is particularly evident when consideration is given to who benefits from the services (aircraft operators and passengers) and that these aircraft operators are a PCBU with equal or greater safety obligations when operating aircraft at airports.
9. Airports are also essential infrastructure of provincial New Zealand, ensuring social connectivity and economic development of the individual regions and nation as a whole. Air navigation services are critical to airport operations and the ability to maintain essential transport services. Unfortunately, regional airports such as Rotorua have high (and increasing) operating and maintenance costs without the passenger volume and economies of scale of the main trunk airports. Forcing further operating costs on regional airports, without an appropriate recovery mechanism, exacerbates the financial challenges regional airports face.

Base services and contestable services

10. Rotorua airport is a Category B, Regional Attended Airport. Services provided by Airways include:
 - (a) Approach Control Services under a statutory monopoly;
 - (b) Area Control Services under a statutory monopoly;
 - (c) Aerodrome Control Services/Air Traffic Control services under a quasi-statutory monopoly;
 - (d) Aerodrome Visual Navigation Aid Services.
11. These services are necessary to Rotorua and are required by CAA. The recent aeronautical study confirms this. These services are also provided to main trunk airports. Any distinction between base and so called contestable services, and the mechanisms for funding them should consistently apply to all airports to ensure equality and fairness (both as compared between various regional airports and between main trunk and regional airports).

Service principles

12. The Proposal contains three service principles which Airways intends on using to determine whether a service should be included within the Service Framework.
13. We consider that express reference and recognition should be made to the Health and Safety at Work Act and participants' duties and obligations to eliminate or minimise risks so far as reasonably practicable and to consult, coordinate and cooperate on the management of shared risks. Recognition of these duties reflects that participants are required to comply not just with the CARs, but also the more general health and safety regulations.

"Customer strategy"

14. Airways claims to be committed to "customer centricity". Commitment to this goal requires Airways to recognise that, in addition to the statutory monopoly for the provision of approach and area control services, it has an effective monopoly over the provision of Aerodrome Control Services.
15. Any change to funding, or an attempt to shift costs from one participant to another, must recognise:
 - (a) the monopolistic nature in which the services are delivered;
 - (b) the social and economic benefits of the services;
 - (c) the regulatory requirement for the services and participants' health and safety obligations;
 - (d) the participants' relative benefits from the services and their ability to recover the cost of services;
 - (e) the appropriate cost of services and return on investment for a monopolistic provision of critical services.
16. If Airways has a genuine desire to be customer centric, it too should be:
 - (a) seeking to be as efficient as possible and remove unnecessary costs from the provision of services (but not at the expense of safety or service levels/performance);
 - (b) advocating for a wider system review; and
 - (c) advocating for an unbundling of the services, infrastructure and data to ensure that *genuine* contestability and competition can be established for the provision of services in an efficient manner.

Consultation Questions

Consultation question 1: What role do you see Airways playing in the recovery of the aviation sector, and how can [Airways] support [RRA] in that process?

17. Airways should be supporting airports (and all participants) to recover from the current challenges within the industry.
18. The most effective means of Airways providing this support is through displaying a genuine desire to be a service partner to airports and acting in the best interests of all aviation participants.
19. We do not consider ATC Services to be genuinely contestable. Airways has an effective monopoly on their provision. With current regulatory settings it is understood to be extremely difficult for any other party to enter the New Zealand market for the provision of ATC Services.
20. Assuming another service provider desired to enter the market and obtained regulatory approval, they would require the support of Airways and provision of various information and data. If Airways genuinely wishes to lead and support the aviation sector, it should be taking urgent steps to implement these changes, or at the very least, supporting wider industry consultation on its implementation.
21. Additional measures Airways could take include:
 - (a) recognising its legal and moral duty to supply 'contestable services';
 - (b) recognising the economic importance of airports to provincial New Zealand and Airways' role in ensuring (through the provision of services) that these airports operate safely, efficiently and sustainably;
 - (c) recognising that 'contestable services' (assuming they are not cost prohibitive) are necessary and reasonable for participants to comply with their duties under the CARs and Health and Safety at Work Act;
 - (d) treating all airports and participants fairly and equally, and taking a consistent approach to the provision and funding/payment of services.

Consultation question 2: Do you have any comments on [Airways'] timeline for consultation, and in particular, on the implementation of a new Service Framework?

22. As noted above, we consider that a full system review is required to reimage the roles of system participants and the delivery of services. Implementation of any Service Framework should not occur until a full review has been carried out.

Consultation question 3: What objectives do you think should guide the development of the Service and Pricing Frameworks?

23. Further development and implementation of the Service and Pricing Frameworks should be suspended pending the necessary review. The objectives of both the requested review and the Frameworks are likely to be similar though:
- Safety;
 - Operational efficiency;
 - Promotion of competition;
 - Transparency and information sharing;
 - Equality and fairness;
 - Economic benefits and provincial growth considerations.

Consultation question 4: Do you agree with [Airways'] proposal to distinguish between contestable services and statutory monopoly services?

24. We do not consider there to be a genuine distinction at present. ATC Services are not actually contestable – there is no other service provider and Airways has the ability to maintain barriers to entry which prevent any competition for the provision of contestable services.
25. If Airways is going to maintain that there is a distinction, then it must ensure that it is more than a legislative distinction and take steps to ensure that the theoretical distinction between monopoly and contestable services is a practical reality.
26. Overall, we do not accept there is a practical distinction between the provision of contestable and monopolised services. If there were, and airports had the ability to choose an alternative provider of contestable services, then we would acknowledge the distinction.

Consultation question 5: Do you support the direct charging to airports for Aerodrome Services? Do you agree that if contestable services and statutory monopoly services are distinguished in the way we have proposed, the former should be excluded from the Pricing Framework?

27. No. Aerodrome/ATC services are not distinguishable from Area and Approach control services – all are necessary and reasonable to ensure the safe and efficient operation of airports and aircraft.
28. We do not support direct charging given the various parties benefiting from ATC Services, the challenges posed by cost recovery and the lack of any distinction between the provision of services.
29. If there were a genuine distinction, and competition for the provision of contestable services, then direct charging may be appropriate and necessary.

Conclusion

30. We appreciate the opportunity to consult on the Proposal and Framework.
31. At this point we have serious concerns about the implementation of the Proposed Framework and consider that further work is required by an independent expert to identify future improvements to the delivery of air navigation services and any necessary regulatory changes. Until this occurs further consultation on the Proposal is premature and redundant.

Yours faithfully



Mark Gibb
Chief Executive