15 February 2013

Ms Patricia Scott
Presiding Commissioner
Inquiry into the National Access Regime
Productivity Commission
Locked Bag 2, Collins St East
MELBOURNE VIC 8003

Dear Ms Scott

Inquiry into the National Access Regime

We appreciate the opportunity to provide this submission to the Commission in relation to its review of the National Access Regime.

The Australian Airports Association (AAA) has made a submission on behalf of its members. We confirm we support that submission and add the further comments below.

Introduction to Brisbane Airport Corporation

Brisbane Airport Corporation Pty Ltd (BAC) is a subsidiary of BAC Holdings Limited. The shareholders of which are predominantly Australian based superannuation funds and institutional investors.

BAC purchased the long term lease (99 years) over Brisbane Airport from the Commonwealth of Australia and took over management and operations on 2 July 1997.

BAC maintains a solid capital structure that benefits from access to long term debt funding and a strongly committed and financially supportive shareholder group. BAC has invested in excess of $1.2 billion in aeronautical facilities and customer infrastructure at Brisbane Airport since privatisation, meeting its obligations under the terms of its lease to provide, maintain and expand aerodrome infrastructure to cater for demand and ensure safe and secure aircraft operations.

Brisbane Airport (BNE) - Background

Brisbane Airport is Australia's third busiest, serving more than 21 million passengers each year (2012). Passenger numbers are forecast to rise at an average annual rate of 4.3 per cent to 31 million by 2020 and 50 million by 2035. Twenty six airlines use Brisbane Airport to service 43 destinations in Australia and 30 ports overseas. Brisbane is the primary international gateway to northern Australia and central to the efficiency and growth of the national aviation network. Brisbane is a destination port for two of Australia's three busiest domestic airline routes: Brisbane – Sydney and Brisbane – Melbourne.

BAC is currently attempting to garner a satisfactory funding arrangement for the construction of a new runway parallel to the existing main runway. The investment is in the order of $1.3 billion, an amount similar to that paid for the entire airport and land in 1997. With delays into and out of Brisbane mounting, the investment is critical to the future of Brisbane and Queensland. As a key component in the 'golden triangle' of Melbourne, Sydney and Brisbane, the new runway is also critical to transport in Australia generally.

It is in this context that BAC provides the below submission on certain of the issues raised by the Productivity Commission's Issues Paper of November 2012.

1. National Access Regime objectives

It is important that the objectives retain the existing reference to promoting efficient investment in infrastructure. Indeed, at the time of the original drafting of Part IIIA in 1994, the paramount economic policy objective was to drive technical economic efficiencies in Australia's stock of existing infrastructure. While various reviews over the last 20 years have raised the issue of its impact on investment incentives BAC believes that none of the reforms to date have sufficiently addressed the issue. The impact of access regulation on the incentives of investors has been thoroughly considered by the Productivity Commission in the context of the 2004 review of the Gas Access Regime. In that report the Commission identified two risks of access regulation on the incentives of investors (regulatory risk and asymmetric truncation of returns):

> *Regulatory risk occurs when additional risks are imposed on a project's returns due to uncertainty about a regulator's future behavior. This increase in project risk, if there is no compensating increase in the expected return of the project, will act as a deterrent to investors.* (at page 394)
>
> and
>
> *Asymmetric truncation occurs when regulation limits upside returns and does not involve an equivalent truncation of downside returns. It can discourage investment by reducing the expected rate of return for a proposed pipeline. (At page 402)*

BAC believes that Part IIIA could be improved by specifically addressing these risks to new infrastructure investment. The 2004 Report on the Gas Access Regime lead to significant changes to that regime including the introduction of binding no coverage/no declaration decisions for greenfield pipelines and binding determinations for "light handed" regulation. In addition, the pricing principles under Part IIIA could be improved by specifically referring to the objective of providing investors with effective incentives to promote efficient investment in infrastructure as is provided in the pricing principles under the Gas Access Regime.

In reference to the Commission's Issues Paper discussion of objectives at page 8, BAC believes that it would not be helpful to introduce an objective framed around the end user (passenger). It is important to note that, in the aviation context, airport costs are a fraction of the airfare charged to the passenger. The key components for airlines in the cost base underpinning an airfare are labour, fuel and aircraft financing or leasing costs. Whilst the long term interests of end users in avoiding transport delays are important considerations, BAC believes they are implicit in preserving (and preferably strengthening) the emphasis on infrastructure investment incentives and that a forensic analysis of end user impacts would be counterproductive.

2. Negotiate-arbitrate framework

The Commission asks at page 18 of its Issues Paper '*What evidence is there that infrastructure service providers have used negotiation as a way of deliberately prolonging access disputes in order to raise the costs faced by access seekers*". BAC submits there is evidence of the contrary being the case. The Australian aviation industry is structurally dependent on, or pre-disposed to, two dominant airlines. The revenues from these airlines represent a very large component of any Australian airport's income. It is very much in the power of an access seeker in these circumstances to influence the timing, pace and outcome of negotiations. We believe this structural difference between the aviation sector and other infrastructure or utility sectors is distinctive.

3. Efficient investment in infrastructure

BAC agrees with the statement in paragraph one of the Commission's Issues Paper at page 21:

> *For example, regulated access has the potential to act as a disincentive to investment in infrastructure that is subject to declaration. This could occur if declaration (or the threat of declaration) exposes infrastructure service providers to the risk that they will be disadvantaged by the terms and conditions of regulated access. As a consequence, investment decisions could be affected in greenfield infrastructure projects, as well as in expansions of existing infrastructure.*

The Commission goes on to ask whether the access regime has had a 'chilling effect' on investment. BAC submits that it can and does. We refer again to our comments in 1 above.

Thank you for taking BAC's submission into account.

Yours sincerely

Julieanne Alroe
CEO & Managing Director