



PERTH AIRPORT

Submission to
Productivity Commission

**Response to the Inquiry into Economic
Regulation of Airport Services**

8 April 2011

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1 Introduction and Executive Summary

Westralia Airports Corporation (WAC), as the operator of Perth Airport, welcomes the opportunity to make this submission to the Productivity Commission's ("the Commission") inquiry into the economic regulation of airport services.

WAC is currently undertaking complex commercial negotiations with airlines toward comprehensive agreements on prices and services; for this reason we find it necessary to provide some information to the Commission in a separate "commercial-in-confidence" submission.

1.1 Structure of this Submission

This submission is structured as follows:

The key points WAC wishes to make are consolidated into the Executive Summary.

Chapter 2, "Perth Airport overview and update", provides information on WAC, Perth Airport and developments since the Commission's last review in 2006. This information provides a factual platform for subsequent chapters.

Chapter 3, "Pricing of Perth Airport's aeronautical services", provides information on setting of price and non-price terms for aeronautical services at Perth Airport and WAC's views on the current and future regulation of pricing of aeronautical services at Perth Airport.

Chapter 4, "Benefits, costs and the future of the monitoring regime", assesses the benefits and costs of the current regime and describes changes WAC believes should be made to the regime and why.

Chapter 5, "Remedies and dispute resolution", considers the efficacy of existing available remedies and why WAC believes industry specific disputes resolution provisions should not be introduced.

Chapter 6, "Land transport and car parking", provides information on the market for land transport services to Perth Airport, WAC's car parking business and WAC's views on the current and future regulation of land transport services at Perth Airport.

Chapter 7, "Land transport planning", provides information on the current planning processes for land transport infrastructure at and around Perth Airport and WAC's views on what needs to happen to deliver better outcomes.

1.2 Executive Summary

Pricing of Aeronautical Services

- In 2002 the Commission recommended that Perth Airport (among other airports) should have its *"pricing and other behaviour monitored for a 'probationary' five-year period"*. The outcome from nearly a decade of monitoring conclusively points to there being no need for specific additional regulation of Perth Airport.
- Under the "light handed" regulatory regime:

- WAC has made investments in aviation related infrastructure at Perth Airport valued at approximately \$178 million since 2006 and expects to invest further \$515 million from 2011 to 2014. These developments have been planned and are being designed in full consultation with the airlines, taking fully into account their needs and the joint objective of keeping airport prices as low as reasonably possible.
- During the second half of 2011, WAC expects to conclude comprehensive seven-year agreements with airlines on a wide range of price and non-price terms, covering at least 85% of passenger movements.
- Increasingly sophisticated commercial relationships have evolved between WAC and many airlines, reflecting that both WAC and airlines are placing increasing value on agreeing commercial terms.
- WAC's market power in the provision of airport services in Perth is substantially curtailed by the real countervailing power of the airlines with which it needs to reach agreement on aeronautical prices and its strong incentives to expand throughput at Perth Airport.
- WAC has no incentive and limited capacity to abuse market power and nearly a decade of monitoring reveals that its conduct has been entirely consistent with these points.
- The negotiations toward the proposed agreements have taken around two years, reflecting the comprehensive nature of the discussions and the strong countervailing power that airlines have, borne of the significance of their presence at Perth Airport and their strong hold out power. The nature of the agreements arising from the negotiations confirms these conclusions.
- The nature of the agreements being negotiated, including their consultation, information sharing and disputes resolution clauses, will further reinforce the continuing/future role of direct commercial negotiations at Perth Airport and further limit the capacity of WAC to abuse market power even in the low probability of it seeking to do so.
- The financial and quality of service monitoring conducted by the ACCC under Federal regulation has not, in any way, contributed to the favourable trends at Perth Airport – the process should be discontinued to the extent that it involves Perth Airport. Should there be assessed to be a need, WAC has no particular concerns with applying government guidelines that provide for self-reporting of pricing and service quality.
- There is no evidence, including from the monitoring, that WAC has allowed service quality to deteriorate or that it is seeking to under invest in capacity or service enhancement. The content of the agreements being negotiated, WAC's investments to date and the very substantial investment plans of the next three years are evidence of WAC's commitment to service and capacity improvements.
- The general competition law, and the risk of its processes being triggered in relation to Perth Airport, provides material incentive to WAC to effectively engage with airlines in relation to price and non-price terms.
- Perth Airport currently surveys passengers in relation to service quality as part of our business improvement processes and would support Government guidelines that provided for WAC to publish information on the results of these surveys.
- There is no evidence, from nearly a decade of monitoring, that there is a need to introduce regulatory or administrative processes relating to resolving disputes or

breaking deadlocks at Perth Airport. In view of the complexity of the commercial relationships, and the competitive tensions that exist between the many airlines involved, there is a high risk of unintended consequences from attempts to regulate or administer steps in complex commercial negotiations. The unintended consequences could realistically include lengthy delays to concluding negotiations, with negative impacts on the timing of infrastructure investment and delivery of the resulting capacity and service benefits.

One of the reasons for the favourable trend toward negotiated outcomes is that there are no “easy outs” for WAC or airlines. The difficulties in trying to graft a 3rd party role into complex negotiating processes were exemplified by the initial attempt by the Federal Department of Infrastructure to give effect to the Commission’s previous recommendation in relation to “show cause” processes.

Land Transport and Car Parking

- The Commission should reaffirm its 2006 conclusions that any form of special regulation or administration in relation to car parking at Perth Airport is unnecessary.
- WAC participates in a competitive market for land transport services to Perth Airport. There is much evidence that consumers can choose between numerous land transport alternatives and that they exercise that choice.
- There is no evidence, from nearly a decade of monitoring, to suggest that WAC has engaged in any inappropriate conduct in relation to the pricing of its car park products or the manner in which it has interacted with its competitors; there is much evidence to the contrary.
- WAC has not sought to restrict access to infrastructure in the vicinity of Perth Airport terminals, nor has it applied unreasonable price or non-price conditions of access. If WAC were to do so, there is ample protection under the general competition law for those that consider they have been unreasonably disadvantaged.
- WAC has very actively sought to improve the quality of its car parking services, undertaken targeted investment to improve airport access, facilitate the public to pick-up and drop-off in front of terminals and to improve taxi services. WAC is also actively engaged with the State Government to create public transport options to Perth Airport.

Land Transport Access Planning

- The comprehensive regulated airport planning process, including airport master planning, has resulted in there being no examples of inappropriate or excessive development at Perth Airport and the prospects of this occurring in the future are very low.
- The subject of non-aeronautical on-airport development is often portrayed in terms of a “trade-off” with aeronautical development or “achieving a balance”. Such notions are not grounded in reality and demonstrate a lack of understanding of the nature and effect of Federal statutory airport master planning and development approval processes.
- The “real story” of on-airport development at Perth Airport is one of sensible and appropriate developments making an impressive contribution to economic development

and delivering productive/efficient outcomes, due to compatibility of the developments with their urban context.

- Increasingly Perth Airport master planning involves close consultation with the Western Australian Government and Local Councils, reflecting that WAC and all tiers of Government appreciate the importance of integrated urban planning outcomes.
- Ultimately, it is unavoidable that the three tiers of government be involved, and cooperate in relation to urban land transport planning, and that WAC be fully involved to the extent that the planning relates to Perth Airport. It is not possible to regulate cooperation. The Federal Government's recently introduced expectation that WAC convenes a standing 'Perth Airport Planning Coordination Forum', involving relevant Local and State Government representatives, is a good initiative.
- The significant congestion on arterial roads in the vicinity of Perth Airport during the traditional morning and afternoon commuter peaks is not unique to the roads in the vicinity of the airport, nor to Perth. There is no material congestion on the roads near Perth Airport at times other than the morning and afternoon metropolitan peaks, which are not the peak operating periods of Perth Airport.
- The Western Australian Government has acted decisively to address the road problems and WAC is pleased with the level of consultation and coordination that is happening between WAC and the relevant State agencies.
- A planning initiative of the Federal and WA Governments in 2009, to develop the "Perth Airport Transport Master Plan", has been a laudable development – it has resulted in the future growth and needs of the Airport and the broader city being assessed as one. A suitable planning regime would involve perpetuation of this Government initiative, with its timing synchronised with the statutory Perth Airport Master planning process.
- It is an unproductive historical outcome that travellers check-in for their international flight at Perth Airport in the City of Belmont and they arrive off their international flight in the Shire of Kalamunda. While the City of Belmont and WAC have very effectively engaged on all issues of mutual interest, including land transport planning, the same cannot be said of the Shire of Kalamunda. This has resulted in patently short-sighted road network outcomes in relation to a key arterial road adjacent to Perth Airport. Land transport planning that is important for the development of Perth Airport should not be the province of the Shire of Kalamunda.

2 Perth Airport overview and update

This chapter provides an overview of WAC and Perth Airport and describes developments in the business and operations of Perth Airport, particularly since the Commission last reviewed airport price regulation. The following topics are addressed:

- ownership;
- trends in Perth Airport's aviation markets and the scale and nature of demand for its services;
- airport planning and investment;
- quality of service;
- airport operating efficiency and costs; and
- airport charges and the processes for setting them, including relationships with airlines.

2.1 Ownership

On 1 July 1997, the Australian Government granted Airstralia Development Group (ADG) a lease over Perth Airport for an initial term of 50 years with the option of a further 49 years. WAC is a wholly owned subsidiary of ADG.

ADG's shareholder structure is shown in Table 1.

Table 1: Airstralia Development Group's shareholders

Shareholder	Proportion
Utilities of Australia Pty Ltd ATF Utilities Trust of Australia (UTA)	38.3%
Hastings Funds Management Ltd AREF Australia Infrastructure Fund (AIF)	29.7%
Utilities of Australia Pty Ltd ATF Perth Airport Property Fund (PAPF)	17.3%
Hastings Funds Management Ltd ATF The Infrastructure Fund (TIF)	4.3%
Westscheme Pty Ltd as trustee of Westscheme (WS)	5.0%
Citicorp Nominees Pty Limited as custodian for Commonwealth Bank Officers Superannuation Corporation Pty Limited as Trustee for Officers' Superannuation Fund (OSF)	3.2%
Colonial First State Private Capital Limited	2.2%
Total	100%

Source: Perth Airport (2010) *Annual Report 2009-2010*

Hastings Funds Management, an Australian company and specialist infrastructure manager, administers the shares held by UTA, PAPF, AIF and TIF, which represent a combined equity interest of 89.6%. The ownership of Perth Airport is heavily weighted towards superannuation fund investors, with UTA, PAPF, TIF, WS and OSF all having a strong

superannuation focus. It is estimated that approximately 70% of the shares of ADG are held to the benefit of Australian superannuants.

2.2 Description of facilities

Perth Airport occupies a land area of 2,105 hectares. The primary aviation facilities on the site include:

- a two runway system;
- a multi-user freight facility, aviation fuel facility and in-flight catering facility;
- air traffic control facilities;
- three terminal buildings; and
- 24-hour rescue and fire fighting facilities.

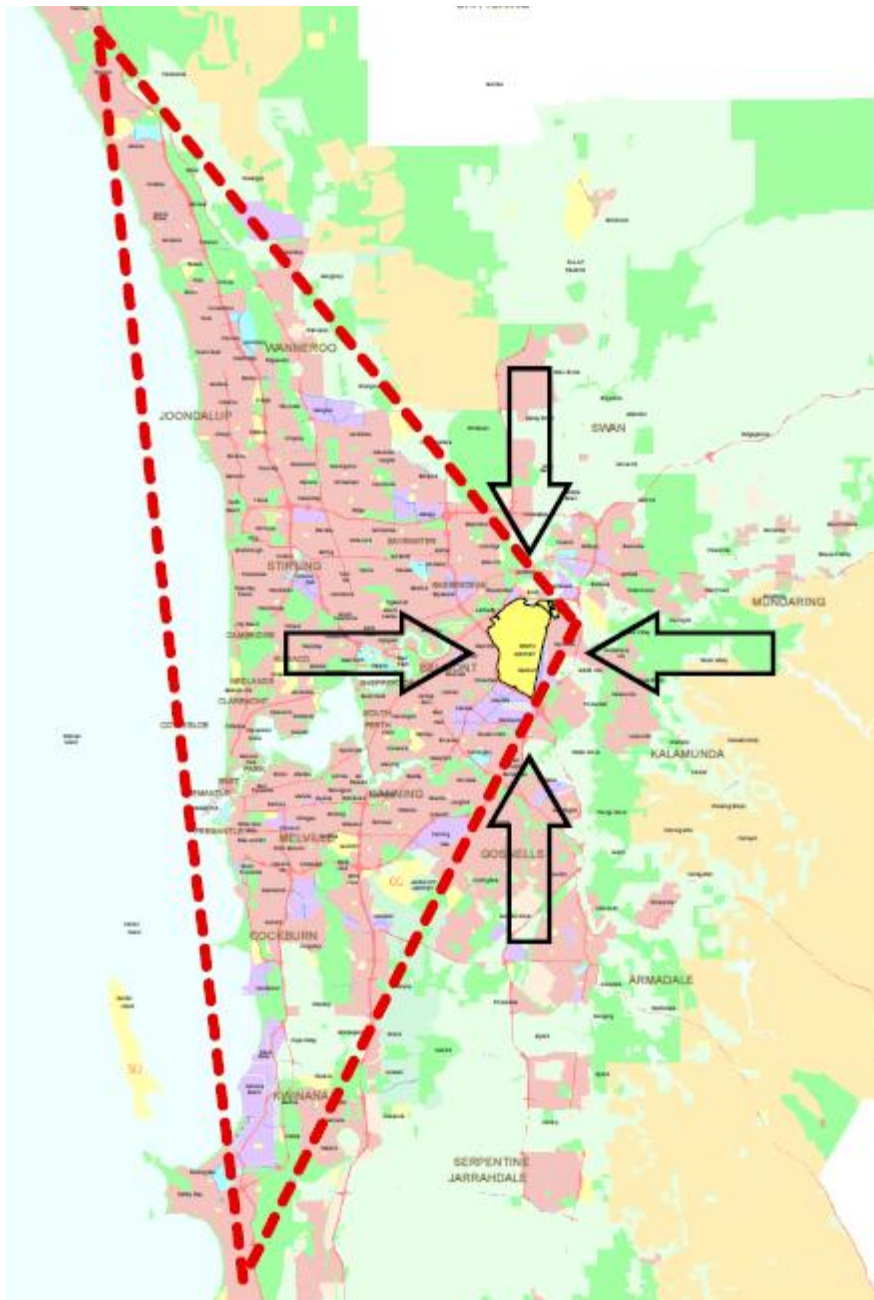
The three terminal buildings comprise the following:

- Terminal 1, the International terminal, which WAC operates and maintains. The terminal has seven operational aircraft bays, five of which have aerobridges and two stand-off aircraft bays.
- Terminal 2, which WAC leases to Qantas and which accommodates Qantas and Jetstar domestic operations. Approximately 67% of Perth Airport's total domestic passengers travel through Terminal 2; the terminal lease expires in late 2018.
- Terminal 3, which WAC operates as a multi-user domestic terminal. The airlines operating from Terminal 3 are Virgin Blue, Skywest, Alliance Airlines, Strategic and Tiger Airways.

Perth Airport also includes several smaller terminal operations owned/operated by airlines providing charter and general aviation services to regional areas in WA.

Perth Airport is at the apex of the "metropolitan triangle" and is the largest single, active and contiguous land use in the Perth Metropolitan Regional Scheme, as shown in Figure 1.

Figure 1: Perth Airport location



Of the 2,105 hectares in the Perth Airport lease, approximately 1,100 hectares are required to meet long-term aviation requirements with the airport in its ultimate configuration.

A further 300 hectares of the lease area has been set aside for permanent conservation, being areas of environmental and cultural heritage significance.

WAC is progressively bringing the balance of the lease area, approximately 700 hectares, into productive use for a variety of aviation and non-aviation related purposes. This development reflects that this area of the lease is an important land supply for the city, particularly for large-lot industrial activities that have transport/logistics requirements and for which the proximity to the airport and major highways is of strategic importance.

2.3 Aviation services

Perth Airport is the fourth largest airport in Australia by passenger numbers and is the single facility serving scheduled domestic and international air travel in and out of Perth.

International routes of scheduled services to and from Perth Airport are shown in Figure 2. Perth Airport has a significant and growing air services route network to South East Asia, Africa and Europe. Substantial international travel occurs between Perth and many European and UK countries through major hub airports in South East Asia and Dubai.

Figure 2: Perth Airport's international route map



Source: Perth Airport website (<http://www.perthairport.com/>)

Domestic routes of scheduled services to and from Perth Airport are shown in Figure 3.

Figure 3: Perth Airport's domestic route map



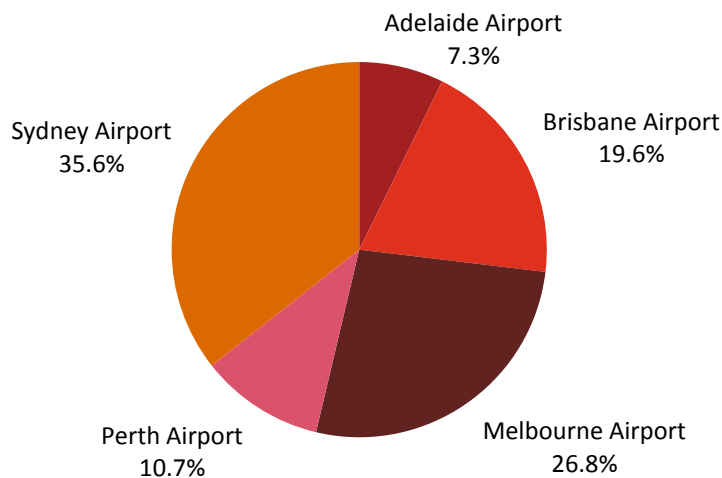
Source: Perth Airport website (<http://www.perthairport.com/>)

Perth Airport has a vital role in the economic, cultural and social development of WA given the vast distances between population bases and the absence of other modal choice for timely transport.

This includes the airport being a critical element in the supply chain of the WA resource sector reflecting that sector's preference for the fly-in, fly-out mode of workforce deployment. Regional aviation passenger numbers more than doubled between 2005 and 2010 and General Aviation/Charter activity (as measured by landed tonnes) doubled in the period 2005 to 2007. This intra state activity is now a significant component of overall demand for Perth Airport's services and it has some unique and challenging features in terms of its airport requirements, including that its demand is expected to be volatile and unpredictable as the various resource sector projects proceed through their more labour intensive construction phases.

In 2009-10, the airport serviced 10.5 million passengers or around 10.7% of passengers that passed through the five monitored airports (Figure 4).

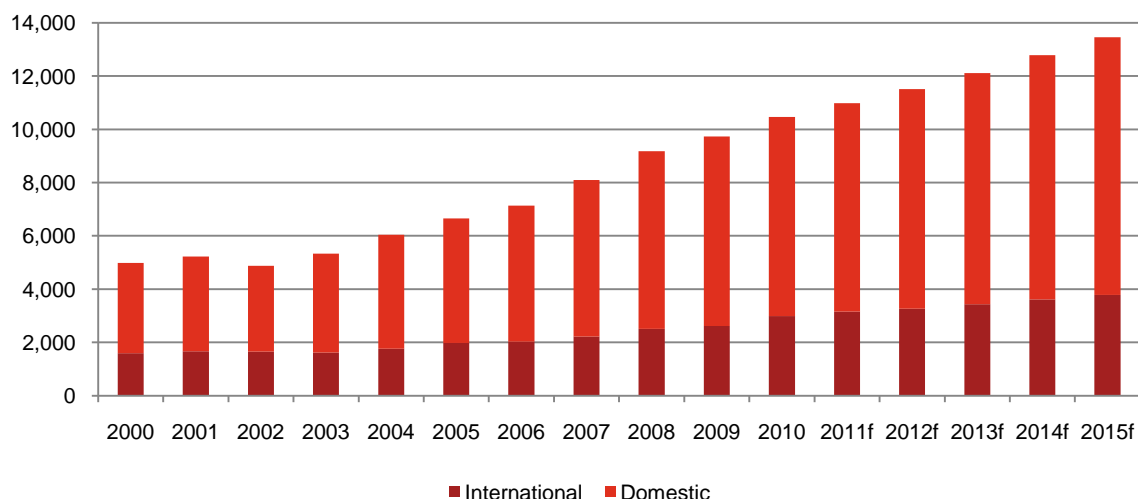
Figure 4: Percentage of passengers through the five monitored airports, 2009-10



Source: ACCC (2011) *Airport monitoring report 2009-10*, January 2011, Canberra: ACCC.

There has been strong demand for Perth Airport's services following the volatile period in the period 2001-2004 during which there were a number of significant shocks to domestic and international aviation (9/11, Ansett collapse, SARS and Bali bombings). Since this period, annual passenger numbers at Perth Airport have increased at an average cumulative annual rate of 10.1%, although there have been some years of slower growth in specific market sectors due to adverse economic conditions in Asia and, more recently, globally. Passenger numbers are forecast to grow at an average annual rate of 5.2% in the period to 2015 (Figure 5).

Figure 5: Actual and forecast passenger numbers for Perth Airport ('000s passengers)



Sources: Perth Airport Annual Reports and Tourism Futures International Forecasts commissioned by WAC.

During the period 2004-05 to 2009-10, the intrastate (regional) segment has grown substantially, increasing from 18% to 24% of passenger numbers, mainly reflecting an increase in fly-in fly-out activity in the resources sector (Table 2).

Table 2: Perth Airport's passenger numbers by route type¹

Passenger type	2004-05		2009-10	
	Number (million)	% of total	Number (million)	% of total
International	2.0	30%	3.0	29%
Interstate	3.5	52%	4.9	47%
Regional	1.2	18%	2.5	24%
TOTAL	6.7	100%	10.5	100%

International markets

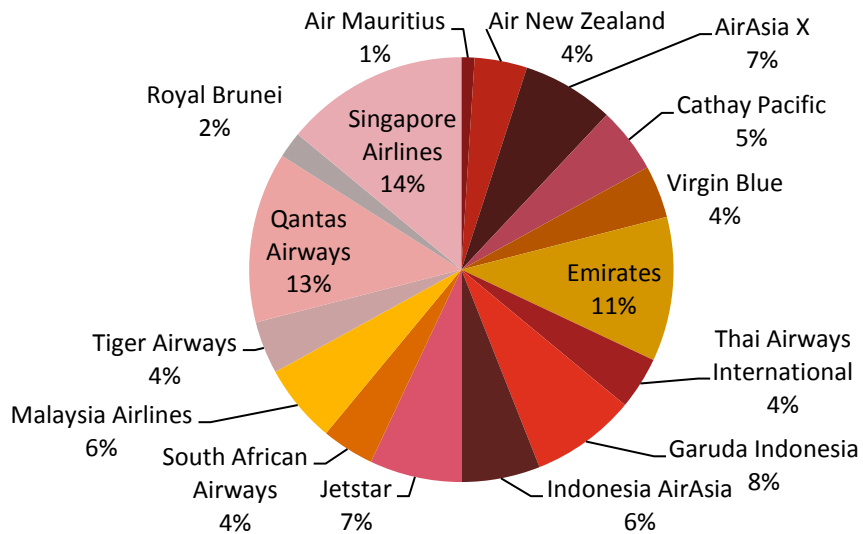
Perth Airport has a high proportion of international passengers compared to other major Australian airports. In 2009-10, international travel accounted for approximately 29% of all passengers at Perth Airport.

Perth Airport is serviced by foreign-based international airlines that account for 76% of international passenger arrivals, with Qantas Group and Virgin Group international services making up the balance.

In 2009-10, Singapore Airlines was the largest carrier of international passengers (14%), followed by Qantas (13%) and Emirates (11%) (Figure 6). Including their low-cost affiliates, Jetstar and Tiger Airways, these three airlines account for around 50% of international passenger arrivals into Perth Airport.

¹ The numbers may not add up due to rounding.

Figure 6: International passenger arrivals to Perth Airport by airline, 2009-10



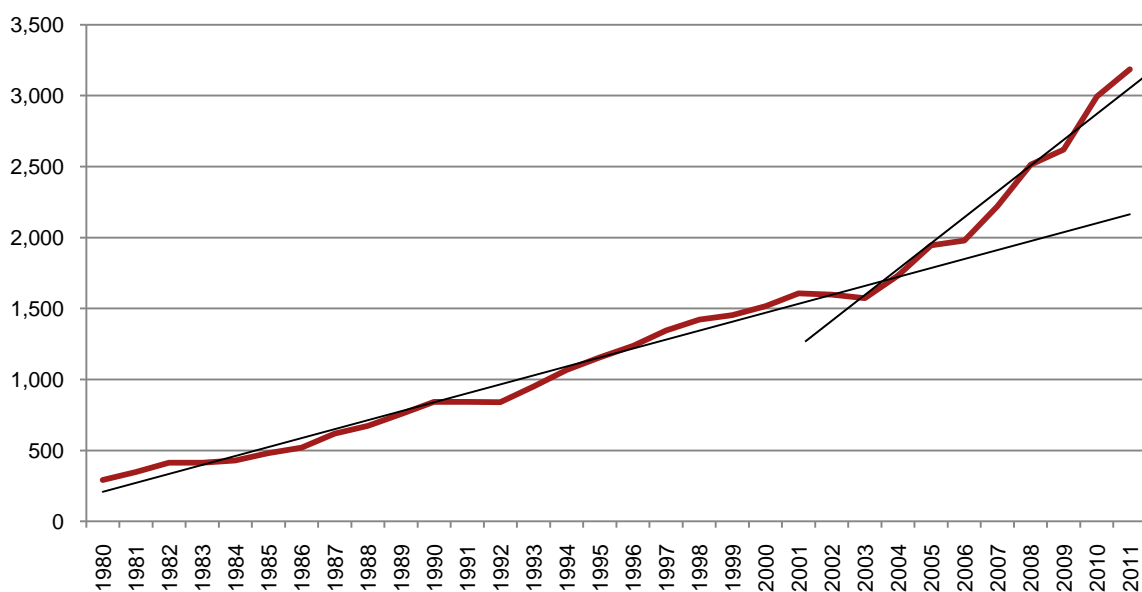
Source: Perth Airport (2010) *Perth Airport Annual Report 2009-10*

There have been a number of very material developments in international market activity at Perth Airport, as follows.

Significant international growth

In the period following the shocks to international aviation in 2001-2004 (9/11, SARS and the Bali bombings), growth in international passenger numbers has been at a rate that has greatly exceeded the prior long-term average (Figure 7).

Figure 7: Growth in international passenger numbers, 1980 to 2011 ('000s passengers)



Source: WAC

Marked increase in presence of “Low Cost Carriers”

In 2007, WAC recognised that the number of international seats provided in Perth by low cost carriers (LCCs) was materially below that which existed at other large Australian airports and that several international routes were under serviced.

Active engagement of LCCs by WAC (in collaboration with Tourism WA) contributed to the introduction of new services by carriers, including Tiger Airways, AirAsia X, Indonesia Air Asia and Jetstar. The increased presence of LCCs, together with the competitive response that resulted from other international airlines servicing Perth, materially contributed to the strong growth that has occurred since 2007.

In 2007, less than 4% of the total international seats in Perth were provided by LCCs; in 2010 the figure was 27%. During the same period, overall international seat capacity increased by 38%.

These developments coincided with the Global Financial Crisis and had the effect of offsetting some of the negative impacts of that crisis on international travel. In effect, the substantial softening of inbound demand from Europe and UK was more than offset by the stimulatory effect of the increased LCC capacity on outbound activity.

Marked increase in residents outbound and increased market concentration risk

Since 2007, international growth has been heavily biased to outbound travel of WA residents to leisure destinations in South East Asia. In the calendar year 2010, outbound travel of WA residents increased by 21%, while inbound travel of visitors increased by just 2.7%, well below historical averages.

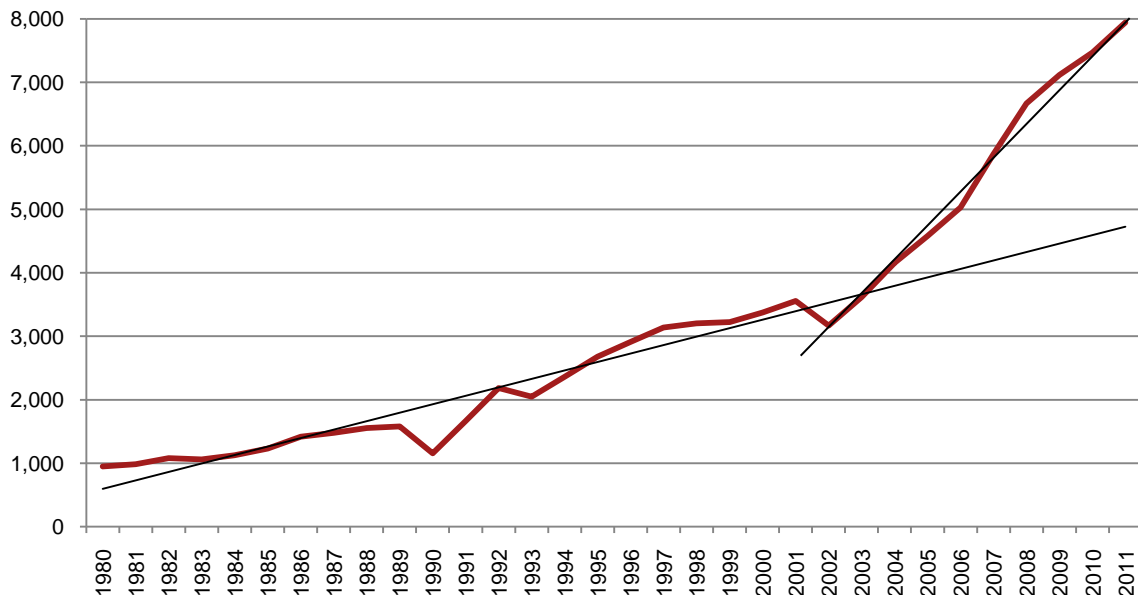
During the two years to 30 June 2010, Bali traffic increased by 176%. In 2010-11, to the end of February, Bali accounted for 59% of total international growth for the year. Bali now represents over 23% of all Perth international demand, up from 7% in 2007, representing a significant market concentration risk for WAC.

The rate of international growth is forecast to slow markedly, reflecting that far less international seat capacity is expected to be introduced as most existing markets are now well serviced and that there are limits to the number of trips the resident WA population will take each year.

Significant domestic growth

Since 2001, domestic passenger numbers have increased at a rate greatly exceeding the prior long-term average (Figure 8).

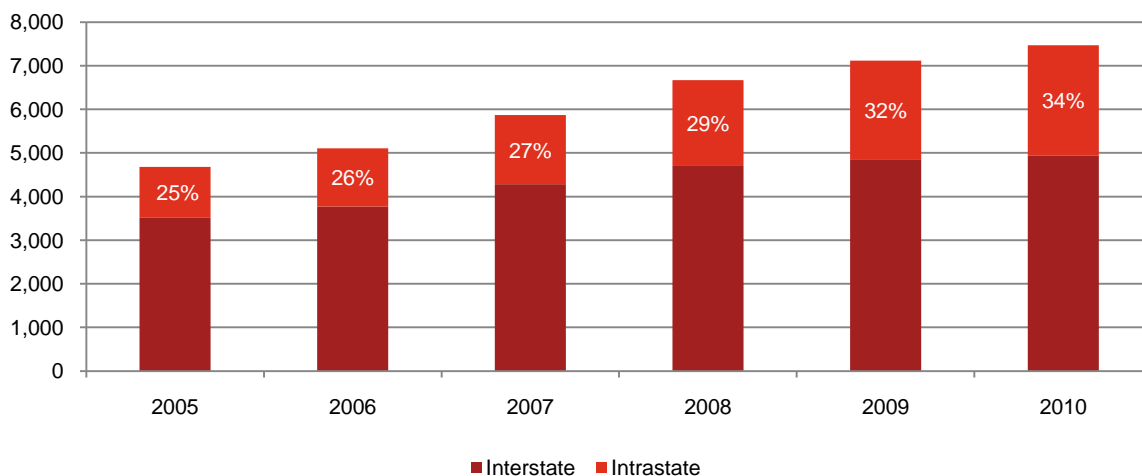
Figure 8: Growth in domestic passenger numbers, 1980 to 2011 ('000s passengers)



Source: WAC

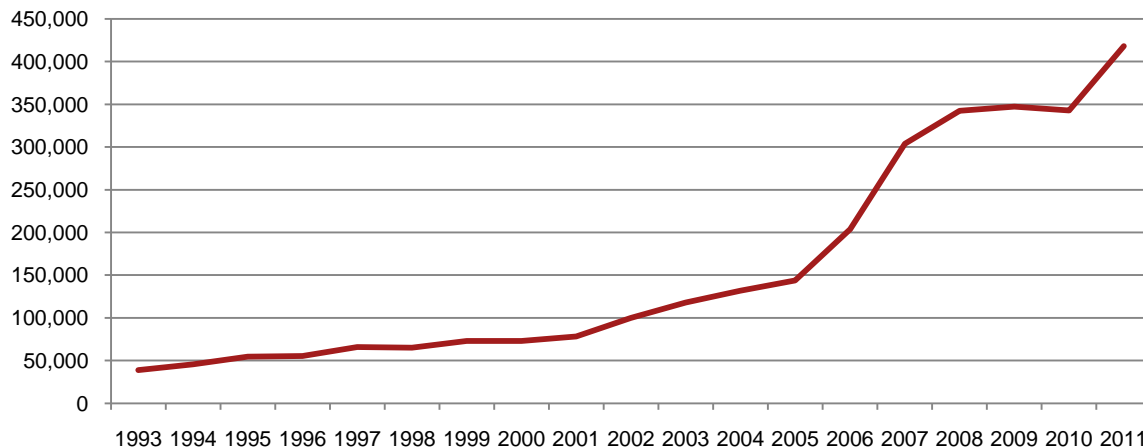
Much of the growth in domestic travel has been in intrastate markets, reflecting to a great extent, very substantial growth in charter (fly-in fly-out) services to the resource sector (Figure 9). The general aviation/charter activity has exhibited considerable volatility and is expected to continue to do so (Figure 10).

Figure 9: Growth in intrastate and interstate passenger numbers, 2005 to 2010 ('000s passengers)



Source: WAC

Figure 10: Growth in general aviation/charter activity, 1993 to 2011
(‘000s landed tonnes)



Source: WAC

2.4 Perth Airport planning and investment

2.4.1 Airport planning

In the period 2007 to 2009, WAC undertook a fundamental review of plans for Perth Airport precipitated by:

- the high and unexpected growth in airline activity and passenger numbers;
- substantial shifts in the nature of demand for airport services (described above), with implications for the type of infrastructure and facilities required at the airport, including:
 - the fly-in fly-out activity causing substantially increased demands for services in the general aviation precinct and the domestic common-use terminal and aprons; and
 - a large increase in demand for overnight aircraft parking.

The Perth Airport Master Plan has always provided for the eventual consolidation of all regular passenger traffic (RPT) services into one precinct (the current international terminal precinct). Prior to 2004, consolidation was projected to occur sometime after 2025. With the large increases in passenger numbers and the substantial shift in the nature of services demanded at the airport, it was necessary to reassess the timing of, and approach to, consolidation.

During 2007, WAC completed this planning review, including comprehensive consultation with airlines and with the airlines' own projections of growth as a fundamental consideration. WAC provided the planning review reports to airlines for comment in October 2007. While some airlines provided no response, all but one of the airlines that responded agreed with the review outcomes (the one airline that did not agree has subsequently changed its position and its actions now demonstrate full support).

In February 2008, with the benefit of airline input, WAC decided that:

- future major investments in aeronautical infrastructure would be focused on consolidating operations into one precinct;
- the investment horizon for the current domestic precinct would be seven years and infrastructure plans would be mindful of the need to minimise stranded assets in the current domestic precinct;
- a single level domestic terminal to support regional and “low cost” services would be built in the consolidated precinct as a central element of the first phase of redevelopment; and
- an on-airport road linking the domestic and international precincts would be constructed to support staged consolidation, reflecting that efficient access between the precincts would be vital.

Having decided to bring consolidation forward it was then necessary to complete conceptual planning to define the preferred ultimate precinct configuration (surface access, terminals and airfield) and to better define the staging approach.

In 2008, a consortium led by airport planners “Airbiz” was commissioned to assess options and to identify the preferred ultimate consolidation concept plan and staging.

In 2009, WAC invited airlines to comment on a further comprehensive planning report and its outcomes. Several airlines provided comment, including Qantas, Virgin Blue, Alliance and BARA (on behalf of member international airlines).

These planning outcomes underpinned the revision of the Perth Airport Master Plan, the draft of which was issued for public comment in 2009. No public responses to the draft Master Plan called into question the overall strategy or any of the specific elements. The Master Plan was approved by the Federal Minister for Infrastructure in November 2009.

Since 2009, WAC has applied substantial resources to moving as rapidly as possible through the planning and design phases for the Perth Airport redevelopment, which will involve investment of over \$500 million in aeronautical infrastructure from 2011 to 2014. Detailed design is well advanced on several of the major projects and construction of the first of four major elements (an additional domestic terminal - estimated value \$120 million) is expected to commence in the third quarter of 2011. Airlines continue to be very actively consulted during the planning/design processes.

Table 3 summarises the main elements of the major redevelopment of Perth Airport.

Table 3: Major elements in redevelopment of Perth Airport

Major element	How much (\$m)	Start	Ready
New domestic terminal	115	1st half 2011	2012
International arrivals and departures	165	End 2011	2013
Terminal 1 Domestic	149	End 2011	2013
Terminal 3	35	Underway	2012
Airfield	50	Early 2011	2013
TOTAL	514		

Figure 11: New Domestic Terminal – construction commencing 2011



Figure 12: New Domestic Terminal – Apron



Figure 13: Major expansion of Terminal 1 international capacity including a new domestic pier commencing end 2011



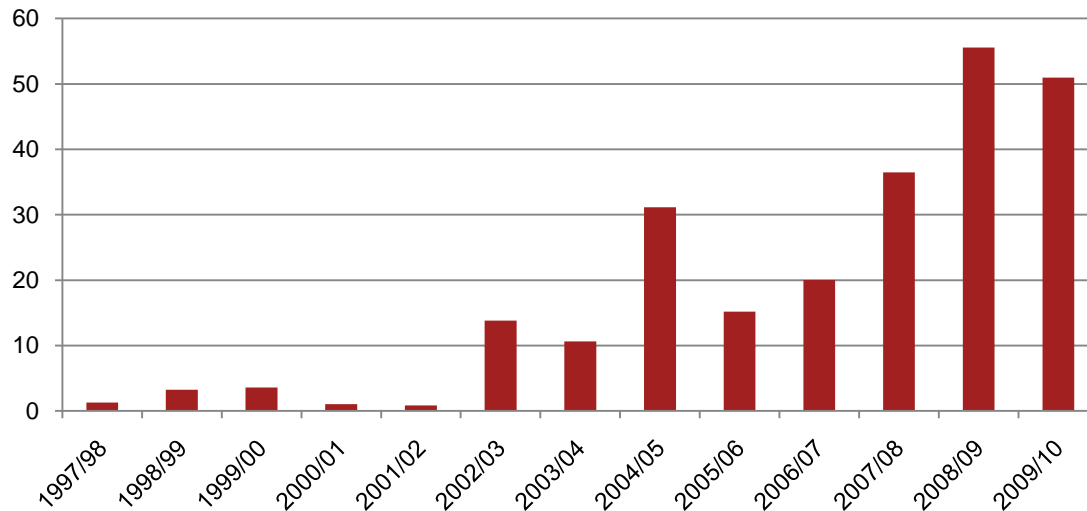
Figure 14: Terminal 1 – new domestic pier



2.4.2 Investment since 2006

In response to the strong growth in demand for Perth Airport services, WAC has made significant continuing capital investments to support growth and to improve customer service, while at the same time determining the longer term plan for airport redevelopment. These investments have been in airfield, terminal, on-airport surface access and car parking infrastructure. Figure 15 shows the value of capital investment in aviation related infrastructure.

Figure 15: Capital expenditure by WAC in aviation related infrastructure (\$ million)



Source: WAC

Since 2006, WAC has invested \$178 million in aviation, on-airport surface access and car parking infrastructure, including:

- construction of an extensive aircraft apron to support the new domestic terminal (\$20 million);
- construction of the on-airport precinct link road (\$20 million);
- forecourt redevelopment of the domestic and international terminals (\$13 million);
- airfield expansions (\$44 million);
- domestic and international terminal upgrades (\$17 million); and
- additional car parking (\$23 million).

A further \$126 million of investment in aviation related projects is underway.

Also since 2008, WAC, the airlines and Airservices Australia have worked closely together to achieve the greatest utilisation possible from the existing infrastructure, particularly during peak periods.

The airport planning, design and investment timetable has been delayed by events that reduced the propensity of airlines to support the investment, including:

- rises in oil prices in 2008, which caused increased airline concern and sensitivity over operating costs including airport charges; and
- the global financial crisis, which caused several airlines (understandably) to advocate a “wait and see” approach to the redevelopment.

During this period there have also been changes in the business strategies of airlines. For example, Virgin Blue has recently announced its intention to bring twin aisle aircraft with a

business class offering onto Perth interstate routes during the morning peak period from mid 2011 (an extremely challenging timeframe for Perth Airport). This created the need for WAC to fast-track investment and bring forward over \$60 million of planned terminal expansion into the 1st phase of the major airport redevelopment.

Through WAC's continuing investment and close working relationships with airlines and Airservices Australia, there have been no instances (as best as WAC can determine) of existing airlines being unable to expand their services to meet demand, nor have there been any examples of new airlines being unable to commence services in Perth. However, the passenger experience during peak operating periods has been far from ideal due to congestion, both in terminals and on the airfield. Investments underway and included in the upcoming major redevelopment will very substantially increase peak period capacity and the quality of service for passengers.

In summary, the planning and design of the Perth Airport redevelopment and the infrastructure investments made during the past four years have been characterised by:

- a co-operative and enabling approach between WAC and the airlines;
- WAC's commitment of significant resources to consultation with all the airlines; and
- variable engagement of airlines with WAC on redevelopment plans:
 - active and effective engagement by BARA and larger domestic airlines;
 - active engagement by some smaller airlines and not by others;
 - limited engagement by low cost airlines, possibly as a result of a combination of staff turnover within these airlines, insufficient staff and a lack of intent and interest in engagement.

Also since 2007, WAC has comprehensively engaged with the WA Government in relation to the need to address the substantial congestion on arterial roads in the vicinity of Perth Airport that is currently making it increasingly difficult to get to and from the airport. The WA Government has responded positively with plans to address the congestion in the near term through some interim measures and in the medium term through the "Gateway WA" priority infrastructure project. These surface access issues are addressed in more detail later in this submission.

2.5 Perth Airport quality of services

WAC's Board-approved Company Vision and Corporate Objectives reflect the company's focus on improving customer service.

The Company's Vision is *"to operate an outstanding airport business providing great customer service"*.

The Company's Corporate Objectives are to *"increase shareholder value through:*

- *Ensuring our facilities and services are safe and secure for all;*
- *Helping our airline and other business partners develop their business;*
- *Meeting the needs of our customers;*

- *Identifying and managing risk;*
- *Conducting operations in an ecologically sustainable manner;*
- *Conducting our business in a commercially astute manner;*
- *Providing our employees with satisfying employment;*
- *Facilitating travel, trade and industry in WA; and*
- *Ensuring we are a responsible and caring corporate citizen”.*

Of course, in all such things it is the company's activities and achievements that count, not what it states. However, the purpose of these statements of intent is to cause internal focus and alignment and to provide external clarification as to the company's intentions and priorities.

The company's actions and results confirm it has an appropriate focus on improving service quality. Investments since 2007, and those now planned, are specifically designed to achieve improved levels of service.

WAC's Corporate Objectives are advanced by providing good quality service in the following ways:

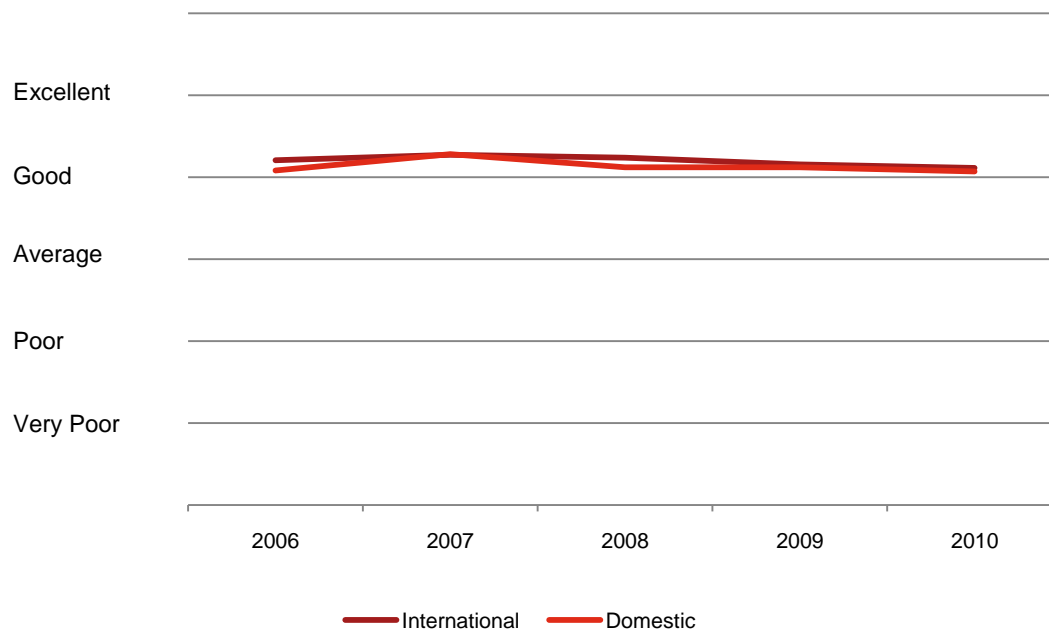
- by providing a superior value proposition (balancing quality and price) there will be higher use of our services and products;
- if passengers and other airport patrons have a expeditious and “hassle-free” experience they have more time, and are in a better state of mind, to use our services and products; and
- if the prevailing view is that the experience at Perth Airport is a positive one, people are more likely to visit the airport and use our services and products.

Since 2004, WAC has conducted quality of service monitoring using customer service surveying programs provided by third party providers. Up until 2009, WAC used the “BAA QSM” program and in 2010 changed to the Airports Council International (ACI) Airport Service Quality Programme (ASQ).

The ASQ surveys involves an annual sample of 2,800 customers (700 per quarter), with research spread across each quarter to ensure that results are representative.

Figure 16 shows the passenger rating of the overall level of service at Perth Airport.

Figure 16: Trend in “Overall Airport Experience” Rating



Source: WAC Quality of Service Monitoring results 2006-2010 (2010 ASQ result calibrated to match QSM scale for 2006-2009)

WAC uses the ASQ survey results to inform customer service improvement. Table 4 includes some examples of investments made since 2006 specifically targeting improved customer service.

Table 4: Examples of Investments Specifically Targeting Customer Experience Improvements

Problem Identified Through Customer Surveys/Feedback	Solution
Poor internet connectivity in terminals and only available if paid for. Given passengers are away from their home or work, communication is either difficult or expensive.	New free internet stations established in 7 locations across both terminals. Free wireless internet access roll out 2011.
Lack of pedestrian weather protection in high traffic outdoor areas, including car parks, front of terminal and car rental areas.	Covered walkways installed in car parks, front of terminal pick-up/drop-off areas and walkways to staff and car rental parking areas. Estimated capital expenditure: \$3.0m
Poor customer feedback on car park standards, especially at night or inclement weather.	All new and refurbished car parks to Australian standard of car park lighting, air-conditioned shuttle bus waiting shelters. Vending machines and flight information displays installed in bus shelters. Estimated capital expenditure: \$2.4m

Problem Identified Through Customer Surveys/Feedback**Solution**

Poor rating of restroom facilities in both international and domestic terminals.

WAC undertook a program of complete refurbishment of all restrooms in passenger areas of both terminals over a two-year period. The program included an upgrade of disabled facilities, the provision of parenting rooms and free shower facilities.

Estimated capital expenditure: in excess of \$3.0m

Terminal 1 lift not easy to find for passengers.

Additional lift installed in easy view for departing passengers.

Estimated capital expenditure: \$1.0m

While the overall quality of service being provided at Perth Airport is rated as good, the level of service in the peak operating periods is often far from ideal. Perth Airport experiences a number of significant peak demand periods, particularly the very significant wave of early morning departures due to the confluence of the fly-in fly-out operations and the East Coast services all seeking to depart in a two-hour window. The following points are to be noted in relation to the poor service levels in these peak periods:

- The busiest periods in Terminal 1 generally occur in 3 hours of the day for both arrivals and departures processes, while Terminal 3 is at its peaks for around 2 hours a day for both arrivals and departures from Tuesdays to Thursdays. At other times of the day, the customer experience is generally at acceptable levels. It should be noted that there can also be sub-optimal service outside of peak periods due to events on the day (e.g. off schedule aircraft, staff shortages from border agencies);
- WAC has continued to make investments to increase capacity and service levels during the peaks;
- to achieve the targeted levels of service in the peak periods it is necessary to construct substantial new terminal and airfield infrastructure; these major works are expected to commence within six months and to be complete within three years; and
- the cause of the congestion and the deterioration of service levels in the peak periods has been the rapid and unpredicted rate of growth in demand during these periods, not any lack of preparedness by WAC to invest.

It is important to note the following points in relation to quality of service at Perth Airport:

- Airlines have a material influence on the level of service parameters upon which airport infrastructure is planned/designed. Specifically, airlines have to date expected WAC to adopt the IATA level of service C standard in the targeted design year when designing terminal infrastructure. IATA level of service C is defined in the IATA Airport Development Reference Manual as providing “a good level of service; conditions of stable flow, acceptable delays and good levels of comfort.” Level C is recommended as the minimum design objective by IATA as it denotes good service at reasonable cost and is the standard typically adopted by most airports. WAC expects that any attempt to design to a higher standard would be met with resistance by airlines, reflected in a refusal to support resulting investment plans.

- The LCC's urge targeting of a very basic level of service, below IATA level of service C. Some LCCs are unlikely to support the redevelopment of Perth Airport because it will increase airport charges.
- At Perth Airport 67% of all domestic services in 2009-10 operated through the terminal operated by Qantas under an exclusive lease. During the period from 2007, the Qantas Terminal came under as much, and possibly more, pressure as the WAC operated facilities. Passengers and the public rarely understand these specific ownership/control circumstances and typically ascribe their experience in the Qantas Terminal or on the Qantas apron to "Perth Airport". From 2008, Qantas and WAC worked together effectively to make necessary investments and changes to improve the customer experience and expand capacity, including:
 - Qantas making a substantial investment in the Qantas leased terminal, understood to be in the order of \$75 million;
 - WAC making available to Qantas quickly, and on favourable terms, areas outside their lease to construct expanded facilities;
 - WAC constructing airside and landside connections between the Qantas and WAC terminals to allow Qantas to operate services from the neighbouring WAC terminal; and
 - Qantas launching its "Next Gen" check-in innovation in Perth, which has greatly enhanced the customer experience.
- Some LCC practices at Perth adversely affect the customer experience in ways that are not obvious to the passenger, and which are often perceived as poor service by Perth Airport. For example, LCC ground handlers, which may be resource constrained, prioritise loading check baggage for the departing service over delivering bags to reclaim for the arrived passengers, resulting in passengers experiencing an unexplained extended wait for checked bags, which is perceived as due to "Perth Airport". This wait is exacerbated because a positive feature of Perth's experience is that the walk distance from the aircraft to baggage reclaim is short.

2.6 Perth Airport efficiency and costs

WAC is highly motivated to achieve efficient operations. The company is seeking to deliver the required levels of infrastructure capacity and service levels reliably, with low levels of operating risk and at the lowest feasible operating cost. The company seeks to benchmark its management systems and processes against relevant national and international standards and industry benchmarks. Specifically, the company has continued to improve its governance, risk management, safety, environment and integrated planning frameworks, among others.

WAC is motivated to achieve efficient/productive outcomes as it recognises that lower airport operating costs relative to other airports enhances the viability of air services to Perth and therefore increases the prospect of attracting new services.

While the company's financial performance is enhanced through improved efficiency, the approach taken by WAC to negotiating its future airport charges, results in much of the benefit of improved efficiency flowing to airlines, which assists to maintain/improve the

viability of air services to Perth and enhances Perth's position as it competes with other destinations for airline capacity.

These are not abstract considerations; in discussions with airlines about route expansion options, WAC's airport charges relative to other airports are a central topic of discussion.

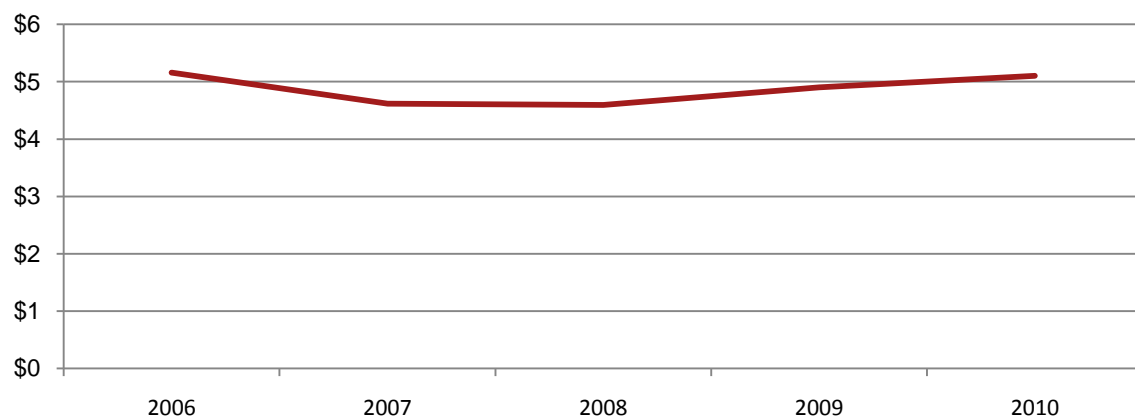
Factors influencing WAC's operating efficiency since 2006 have included:

- The marked increase in operating tempo due to the much higher than expected demand for airport services; this has required additional operating expenditure (labour, consulting services, maintenance) to run day-to-day operations and to manage the significant ongoing aeronautical infrastructure capital works program that has been a necessary response.
- The need to accelerate airport planning and design processes to deliver the major investment phase that is commencing in 2011.

It is expected that WAC operating costs will benefit from the substantial capital investments that are planned over the next three years because the designs are targeting lowest possible life cycle ownership cost, including operating costs and, once the substantial new capacity is commissioned, many existing operating inefficiencies will be overcome. Offsetting the operating expense benefits from the major projects will be that there will be substantially more infrastructure to operate and maintain.

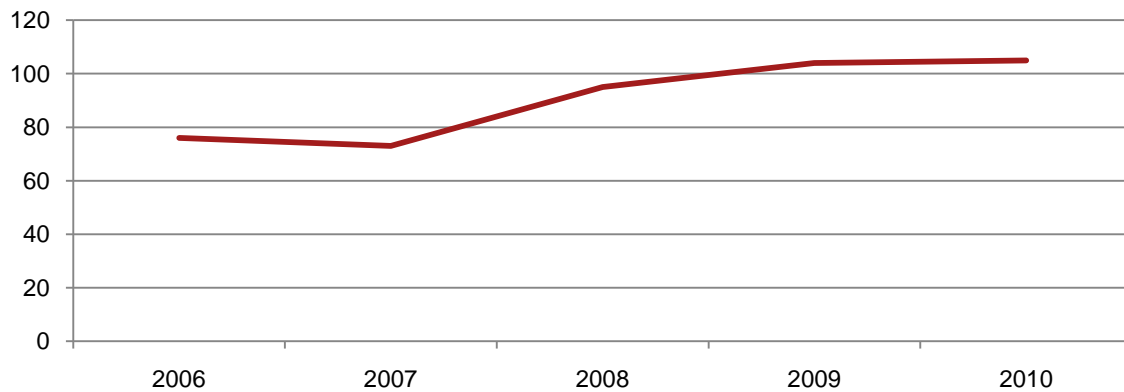
Figure 17, Figure 18 and Figure 19 show trends in aeronautical operating costs since 2006 on a per passenger:

Figure 17: Aeronautical Operating Cost per Passenger



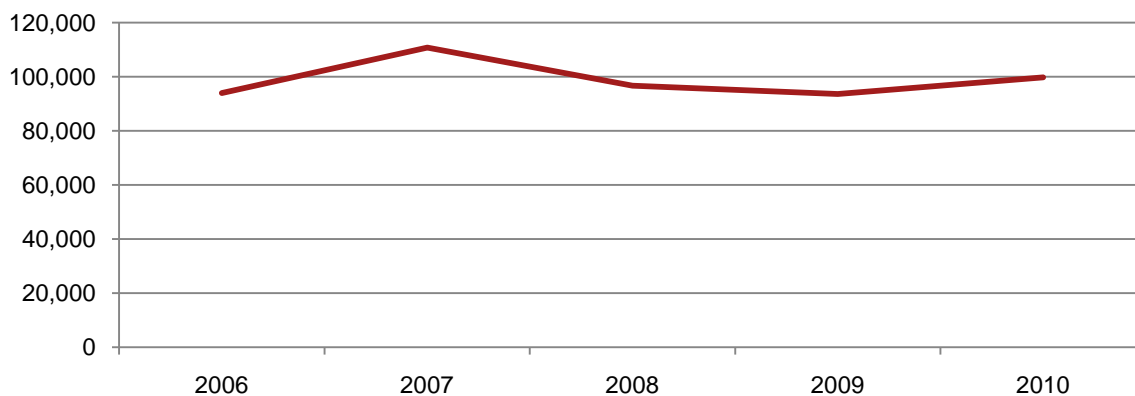
Source: WAC

Figure 18: Aeronautical Staff



Source: WAC

Figure 19: Passengers per Aeronautical Staff



Source: WAC

These trends generally reflect that during the period increased resources have been required to support the growth noting that many of the sub-processes in the airport's facilities are at or approaching full capacity at certain times.

Care needs to be taken when seeking to compare/benchmark airport operating efficiency, given the widely varying nature of airport operations. The following factors being relevant for example in relation to Perth Airport:

- the relatively large size of Perth Airport's lease area (larger than Sydney and Melbourne and comparable to Brisbane);
- Perth Airport operates three significant and geographically distinct aviation precincts;
- Perth Airport's continuous 24 hour operations, whereas some larger airports have no or minimal operations at some times during the day (e.g. Sydney's curfew period);
- Perth Airport has predominantly flexible asphalt domestic and general aviation aprons due to local conditions. Sydney, Brisbane and Melbourne have predominantly concrete aprons, which require less maintenance/repair; and

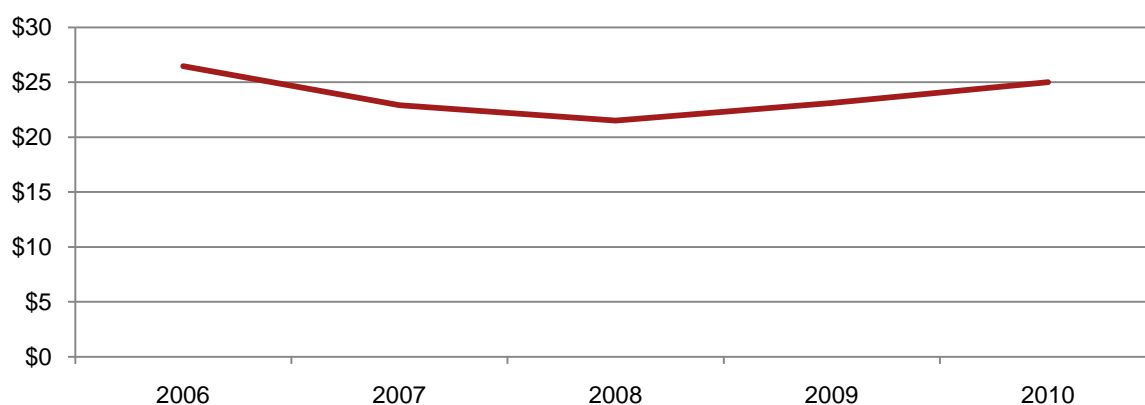
- Due to high demand for overnight aircraft parking and the three precincts noted above, Perth Airport's airfield infrastructure (concrete and asphalt areas) is more expansive than much larger airports – these areas need to be inspected, maintained and repaired.

WAC has had the opportunity to review benchmarking analysis undertaken by Leigh Fisher, Management Consultants on behalf of Melbourne Airport. WAC believes the analysis provides compelling evidence that Australia's large airports compare very favourably to international benchmarks in terms of charges, costs and operating efficiency. WAC would however highlight that the data that is provided in relation to Perth Airport could be misleading.

It is WAC's understanding that the operating cost, staffing and staff productivity data fails to take into account that Perth Airport has a significantly larger non-aviation property component in its overall business. Perth Airport's non-aviation property business, which is described more fully later in this submission, comprised approximately 24% of total revenue in 2009-10, whereas it is believed the non-aviation property business at Melbourne and Sydney Airports is close to half of the Perth proportion. Normalising the Perth data for this significant difference will improve both the relative position of Perth in relation to the measures used and the trends.

WAC's aeronautical assets per passenger declined from 2006 to 2008 in part due to the rapid passenger growth (Figure 20). As WAC has begun to make more significant capital investments, this ratio has increased again and will increase further as the major redevelopment of the airport is completed over the next three years.

Figure 20: Aeronautical Fixed Assets per Passenger



Source: WAC

2.7 Perth Airport charges and the processes for setting them

2.7.1 *Level and trends in Perth Airport charges*

Aeronautical charges at Perth Airport in the period 2005-06 to 2010-11 are shown in Table 5. Most charges remained constant in nominal terms between 2005-06 and 2009-10 (representing a real decline), WAC increased the basic landing charge per passenger from 1 July 2010.

Although prices have been stable since 2005, Perth Airport has experienced significant passenger growth. This has contributed to annual revenue for aeronautical services increasing by an average of 11% per annum between 2005-06 and 2009-10 (to \$86 million). Over the same period, aeronautical operating revenue per passenger increased by an average of 0.9% per annum.

While there have only been limited increases in charges over the period 2005-06 to 2010-11, WAC expects that there will be material increases in charges from 1 July 2011 under service agreements currently being finalised with airlines and under the schedule of charges that will apply to airlines that do not have a service agreement. These increases will reflect agreed positions with most airlines on the required capital investment at Perth Airport and the increases in charges that are necessary to support this investment.

Table 5: WAC prices for aeronautical services (nominal), 2005-06 to 2010-11 (inclusive of GST)

		2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Aircraft-related services and facilities							
Basic Landing Charge	International RPT - per arriving & departing pax	4.14	4.14	4.14	4.14	4.14	4.28
	Domestic & Regional RPT - per arriving & departing pax	4.14	4.14	4.14	4.14	4.14	4.28
	Fixed Wing - Per Tonne MTOW (GA, Freight & Other)	7.81	7.81	8.08	8.43	8.43	8.71
	Rotary Wing - Per Tonne MTOW	3.90	3.90	4.04	4.21	4.21	4.35
Minimum Landing Charge	Fixed Wing	35.64	35.64	36.89	38.41	38.47	39.78
	Rotary Wing	17.82	17.82	18.44	19.24	19.24	19.89
Basic Aircraft Parking Charge	Per Aircraft per Day (GA)	29.70	30.95	32.03	33.41	33.41	34.54
Passenger-related services and facilities							
International Terminal Charge	Per arriving & departing pax through the terminal	6.40 ²	6.36	6.36	6.36	6.36	8.25 ³
International Baggage Charge	Per departing pax	2.26	2.26	2.26	2.26	2.26	NA
International Check-in Counter Charge	Per departing pax	1.00	1.00	1.00	1.00	1.00	NA
Domestic Terminal Charge	Per arriving & departing pax through the terminal	3.80	3.96	4.10	4.28	4.28	4.42
Domestic Aerobridge Charge	Per arriving & departing pax using an aerobridge	0.59	0.62	0.64	0.67	0.67	0.69

Source: WAC

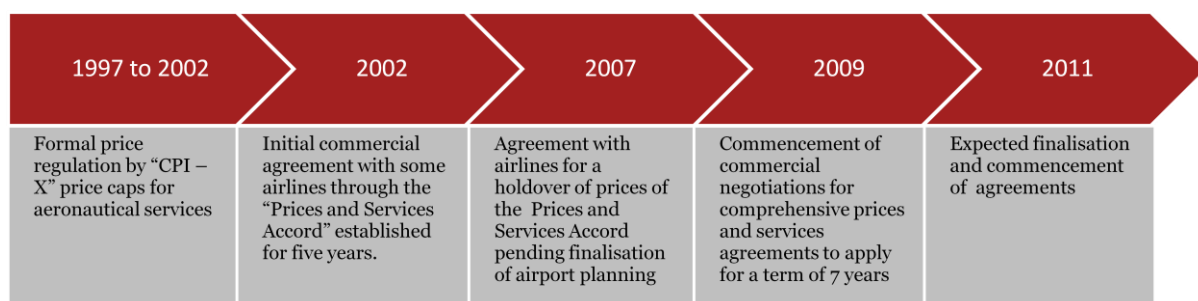
² Priced at \$5.90 until 31 January 2006

³ Includes international baggage charge and check-in counter charge.

2.7.2 Engagement with airlines on airport charges and non price conditions

In the period since 2006, there has been an increase in sophistication in commercial relationships between WAC and its airline customers. Commercial arrangements have progressed from the formal price regulation prior to 2002, through a relatively unsophisticated “prices and services accord” dialogue commencing in 2002, to far more sophisticated processes from 2007, which are now culminating in comprehensive price and service agreements that are in the process of finalisation at the time of this submission. Figure 21 illustrates this progression of the commercial relationship over the past decade.

Figure 21: Timeline of development of price and service agreements between WAC and airlines



2002 Prices and Services Accord

In 2002, WAC and airlines negotiated agreements of five years duration that covered a range of price and non-price terms. The negotiation process at the time was in the backdrop of considerable aviation industry uncertainty and little experience for WAC or airlines in direct commercial negotiations of this nature.

The Prices and Services Accord addressed:

- the services and facilities to be provided by WAC;
- WAC’s commitment to providing appropriate quality and capacity of services and facilities;
- the proposed capital expenditure program for the term of the agreement;
- the schedule of charges for WAC’s services;
- the obligations of the airlines in relation to use of the facilities and services, charges and consultation;
- the proposed consultation process and information sharing principles; and
- a proposed procedure for dispute resolution.

While effectively determining the prices paid by airlines since 2002, the agreements were not executed by the parties. WAC negotiated the Prices and Services Accord with major airlines and BARA during 2002 and 2003. At an industry consultative meeting held in November 2002, the CEO of WAC advised airlines that “it was WAC’s belief that documentation of the

commercial relationship between the airport and airlines can be best achieved by the “Accord” rather than a formally executed deed of agreement”. There were concerns at the time that an executed deed may result in airlines incurring significant stamp duty liabilities. Stamp duty no longer applies to such contracts.

At the same time, WAC and Virgin Blue negotiated a reasonably extensive 10-year agreement covering Virgin Blue’s operations in Terminal 3, which became available with the demise of Ansett.

2007 Agreed conditional holdover

In 2007, towards the end of the Accord period, WAC and the airlines agreed to a conditional “holdover” of the prevailing prices and services conditions based on exchange of letters, without finding it necessary to prescribe in detail the basis of the arrangement. WAC believes this reflected the following factors:

- airlines were being comprehensively consulted on the airport planning that was underway and there was a joint realisation that longer term agreements on prices and services could not sensibly be negotiated until the underpinning capital investment plan was properly defined based on the planning that was underway;
- WAC was continuing to invest in aeronautical infrastructure and airlines were prepared to see prices being held (and in some cases indexed) while investment was continuing;
- Perth Airport’s charges were (and remain) relatively low; and
- given the relatively longer sector length of Perth routes and the mix of travel, Perth Airport’s charges represent a relatively lower proportion of airport cost/ticket price.

2009-2011 Negotiation of comprehensive agreements

Concurrently with consultation on the fundamental review of airport planning that was conducted from 2008, WAC and the airlines commenced the process of seeking to agree comprehensive commercial agreements.

With the benefit of external specialist advice WAC developed its approach to the commercial negotiation process, which was/is founded on providing high quality comprehensive information to all airlines. Given the intention to provide very detailed information WAC sought that airlines execute confidentiality deeds, which were executed by all airlines except one (BARA executed in lieu of its many member airlines).

Following discussions in late 2008 and throughout 2009, WAC provided all airlines a comprehensive proposal, including:

- a comprehensive indicative 10 year capital expenditure plan (with project by project description/justification);
- 10 year passenger forecasts with supporting explanation;
- detailed breakdown of all assumptions;
- the proposed pricing model; and
- a *pro forma* prices and service agreement.

During 2009 and 2010, a process of extensive engagement transpired between WAC, Qantas, Virgin Blue and BARA, each on a bilateral basis on the proposed capital expenditure plan, airport redevelopment and commercial terms. In all cases the discussions have proceeded in a highly professional manner.

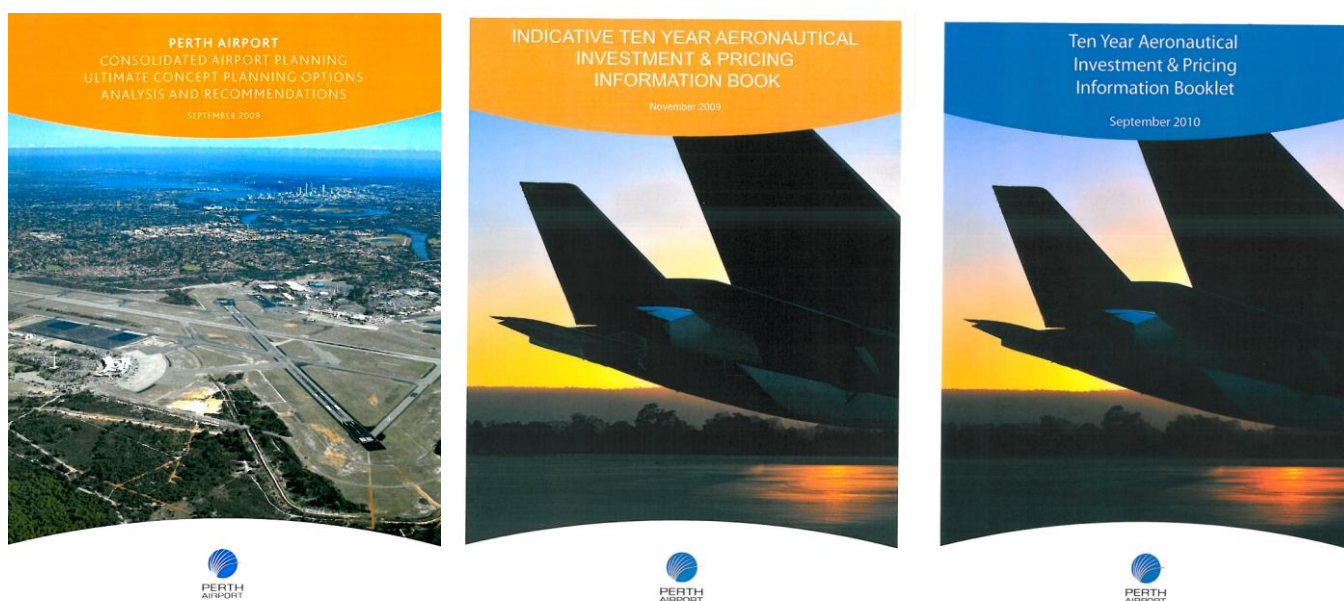
All other airlines were provided with the same opportunity to engage with WAC, with varying levels of interest being displayed. In some cases a “wait and see” approach prevailed; in others there was a decided lack of interest and in one case the airline’s stated view was that the larger airlines would “do the heavy lifting” and that engagement later in the process would be sufficient for that airline.

During 2008-09 and 2009-10, three developments complicated the negotiation process: the first was a dramatic spike in fuel prices, the second was the global financial crisis, and the third was the decision by Virgin Blue to fundamentally change its business strategy, with immediate and longer term implications for their operations at Perth Airport.

In September 2010, WAC provided all airlines a further comprehensive commercial proposal, which updated the position based on the planning/design and negotiations to that date.

WAC’s submissions to the airlines have included detailed capital plans and a pricing methodology based on the ACCC’s building block methodology (Figure 22). WAC also detailed all of the assumptions underpinning the price proposal, including traffic forecasts (with their underlying assumptions) and projected operational expenditure.

Figure 22: Cover pages of capital plans and pricing information booklets provided to airlines



WAC provided this level of detail to allow the airlines to review the mechanics of the calculations made by WAC. It provides a basis for the airlines to challenge the assumptions and outcomes and to understand WAC's position.

WAC has received a number of requests for additional information. WAC has always accommodated these requests, while at all times maintaining appropriate confidentiality.

WAC has received positive feedback from Virgin, Qantas and BARA on the extent and quality of information and detail that WAC provided on capital plans and airport pricing.

The discussions with airlines have proceeded well and WAC is confident that comprehensive 7-year agreements, effective from 1 July 2011, will be executed with airlines representing at least 85% of passenger movements, and likely more.

These agreements are comprehensive and include tailored processes for dealing with issues that have been of contention and for allocating risk. Given their commercially sensitive nature, WAC is providing the Commission with a summary of typical agreement terms separately on a "commercial-in confidence" basis.

While WAC expects to reach agreement with most airlines on conditions that will govern the relationship and use of Perth Airport from 1 July 2011, it is inevitable that agreement will not be reached with all airlines covering all aircraft movements. It is therefore necessary for WAC to have in place an alternative regime to determine enforceable conditions of use.

The reasons why a term agreement might not be executed with an airline include:

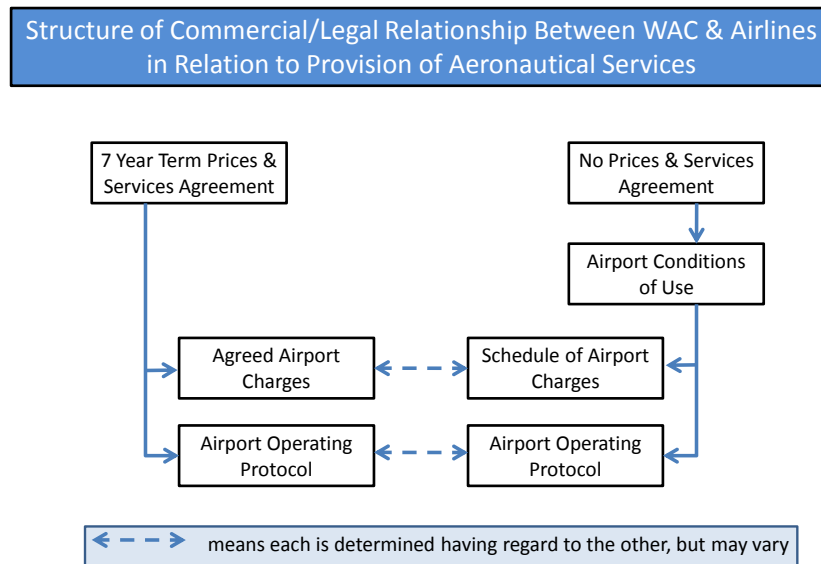
- the airline and WAC are unable to reach agreement on terms (we expect this to be in only limited cases); and
- the airline has no interest in entering into such an agreement (typically because its operations at Perth are not of sufficient scale to warrant the process).

In circumstances where no agreement with an airline is established, WAC will set conditions of use through a process of WAC publishing a "conditions of use" document and a "schedule of charges". An airline will signify its acceptance of these conditions through its conduct of using the airport after having been informed of the conditions. Significantly:

- the published conditions of use and charges will be similar to (but by no means the same) as those arising through negotiated agreements; and
- all airlines that from time to time have material operations at Perth Airport will be afforded the opportunity to negotiate a comprehensive term agreement.

Figure 23 illustrates the general framework for setting Perth Airport conditions of use in parallel with negotiating service agreements with individual airlines.

Figure 23: General framework for setting Perth Airport conditions of use



3 Pricing of Perth Airport's aeronautical services

3.1 The Commission's 2011 terms of reference & issues paper

The terms of reference for the inquiry require the Commission to address the pricing of aeronautical services provided by airport operators, whether those operators have market power and the extent to which they have exercised or abused that market power.

Term of reference 3 requires that the Commission examine aeronautical services and facilities provided by airport operators.

Term of reference 5 requires that the Commission consider:

- whether the existing regime is effective in appropriately deterring potential abuses of power by airport operators; and
- whether the current regime impacts on the ability of airports to price, operate and invest in airport infrastructure in an efficient and timely manner.

In the issues paper, the Commission notes that the 2002 review assessed Perth Airport as having a high degree of market power in the market for aeronautical services. The Commission indicates that it is interested in whether there have been any changes in the overall market power and what constraints there are to this power. As a related matter, the Commission also indicates that it is interested in whether there is any evidence that prices charged by monitored airports have exceeded what could be justified based on costs, investment and service quality.

3.2 The Commission's 2002 and 2006 findings

In its 2002 inquiry into price regulation of airport services, the Commission recommended the replacement of formal price regulation of airport services with a price-monitoring regime established for an initial five-year period. Specifically the Commission indicated:

- *The Commission's preferred approach is to put in place a light-handed regulatory regime (additional to general competition law) in which all seven airports assessed as having some market power would have their pricing and other behaviour monitored for a 'probationary' five-year period;*
- and*
- *A review towards the end of the five years would assess the need for continued regulation (if any) of these airport.⁴*

The review of price regulation recommended by the Commission in 2002 was undertaken by the Commission in 2006, with the following findings:

⁴ Productivity Commission, 2002, Price Regulation of Airport Services p. xvi.

- *Price monitoring, as part of a light-handed regulatory approach, has delivered some important benefits.*
 - *It has been easier to undertake the investment necessary to sustain and enhance airport services in the face of growing demand for air travel.*
 - *Airport's productivity performance has been high by international standards, and service quality has been satisfactory to good.*
- *Moreover, though it is too early to fully judge the effectiveness of the light-handed approach in constraining airport charges, price outcomes to date do not appear to have been excessive.*
 - *However, some non-price outcomes have been less than satisfactory and commercial relationships between certain airports and their customers have been strained.*
 - *More generally, some of the "market" constraints in airport's behaviour – such as the countervailing power of airlines – have not been as strong as was envisaged. Also, some "systematic" shortcomings have detracted from the effectiveness of price monitoring and the light-handed approach as a whole.*
 - *Policy guidance in the valuation of airport assets for pricing purposes is lacking.*
 - *There is no clarity on when further investigation of an airport's conduct is required, and no process for initiating such investigation.*

Reflecting the qualified findings on the price-monitoring regime, the Commission recommended a further period of price monitoring for six years ending on 30 June 2013 and further review of the regime in 2012.

3.3 What has changed since the Commission's 2006 findings?

An examination of the Commission's 2006 report and findings shows that the following factors were considered by the Commission to be central to its conclusions at the time:

- the ease (or otherwise) of undertaking the investment necessary to sustain and enhance airport services;
- airport productivity performance;
- airport service quality;
- the level of airport charges and whether they could be considered to be excessive; and
- how non-price terms have been set and the status of commercial relationships between airports and airlines.

WAC submits that it logically follows that if all of these factors exhibit favourable trends since 2006 (and indeed since 2002), having regard to the Government pricing principles, then there are no grounds for more prescriptive/invasive regulation and grounds for discontinuing the current monitoring regime.

The following information seeks to demonstrate what has happened since 2006 at Perth Airport in relation to each of these key factors.

3.3.1 Investment

It has become demonstrably easier for WAC to undertake the necessary processes to make timely investments in airport infrastructure. With the benefit of a more predictable, stable and non-intrusive regulatory environment, it is proving easier to plan, raise necessary debt and equity funds and agree commercial terms with airlines, all of which underpin successful (timely and fit for purpose) investment.

Evidence of this is the increased capital investment that has occurred since 2002 and the fact that WAC is in the final stages of the complex commercial negotiation and financing processes that are necessary to proceed with over \$500 million in aeronautical investment over the next three years.

The current light-handed regulatory regime has provided stability and predictability, the benefits of which are being increasingly valued by all relevant parties including airlines, shareholders, debt providers and airport management.

The increased investment by WAC under the light handed regime, particularly since 2006, and the plans to make very significant investments over the next three years, were described in chapter 2.

Under the current regulatory regime, WAC has continued to invest because it has had sufficient certainty that it will be able to generate returns on its aeronautical investments at least equivalent to its cost of capital within an acceptable risk environment. Increasingly WAC shareholders and debt providers are placing importance on the existence of term agreements with airlines that clearly define risk allocation in the commercial relationship; this being particularly the case in times of significant capital investments that are periodically a feature of large airports.

The only observation that WAC would make in relation to timing of investment is our experience that, in the current environment, which relies on direct commercial negotiations as a precursor to investment, there is a tendency for major capacity to be delivered just in time, (or just after time where there is unexpected growth in demand). This, from WAC's experience, is for three reasons:

- neither airlines nor WAC wish to pay for idle capacity;
- when faced with unexpected and significant adverse business conditions (such as fuel cost spikes and the global financial crisis), airlines become very sensitive about their operating future and any factors that might increase operating costs, including investment in airport infrastructure. When airlines' businesses are under stress it is challenging (understandably) for their management to look beyond the crisis to agree terms to facilitate timely investment in long-lead/long-life airport infrastructure; and
- some airlines, typically those without significant services at the airport, are unwilling to acknowledge the need to make major investments in airport infrastructure, stating that their operations are not the cause for the investment, so why should they incur additional costs.

While these dynamics in the direct commercial relationship can occasionally deliver less than desirable outcomes in relation to the timing of investment, they are not significant in the overall context of major airport investment. Also, WAC does not believe there is any form of industry specific regulation or third party intervention that would have the effect of countering these features.

One positive effect of this conservative timing bias is that airlines and WAC have become focused on increasing efficiency/utilisation of the existing infrastructure.

The timing of investment under the current regime could also be further delayed if there is an expectation that WAC needs to reach agreement with all of the 28 corporate entities that have airlines operating at Perth. It is inevitable that agreement will not be reached with some airlines, for a range of reasons. There comes a point in the process where it is necessary “to get on with it” based on the certainty/clarity achieved through agreement with the majority of airlines. WAC’s conduct in these circumstances needs to be judged by the following considerations:

- has WAC offered the same or similar opportunity to reach agreement to each airline; and
- has WAC negotiated in good faith with each airline (provided the same information, offered to fully engage, demonstrated it will modify its position in the face of reasonable propositions, etc.)?

In contemplating any modification to the pricing principles or regulatory regime that seeks to address perceived systemic weaknesses to do with breaking deadlocks in bilateral negotiations, policy makers must exercise extreme care to avoid creating an environment where individual airlines can cause circumstances that delay timely investment. In circumstances where an airport has reached, or is close to reaching, agreement on commercial terms with the material majority of the airlines operating at the airport, investments will be delayed if uncertainty is created by individual airlines seeking regulatory intervention.

This cautionary note is expanded on later in this submission and WAC’s confidential submission when dealing with disputes resolution and the previous aborted attempts by the Federal Department of Infrastructure and Transport to develop guidelines for a “show cause” regime.

3.3.2 Airport productivity performance

WAC’s aeronautical operating and capital efficiency trends since 2005, described in chapter 2, indicate that Perth Airport is operated relatively efficiently and that the current light handed regime is delivering an environment that encourages improved productivity in the provision of airport services.

The following points are of relevance when assessing the current light handed regime as it relates to airport productivity:

- The interactions between WAC and airlines increasingly involve scrutiny of Perth Airport’s capital investment plans and operating costs - this being particularly so during aeronautical price negotiations.
- The prices and services agreements currently being negotiated between WAC and airlines include:

- a high level of disclosure of existing and forecast operating costs;
- periodic consultation on costs and operational efficiency;
- in some cases, such as electricity costs, an obligation on WAC to pursue and implement energy saving initiatives; and
- in relation to major capital projects, an obligation on WAC to consult with airlines in relation to procurement strategies that are being applied to deliver competitive pricing.

WAC has a strong commercial incentive to achieve operating and capital efficiency as its shareholders share some of the benefits, together with those of airlines and consumers of air services, and by minimising costs WAC contributes to improved viability of air services to Perth increasing the prospect of expanded seat capacity.

3.3.3 *Airport service quality*

Perth Airport's quality of service monitoring since 2006 shows that passengers surveyed described their overall experience at Perth Airport, including car parking, terminal access and terminal services as "average" to "good".

Table 6 summarises the service quality survey results for Perth Airport from 2006 to 2010.

Table 6: Service quality survey results for Perth Airport, 2006-2010

QSM (2005-09)	ASQ (2010)	2006	2007	2008	2009	2010
Good to Excellent	Good to Excellent	76	89	81	87	62
Average to Good	Fair to Good	32	17	27	21	6
Below Average	Below Fair	3	3	3	3	-
% of survey points below "Average"	% of survey points below "Fair"	2.7%	2.7%	2.7%	2.7%	0%

During the period, passengers have rated some of the service standards as less than satisfactory from time to time. Of the 510 data points in service quality standards between 2006 and 2010, 12 or 2.3% were rated as below fair/average.

Since 2006, there is evidence that WAC has undertaken capital expenditure specifically targeting improved customer service, informed by our quality of service monitoring; examples were provided in chapter 2.

The following points in relation to service quality at Perth Airport since 2005 are also relevant:

- Perth Airport experiences very significant peak demand periods and the extent of those peaks increased dramatically during the high growth of the past four years.
- The level of service is clearly less than satisfactory during those peak periods.

- WAC has, and is, taking decisive action to address service standards in the peak periods – the planned \$500 million investment in aeronautical facilities over the next three years is to increase capacity and improve service levels during the peak periods. There is certainly no evidence that WAC has deliberately underinvested.
- Airlines have been comprehensively engaged in the design of new and expanded aeronautical infrastructure to deliver the levels of service expected by airlines for their passengers and to achieve their preferred airline operating processes.
- WAC has been unwilling to adopt the lower service standards advocated by some low cost airlines.

3.3.4 Level of Perth Airport charges

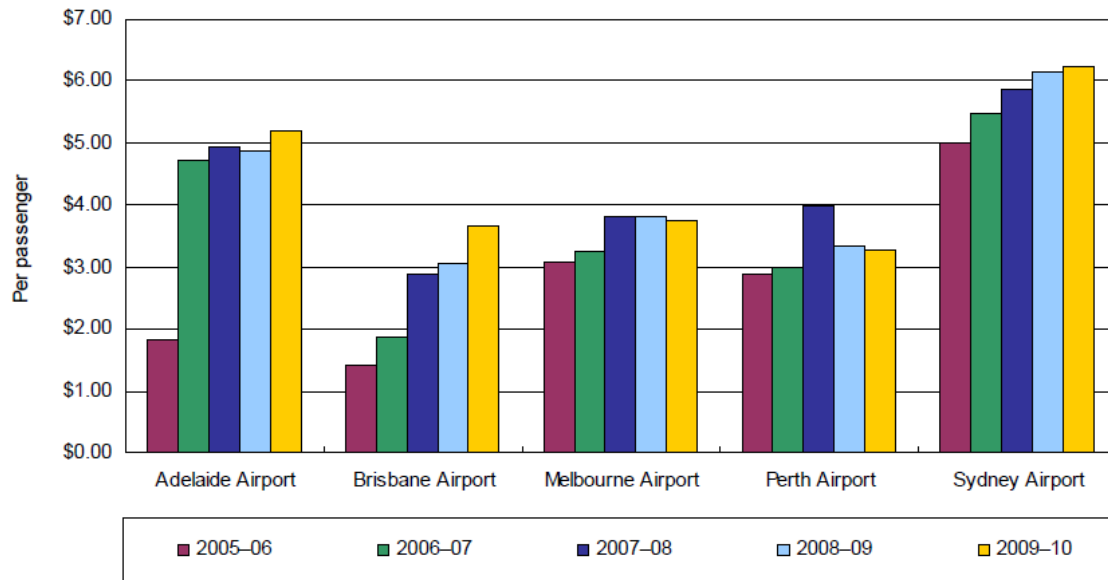
The aeronautical charges at Perth Airport between 2006 and 2011 have been low in comparison with other Australian and New Zealand airports. A report prepared for Melbourne Airport for the purpose of that company's submission to the Commission has provided a comparison of aeronautical charges across nine Australian and New Zealand airports.⁵ The 2011 aeronautical charges at Perth Airport are indicated to be the second lowest of major Australian airports (less than Adelaide, Brisbane and Sydney, but greater than Melbourne) and the second lowest of all nine comparator airports (the major Australian airports plus Cairns, Wellington, Auckland and Christchurch). A similar ranking of Perth Airport existed in 2006.

The level of aeronautical charges at Perth Airport has not been such as to cause concern for the ACCC. The ACCC monitoring results indicate:

- the average price for aeronautical services at Perth Airport (measured on a revenue per passenger basis) is the second lowest of the five monitored airports;
- between 2005-06 and 2009-10, Perth Airport had the lowest level of average price growth; and
- Perth Airport having the lowest operating margin per passenger (\$3.29) of the five monitored airports (Figure 24).

⁵ Leigh Fisher Management Consultants, February 2011, Melbourne Airport performance and Charges Benchmarking Study, prepared for Melbourne Airport.

Figure 24: Airport comparison of operating margins for aeronautical services (per passenger)



Source: ACCC (2011) *Airport monitoring report 2009-10*, January 2011, Canberra: ACCC.

In its annual reporting under the price-monitoring regime, the ACCC has made no findings and raised no concerns about misuse of market power or other inappropriate conduct in pricing of services at Perth Airport.

There is no evidence that WAC has set or raised prices for aeronautical services above efficient cost. Price increases over the last 5 years have been modest with WAC's margin per passenger remaining relatively constant.

The pricing structure agreed with airlines involves WAC taking passenger volume risk; the fact that there has been an extended period of strong passenger growth and an absence of 'shock' events impacting aviation has meant that WAC's business performance has benefitted from assuming volume risk. In the period prior to 2004 WAC's returns from its aeronautical infrastructure were adversely impacted by the one-off events described previously.

There is no evidence that WAC has restricted supply of aeronautical services and facilities to increase the price it receives for these services. As the prices WAC charges, in the main, arise from existing agreements with airlines (since 2007 under agreed "holdover" conditions), such conduct would only decrease revenue due to decreased passenger throughput. Since 2007 WAC has made significant investments in aeronautical infrastructure to support growth and worked closely with airlines to increase throughput of existing facilities. Further, WAC is implementing a significant expansion in capacity so that growth is not constrained.

The fact that the major facilities expansions are being delivered later than is desirable is due to a range of factors, none of which imply that WAC has sought to constrain supply as a strategy to increase prices. The factors contributing to the later than desirable delivery include:

- the rate of growth in demand which has been faster than WAC, airlines, independent forecasters, governments and industry associations anticipated;

- the rate of growth and material shifts in the nature of services needed by airlines at Perth Airport required WAC to fundamentally review and modify its airport redevelopment plans, which took time; and
- airlines have strong countervailing power in commercial negotiations which impacts the timing of investment. In a practical sense, it becomes very problematic for WAC to make significant investments in aeronautical infrastructure in the absence of support from the major airlines for both the nature of the investments and the proposed future airport prices to underpin the investment. In the period 2008 to 2010 airlines exhibited a very cautious approach due to concerns, firstly about a significant increase in fuel costs (which at the time was being described by some airlines and the International Air Transport Association (IATA) as one of the most significant threats to airline viability in decades) and then the global financial crisis.

3.3.5 Profitability

Reflecting the strong trading conditions of the past seven years WAC has achieved higher profitability than it did in the preceding period since the airport was purchased from the Commonwealth. The important question for the Commission when considering the financial performance of WAC is not its absolute level of profitability at any point in time, but whether WAC is setting prices excessively above the efficient cost of production for the element of its business in which it is assessed as having market power, namely aeronautical services. The following points are relevant in this regard:

- The ACCC monitoring does not provide a complete picture as it does not take into account the total purchase price paid for Perth Airport.
- Returns need to be assessed over a sufficient period to take into account the full cost of providing the services.
- In the period from 2003 to 2010, WAC's average total airport return on assets (aeronautical and non-aeronautical) was 9.3% and its average return from the assets of its aeronautical business was 14.4% between 2003 and 2010 and 9.5% since the airport was purchased in 1997. The non-aeronautical returns are impacted by the fact that the assets include a substantial amount of land that is not yet in productive use.
- The agreement reached with airlines in 2007 to "holdover" conditions resulted in most charges remaining constant in nominal terms in the five-year period to 2010; this agreed outcome was partially in recognition of the stronger passenger growth that had been experienced. This, combined with the investments made since 2007, resulted in aeronautical asset returns declining in 2009 and 2010.
- Perth Airport has been operating at a high tempo with many of its sub-processes approaching capacity. At this point in its capital investment cycle it is to be expected that returns would be higher, noting that without substantial new investment the current business cannot be sustained.
- The investments that are being made in aeronautical investments will increase Perth Airport's aeronautical asset base by approximately 228% in the period to 2014.
- WAC's future returns will, of course, change due to the combination of its substantially higher asset base, the outcome of price negotiations with airlines, and future passenger numbers. The negotiations currently underway with airlines have addressed:

- WAC's Weighted Average Cost of Capital, derived having regard to regulatory precedents;
- passenger forecasts and what happens if actual passengers are over or under the forecasts, noting WAC assumes material volume risk;
- projected operating expenses; and
- the projected capital expenditure plan and what happens if there is variance between projected and actual expenditure.

WAC's overall returns since it purchased Perth Airport cannot be said to be excessive, having regard to the company's cost of capital. Its aeronautical asset returns since 2003 reflect a period of correction following the exit from the CPI-X period of manifestly inadequate returns, followed by a period of strong growth in the lead up to significant new investment.

3.3.6 Status of commercial relationships with airlines and how non-price terms are set

WAC's experience at Perth Airport is that there is a continuing trend toward more comprehensive and sophisticated commercial relationships with most of its airline customers.

The rate of development of the commercial relationships with airlines depends on WAC's preparedness and capacity to fully and effectively engage with airlines. There is ample evidence, described in chapter 2, that WAC has offered, and continues to offer, to comprehensively engage with all its customer airlines on the full extent of the relationship, including:

- airport planning and investment;
- pricing of services;
- operations, safety and environmental management;
- customer service; and
- Government policy and agency issues of common interest.

In the context of WAC's demonstrated capacity and preparedness to engage comprehensively with airlines, the nature, extent and level of sophistication of each bilateral relationship between WAC and airline companies depends upon each airline's own level of engagement. It is to be expected that the nature of the 28 bilateral corporate relationships that WAC has with airline companies will differ markedly.

The airlines operating at Perth Airport have a very diverse range of business models - arguably the full gamut of business models exist, including:

- full service international airlines, including those that offer a first class service;
- low cost international airlines;
- full service domestic airlines with a significant business class service;

- low cost domestic airlines;
- regional airlines offering scheduled regular passenger (RPT) services;
- closed charter airlines, typically servicing the mining industry;
- mixed regional RPT and closed charter airlines, typically servicing regional towns that are proximate to significant resource sector activity;
- freight airlines;
- corporate and private aircraft; and
- helicopters.

Since 2006, there has been a substantial increase in demand for services as well as a shift in the proportional representation of the different segments of the air services markets at Perth Airport.

WAC observes that progress in the rate of development and nature of commercial relationships with its customer airlines is variable and that this is to be expected given differences between airlines in terms of scale, level of business sophistication and business strategies. WAC's experience is that:

- some airlines determine that there is a business/competitive advantage to be gained from proactively engaging with WAC on the full range of relevant operational and commercial matters, and that these airlines place value on the business certainty gained from agreement on these matters;
- some airlines appear to lack sophistication or capacity within their business, such that close commercial engagement with WAC is not considered necessary, possibly to the commercial detriment of these airlines;
- some airlines (typically LCC's) seem to actively avoid comprehensive engagement with WAC as a part of a considered business strategy or philosophy that is based on perceptions about how costs might be contained; and
- some airlines do not have a sufficient scale of business with WAC, in the context of their total business, to warrant applying resources to extensive engagement.

WAC contends that the absence of a close business relationship with some airlines does not reflect shortcomings in the light handed regulatory regime nor an indication that WAC's commercial conduct has involved abuse of market power. Rather, it simply reflects a continuing evolution of business relationships in a complex, diverse and competitive market environment in which airlines ascribe varying value to the relationship with WAC.

The more sophisticated relationships between WAC and most airlines are evidenced by characteristics of the engagement on the airport redevelopment and negotiation of prices and services agreements:

- In 2007, WAC and airlines were able to agree on a "conditional holdover" of prices that were originally established in 2002, by an exchange of letters without finding it necessary to be overly prescriptive as to the basis of the arrangement.

- In current negotiations of service agreements, the matters that are now addressed and discussed in negotiations has expanded and includes more sophisticated processes for dealing with issues of potential contention and risk allocation.
- The airlines and WAC are prepared to enter into longer term agreements.
- The agreements being negotiated place greater emphasis on information exchange, including obligations for provision of information and more frequent and targeted consultation.

In its 2006 report, the Commission expressed reservations about outcomes in relation to the setting of non-price terms. It is recognised that non-price terms are a critical element of the services provided to airlines by airports and outcomes can have significant impact on airline operating costs, customer experience and competitive position.

WAC's experience in the past three years of discussions/negotiations with airlines confirms that non-price terms, including access rights and service levels, are as important to airlines as the airport's charges and therefore airlines expect that such matters will be addressed in commercial agreements.

Accordingly, the prices and services agreements now being negotiated with airlines include comprehensive codification of a wide range of non-price terms. It is now difficult to identify relevant aspects of the relationship between WAC and airlines operating at Perth Airport that are not subject to agreement.

In relation to day to day airport operating procedures (the "Perth Airport Operating Protocol") the prices and services agreements provide that WAC must consult with all airlines before making any changes.

WAC believes that, overall, the commercial relationships between WAC and airlines are becoming increasingly sophisticated because of:

- an increased recognition by WAC and airlines that their interests are aligned on the majority of matters and those interests can be best advanced through effective engagement (Table 7 below provides examples of alignment of interests and residual tensions in relationships);
- increasing awareness among airlines that more effective engagement with WAC, including entering into longer term agreements, reduces risk (which has become particularly apparent as capacity in airport sub-processes has become tighter at Perth Airport and coveted by many airlines);
- the light handed regulatory framework that promotes direct engagement, with no "easy outs" and minimal opportunities for gaming of regulatory processes;
- WAC being aware that airlines seeking regulatory intervention under general competition law would be costly, a distraction for the business, and is therefore something best avoided; and
- WAC has become more active in its engagement with airlines and more entrepreneurial in the commercial relationships.

A point expanded on later in this submission is WAC's view that the ACCC financial, pricing and service quality monitoring regime has not, in any way, contributed to the development of more productive commercial relationships between WAC and airlines. In this regard it is

instructive to note, that to the best recollection of WAC management, not once in the hundreds of hours of interaction between WAC and airlines over the past four years about airport planning, design, investment and pricing has the ACCC monitoring process or outcomes been referred to – not even in passing.

Table 7: Examples of aligned interests and residual tensions between WAC and airlines

Area of interest	Airline position	WAC position	Tensions
Reducing costs	Lower airport charges assist to keep fares lower, stimulating demand and improving profitability.	The cost of operating from Perth Airport affects WAC's ability to compete with other destinations to attract new airlines and route services.	
Investing in airport facilities	Airport facilities affect operational efficiency (on-time performance and fuel burn) and Airport charges.	Airport facilities that are fit for purpose and used efficiently keep costs lower, assisting WAC to grow throughput.	
Investing in airport capacity	Sufficient capacity in airport processes is necessary to support growth and achieve targeted customer service standards, but needs to be balanced by the need to control airport charges.	Throughput is crucial to financial performance, increasing seat capacity is a major financial driver of the airport business.	Who pays for idle capacity constructed in advance of demand growth?
Improving customer service	Achieving targeted customer service standards is vital to competitiveness.	A good airport/airline experience promotes repeat business and a favourable experience encourages "meeters and greeters" to come to the airport and use airport services.	Airlines with different business models (full service versus LCC) have different expectations and demands for quality of services.
Managing aircraft noise	Management of aircraft noise is necessary to avoid restrictions on airport operations that would adversely affect the airport and airline businesses.		

3.4 Existence and abuse of market power

WAC submits that while it has market power in the market for aeronautical services, there is no evidence to suggest that it has abused that power. The absence of abuse of market power is reflective of the countervailing power of the airlines and the incentives WAC has to increase the passenger throughput of its facilities.

This section sets out a process for assessing the existence and abuse of market power and examines the evidence in relation to Perth Airport.

In determining whether WAC has market power in relation to its aeronautical services and whether it has been abused, WAC has undertaken an analysis involving the following steps:

First, WAC has defined the market.

Second, to determine whether WAC has market power in this market, WAC has assessed:

- whether there are any barriers to entry into the market;
- whether there are any substitutes for the service offered by the WAC (i.e. are there any existing competitors?); and
- whether WAC has any control over the availability of substitutes.

If the Commission considers that WAC has market power, WAC submits that the Commission should consider the following indicators to determine whether that market power has been abused:

- whether the price of the aeronautical services is above the efficient cost of supply for a sustained period;
- whether WAC has restricted or reduced the supply of WAC's aeronautical services (or the supply of substitutes, to the extent that is within WAC's control); and
- whether the quality of the aeronautical services has been reduced with no commensurate reduction in price.

The Commission should also consider whether customers for WAC's aeronautical services have countervailing market power and whether WAC has commercial incentives to abuse market power, taking into account the totality of WAC's Perth Airport business.

3.4.1 The relevant market

WAC considers that the relevant market for the purposes of assessing WAC's market power and for assessing whether WAC has abused that market power is the market for aeronautical services.

Markets can be defined across a number of dimensions, including product, functional level, geography and time.⁶ To determine whether firms are competing in the same market, the core tests for each dimension are as follows.

- Products are part of the same market if they are reasonably close substitutes.
- Products are of the same geographic dimension if the geographic area in which the buyer purchases the product is geographically the same.

⁶ For example, see *Re Tooth & Co Ltd* (1979) ATPR 40-113

- Products are part of the same market if they operate at the same functional level, e.g. whether they are retail or wholesale.
- Products are of the same temporal dimension if they are long-run substitutes. Substitution is not assessed for short-term transitory situations.

Services that airports supply include the provision of landside facilities such as terminals, check in counters and baggage handling facilities. Airside facilities provided by airports include runways and taxiways.

For the purposes of this analysis, it is reasonable to assume that airlines consume the majority of these aeronautical services as a bundle.⁷ The question then becomes in what market or markets this suite of aeronautical services belongs.

There are several non-exclusive possibilities. The market might be the market for domestic passenger transport, the market for international passenger transport or the market for domestic and international freight.

In relation to the domestic and international passenger services, the substitution of alternative modes of transport, destinations or airports is probably low (although not zero). In 2002, the Commission stated that there was a low potential for destination substitution, modal substitution or airport substitution for domestic passenger services. Perth Airport was the only airport considered to have low potential for substitution for all three categories. There may be higher potential for modal substitution for freight.

The absence, or very limited extent, of substitutes from some of the relevant markets, suggests that the relevant market for assessment is simply that for aeronautical services. It is on this basis that WAC makes the assessment of the existence and abuse of market power.

3.4.2 Existence of market power

To analyse whether WAC has market power in the market for aeronautical services, WAC submits that an assessment should be made of the following factors:

- Market power can only exist if other firms cannot enter the market and remove the opportunity for charging monopoly prices. Possible barriers to entry include natural monopoly characteristics in the industry, network benefits and regulatory barriers.
- Closely related to this question is the need for an assessment of whether there are any substitutes for the service offered by the firm. If there are any existing competitors, an attempt by WAC to charge monopoly prices will move consumers to these substitutes and reduce the opportunity for the charging of monopoly prices. An important factor in determining the availability of substitutes is whether the firm has any control over the availability of substitutes.

⁷ The market power in particular services may be relevant concerning which services the ACCC monitors.

In 2002, the Commission stated that Perth Airport had market power in the market for aeronautical services. As noted above, the Commission stated that there was a low potential substitution.

In 2006, the Commission stated that the conditions underlying its 2002 assessment had not changed greatly since the time of that assessment.

There are substantial barriers to entry into the Perth market for aeronautical services. Airports have natural monopoly characteristics and there are significant practical (and regulatory) barriers to the establishment of a new airport.

While there are limited barriers to entry into alternative transport modes, as noted above, these are weak substitutes.

WAC acknowledges that it has market power in the market for aeronautical services. This market power is due to the high barriers to entry and limited substitution possibilities.

3.4.3 Abuse of market power

To assess whether WAC has abused market power, the following may serve as indicators:

- whether the price of the aeronautical services are above the efficient cost of supply for a sustained period (noting that the efficient cost includes the opportunity costs);
- whether WAC has restricted or reduced the supply of WAC's aeronautical services (or the supply of substitutes, to the extent that is within WAC's control); or
- whether quality of the aeronautical services have been reduced with no commensurate reduction in price.

While these indicators may provide evidence of abuse of market power, high margins, restricted supply or reduced quality may not necessarily occur due to an abuse of market power. These outcomes may be caused by factors such as the balance of risk and return between airports and airlines, agreed service standards, the stage of the investment cycle and accuracy of passenger forecasts. These factors are suggestive of considerable complexity in assessing whether an abuse of market power has occurred.

WAC submits that the Commission should also consider whether the customers for the service have strong countervailing market power. Further, assessment of abuse of market power should include consideration of how the service provided relates to other services WAC provides, and as a result, creates incentives that countervail against the exercise of market power. An example of this includes the airport's desire to attract customers for its retail or other non-aeronautical businesses.

The following information confirms that WAC has not exercised market power in the market for aeronautical services.

Efficient cost of supply

If an airport chose to exercise its market power, it could charge prices above the efficient cost of supply. WAC submits that there is no evidence that it has charged prices above the efficient cost of supply for the aeronautical services it provides to airlines.

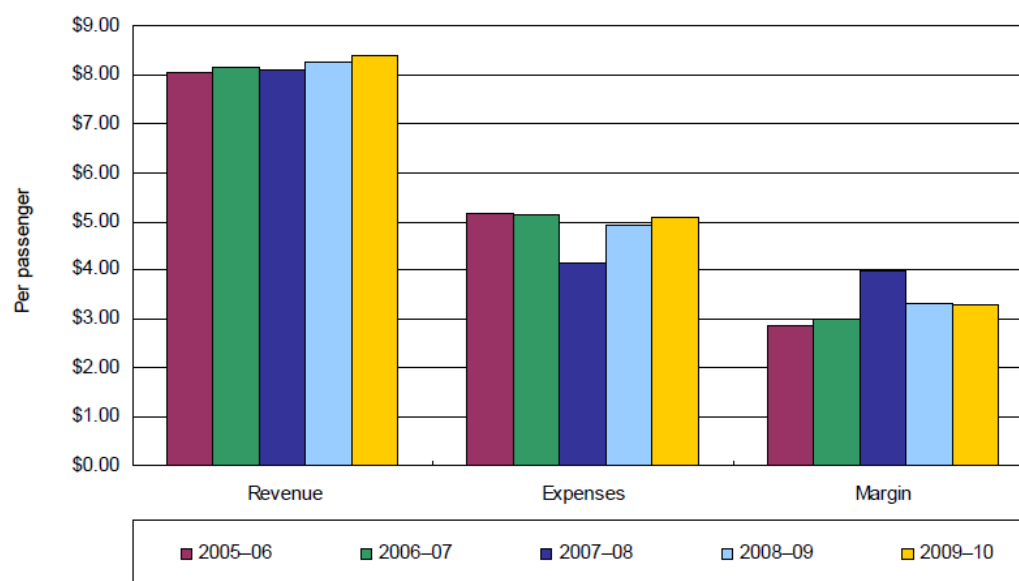
In 2006, the Commission concluded that the price and rates of return of the monitored airports was not outside the expected boundaries. The Commission stated that rates charged by the major airports do not appear to have been excessive and that there had been no systematic misuse of market power.

The Commission also noted the difficulties in measuring and assessing airport performance. While the margin received by many airports had increased through to 2006, this was largely a result of above expected passenger growth. With long-term contracts in place, this would necessarily benefit airports. However, the Commission considered that this was a matter for the negotiation of long-term contracts and those new long-term contracts should reflect the increased passenger numbers.

While cautious as to the use of this comparison, the Commission also noted that prices were mid-way by international standards.

Since the Commission's 2006 assessment, there is no evidence that suggests the prices charged by WAC are above the efficient cost of supply. Price increases have been modest over that period, with WAC's revenue, expenses and margin all remaining relatively flat. This is shown in Figure 25.

Figure 25: WAC aeronautical revenue, operating expenses and margins



Source: ACCC (2011) *Airport monitoring report 2009-10*, January 2011, Canberra: ACCC.

WAC's margin per passenger was the lowest of the five monitored airports in 2009-10.

The ACCC's 2009-10 monitoring results did not indicate that WAC had exercised its market power at the expense of airlines that use their aeronautical services. Evidence for this cited by the ACCC included that operating margin per passenger had remained relatively unchanged over the previous 5 years, while quality of service has been relatively stable.

Restriction of supply

A party with market power can increase their revenue by restricting supply, which in turn increases the price. WAC has not restricted the supply of aeronautical services at Perth

Airport. WAC has always accommodated all requests for new services by airlines and worked with the airlines to find appropriate times for the service. Where WAC has not been able to find time in peak periods, services have been scheduled in the shoulder periods, which WAC considers an efficient use of infrastructure. WAC has not increased prices to allocate capacity.

Further, in the context of agreements under which the price is set and WAC takes volume risk, restricting supply would only serve to reduce WAC's revenue.

For the current price negotiations and future prices, there are strong incentives for WAC to expand the supply of infrastructure and services. WAC considers that increasing passenger throughput is the most profitable business strategy. The Commission noted this in 2002 when it stated:

“Though the four largest airports have considerable market power, the prospect of them using that power in a way that would generate significant costs to the economy or community is supported by neither the evidence nor the analysis. There are strong commercial incentives pulling in the other direction, including scope for increased profits in non-aeronautical activities from increasing passenger volumes and incentives to discriminate and differentiate in pricing”.

WAC's plans to increase significantly its investment in infrastructure over the next three years demonstrate the effect of these incentives. The fact that infrastructure investment has lagged demand at Perth Airport in recent years has not been due to an intention of WAC to constrain supply, which is against its commercial interest. Rather, the delay has primarily caused by:

- the unexpected rate of growth over the past five years that happened to coincide with the capacity of some airport sub-processes in the peak periods already approaching the need for expansion;
- significant changes that were required to the airport development strategy arising from material shifts in the nature of demand for certain infrastructure;
- a risk averse approach by both WAC and airlines during the global financial crisis; and
- the need to reach comprehensive prices and services agreement with the airlines.

Countervailing market power of airlines

The countervailing market power of the airlines may limit the market power of an airport in the market for aeronautical services. Therefore, despite the high barriers to entry and low availability of substitutes in the market for aeronautical services at Perth Airport, WAC submits that it cannot realistically exercise its market power.

WAC serves a relatively small number of customers with significant countervailing market power. In the domestic market, which consists of five domestic and 11 regional airlines, Qantas (including Jetstar) and Virgin Blue carry 86% of passengers. Similarly, BARA members account for approximately 83% of international passenger arrivals in Perth. This concentration of the customer base gives these airlines significant countervailing power.

Perth Airport is also a relatively small airport, with less than one third of the passenger throughput of Sydney, and is significantly smaller than its major airline users in terms of

employees and resources. The effect of the pricing outcomes at Perth Airport is of major concern to WAC, but of less significance to an airline that is operating at many airports.

The major factor giving the airlines countervailing market power is the holding out power of each airline on new investment. As noted in chapter 2, WAC is proceeding with major capital infrastructure investments to ensure that capacity constraints do not curtail growth.

While theoretically WAC could proceed to commit to major capital investment without having first reached agreements with airlines, or by seeking to unilaterally impose increased prices, in a practical sense WAC is most unlikely to be able to achieve funding support from equity or debt providers with the resulting risks of disputation, non-payment and regulatory intervention.

The relevance of aeronautical revenue risk to WAC's debt funding and its cost is highlighted by the attention given to the subject by credit ratings agencies in both their assessment of the airports sector generally and WAC's credit rating specifically. WAC's confidential submission includes more detail on this subject.

When investors make sunk complementary investments, they leave themselves open to the threat of "hold up". In negotiation over the price of the new infrastructure, the airline may be able to "hold up" the airport by offering an unreasonably low price for the service. This problem is reflected in academic literature on the "hold up" problem, with the absence of a finalised contract providing the proposed user of the infrastructure the power to deny access to appropriate value for the firm making the investment, which in turn "holds up" the firm from making the investment in the first place. As noted by Professor Gomez Ibanez in his book *Regulating Infrastructure: Monopoly, Contracts and Discretion*, "...the expensive, durable and immobile investments make all parties – the company, its customers, and the government – vulnerable to opportunism and desirous of stability and commitment".⁸

WAC's approach to negotiations of the new pricing agreement is evidence of the countervailing market power of airlines. The negotiating process has been lengthy, intensive and has required a systematic approach to determining an appropriate capital program and the prices required to underpin it.

The transparent way in which WAC has proceeded with the negotiations reflects the strong position of the airlines. The larger airlines have extensive review processes and WAC needs to provide an offer with supporting information that will induce airlines to execute the agreement. WAC is in no position to force execution.

Reflecting WAC's desire to see price negotiations proceed in an efficient manner, in January 2010 WAC formally advised the ACCC that it had no objection to BARA's application to act as bargaining agent on behalf of its members. WAC's position in this regard simply reflected that it had no real alternative to reaching commercial agreements to underpin the investment, and negotiating with BARA on behalf of its members represents the most efficient/effective path to the necessary agreement. The actual effect of this approach has been to increase the market and hold out power of airlines.

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Jose A Gomez-Ibanez (2003) *Regulating Infrastructure: Monopoly, Contracts and Discretion*, Harvard University Press, page 3.

The countervailing market power of the airlines has been substantially enhanced through the “dual-till” approach to airport price regulation. The dual till approach means that WAC has a strong incentive to grow its non-aeronautical business segments, which it can only realistically do through increasing passenger numbers, which in turn requires investments in aeronautical infrastructure.

While it could be argued that smaller airlines do not have strong countervailing power, in practice this does not result in them being unfairly treated through WAC abusing its market power. The practical outcome is that the larger airline groups do the “heavy lifting” in the consultation and negotiations process and the outcomes from the negotiations with the larger airline groups (Qantas, BARA and Virgin Blue) tend to flow to the numerous other smaller airlines with minimal variation. In fact, during the current negotiations two mid-sized airlines described this very approach as their preferred strategy.

It could also be argued that the current strong hold out power of the airlines is transitory as it arises from the substantial capital investment WAC is soon to make and may well not exist when the current agreements reach the end of their term. The following points are relevant to this contention:

- The agreements currently being negotiated are expected to be for a seven-year term and it is more likely than not that WAC will have further significant investments to make soon thereafter, therefore the next agreement period will, in all likelihood, incorporate further significant capital expenditure.
- The agreements currently being negotiated are comprehensive and through their various provisions (consultation, informational sharing, disputes resolution, risk sharing) are likely to have the effect of making reaching of replacement agreements far easier.
- The Perth Airport development strategy anticipates the next material capital investments that will be required include further expansion of international terminal and apron capacity and providing for Qantas to relocate from its current facilities to the consolidated terminal precinct. In both of these circumstances international airlines, represented by BARA and Qantas will have strong hold out power. In the case of Qantas the need to agree terms in the lead up to the expiry of its exclusive lease of the Perth Airport Terminal 2 will serve to reinforce the strong position it will hold in the next round of broader prices and services negotiations with WAC.

In its 2002 report, the Commission stated that the scope for competition in the aviation market and the importance of major airports to airline networks limit, although do not necessarily rule out, airline countervailing power in the dealings with the major airports. The evidence since the 2002 report suggests that the countervailing market power of the major airlines at Perth Airport is stronger than the Commission believed it to be.

A firm may face incentives not to exercise market power in services in which it holds market power if those services relate to other services offered by the firm. WAC submits that its ground transport and retail services create a substantial incentive for WAC to act to increase passenger numbers passing through Perth Airport.

WAC submits that this incentive to increase passenger throughput is a significant benefit of the dual-till approach to regulation.

3.4.4 Summarising market power considerations

WAC submits that a useful way to summarise the relevant market power considerations as they relate to Perth Airport is as follows:

The Issue	The Question	The Answer for Perth Airport (PA)
Market Structure	In theory, do you have market power and could you abuse it?	Yes, PA has market power and could abuse it
Incentive	In practice, would you do it?	No, PA has strong incentives to maximise throughput and efficiency and has nothing to gain and much to lose if it were to provide high cost, low quality services that constrain growth
Capacity	In practice, could you do it?	No, evidence shows airlines at PA have strong countervailing power arising from the scale of their business presence and their capacity to hold out
Conduct	In practice, have you done it?	No, all conduct has reinforced the points made above in relation to incentive and capacity

3.5 What should happen now in relation to airport price and service quality regulation?

In view of the evidence as it relates to Perth Airport arising from nearly a decade of oversight, and certainly since the Commission's 2006 review, there are no grounds for continuing additional specific regulation of pricing and service quality at Perth Airport.

Discontinue financial and service quality reporting/monitoring

The current prices and service quality monitoring regime administered by the ACCC should be discontinued generally, and certainly in relation to Perth Airport. Since its inception it has made no contribution, of which WAC is aware, to advancing the Federal Government's airport pricing policy objectives at Perth Airport, nor has it served any other public interest. In fact, in its current deficient form, there is evidence that it has delivered some unsatisfactory outcomes, particularly contributing to misleading the public on airport financial performance and service quality.

More detailed information on the monitoring regime is contained in chapter 4 of this submission.

The general Competition Law is sufficient in relation to Perth Airport

There is now evidence from nearly a decade of monitoring and two (soon to be three) comprehensive reviews by the Commission that the outputs of the current light handed approach in relation to investment, efficiency, pricing and quality at Perth Airport have been

overwhelmingly favourable, confirming that regulation of Perth Airport beyond the general competition law is unnecessary.

In this regard, it is now nearly ten years since the Commission recommended that Perth Airport should have its *“pricing and other behaviour monitored for a ‘probationary’ five-year period”*.

WAC submits that there is no demonstrated need for regulation or administrative guidance in relation to resolution of disputes between WAC and airlines. The proposed prices and services agreements covering Perth Airport have comprehensive disputes resolution clauses covering the next seven years and the extensive nature of both the negotiations process and the resulting agreements is ample evidence that the parties need no assistance or special treatment.

The ACCC’s submission to the Commission’s review indicating that there is a need for continuing special regulatory treatment of airport prices and services (“deemed declaration”) seems only to be supported by hypothesising about what may happen in the future. There is no credible evidence drawn from a decade of actual outcomes to suggest there is a need, and certainly not in relation to Perth Airport.

More detailed information on remedies and dispute resolution is provided in chapter 5 of this submission.

Quality of service survey results publication by Perth Airport

If it is deemed necessary/appropriate for there to be continuing publication of Perth Airport’s service quality survey results, an administrative process, through government guidelines, would be more than sufficient and supported by WAC.

4 Benefits, costs and future of the monitoring regime

4.1 The Commission's 2011 terms of reference & issues paper

The terms of reference for the inquiry require the Commission to address the costs and benefits of the monitoring regime and to consider whether the regime has been effective in deterring the abuse of market power and facilitating investment. The Commission is also to consider the future of the regime.

- Term of reference 1 requires the Commission to report on the appropriate economic regulation of airport services, including the effectiveness of the price and quality monitoring in achieving the objectives of:
 - promoting the economically efficient use of airports;
 - minimising unnecessary compliance costs; and
 - facilitating commercially negotiated outcomes in airport operations.
- Term of reference 5 requires the Commission to consider:
 - whether the existing regime is effective in appropriately deterring potential abuses of market power by airport operators;
 - whether the current regime impacts on the ability of airports to price, operate and invest in airport infrastructure in an efficient and timely manner;
 - any improvements or enhancements that could be made to the existing regime; and
 - the appropriate future role of the regime.

In the Issues Paper, the Commission asks whether price monitoring is providing a constraint on aeronautical charges at the major airports. The Commission also indicates that it is interested in:

- whether the regime has promoted efficient investment and facilitated commercial negotiations, and in particular, whether the information emerging from the price monitoring is facilitating those negotiations;
- the compliance and administrative costs imposed by the price and service quality monitoring system.
- whether a further period of price monitoring is required, whether there is value in continuation of the regime and whether there should be any further reviews scheduled.

WAC submits that while the shift to the light-handed monitoring regime has delivered benefits, it is quite clear that the monitoring regime itself has not delivered benefits in relation to processes for setting prices and services at Perth Airport over and above those that would be realised in the absence of monitoring.

WAC submits that options for the future comprise:

- cessation of the monitoring regime as it relates to Perth Airport given the evidence provided in chapter 3; or

- continuation of the monitoring regime but with improvements to the regime to:
 - make clear the manner in which the regime is to achieve its objectives, including how monitoring results are to be used;
 - place greater emphasis on self monitoring/reporting by airports; and
 - resolve problems with the monitoring as currently undertaken by the ACCC.

4.2 Benefits of the regime

In assessing the costs and benefits of the monitoring regime, WAC submits that the Commission should compare the outcomes of the regime against two base-case scenarios: the more heavy-handed price regulation regime that applied prior to 2002 and a scenario of no regulation.

When compared to a more heavy-handed regime, such as the previous CPI-X regime, the relevant question is whether the current regime has improved commercial outcomes and facilitated investment relative to the outcomes that would have occurred under the heavy-handed regime. It is clear that substantially improved outcomes have occurred compared to the CPI-X period, but this does not necessarily demonstrate benefits of the monitoring regime as the benefits could have resulted from the removal of barriers and disincentives to direct commercial negotiations and investment.

The identification of benefits of the monitoring regime can also be undertaken by comparing outcomes under the monitoring regime with the possible outcomes in the absence of regulation.

WAC submits that the relevant matters for the Commission to consider are whether the information generated by the monitoring regime has improved the commercial negotiation processes by informing the parties to the negotiation and whether the monitoring regime has provided disincentives for airports to abuse market power.

WAC submits, that when compared to a non-regulation scenario, the monitoring regime will be found to have had little or no effect commercial outcomes and investment at Perth Airport. Information produced by the monitoring regime has not been relevant to commercial negotiations and it has not influenced WAC's conduct, which is conditioned by its strong incentives to expand Perth Airport throughput and by the countervailing market power of airlines.

The terms of reference require the Commission to quantify the economy wide costs and benefits and distributional impacts of the price-monitoring regime. If the regime did prevent overcharging by airports, the effect would be predominantly distributional. As aeronautical charges at Perth Airport are only a small part of the total airline ticket price, overcharging is unlikely to have a material impact on the level of air travel and accordingly, will have little effect on efficiency. The main effect, if there was overcharging, would be to shift profits

between WAC and airlines. The Commission noted this distributional effect in its 2006 report.⁹

4.2.1 Deterrence of abuse of market power

In 2006, the Commission noted that the shift to a light-handed regulatory regime was intended to facilitate investment and innovation by airports while retaining a constraint on misuse of market power in the airport's dealings with airlines and other customers.

The monitoring regime might be considered to prevent abuse of market power by:

- providing information to the counterparties to airports in commercial negotiations, reducing the "information advantage" of the airports that arises due to the airports knowledge of its own costs;
- "naming and shaming" airports that have profit levels or provide a quality of service indicative of exercise of market power; and
- implying a threat of action, such as the introduction of more intrusive regulation, if abuse of market power is detected.

WAC submits that the fact that it has not abused market power is not due to these mechanisms, but rather due to the other constraints on WAC's market power described in chapter 3.

Provision of information

Information asymmetry between airports and airlines has the potential to increase the capacity of an airport to abuse market power. If an airline is unable to understand the costs incurred by the airport or the basis of the prices the airport proposes, it may be in a weaker bargaining position when negotiating those prices.

The Commission recognised this when it stated in its 2002 inquiry report that:

"Monitoring may also influence bilateral negotiations between airlines and airports because airlines will have access to the monitored data, while airports may not have as much information on the airlines".

If there was an information asymmetry, the information contained in the ACCC's monitoring reports may reduce the asymmetry by providing information on airport costs and margins for the delivery of aeronautical services. However, WAC submits that the information generated by the ACCC's price and quality monitoring is not of a form that would be useful for WAC or airlines for the purpose of detailed price negotiations. Evidence of this in the current round of negotiations has been the complete absence of any discussion between WAC and airlines about the monitoring data or reference to it in over two years of detailed interactions.

⁹ Page 30

Airlines do not need the monitoring data to negotiate with WAC; they have been able to rely on their countervailing power to require sufficient data to make informed decisions about WAC's proposals.

WAC is aware that if the information provided is not detailed, of high quality and delivered in a timely manner the negotiations will be protracted and the investments in Perth Airport will be delayed.

One of the many reasons the ACCC monitoring data is of no use in the commercial negotiations is the very high interrelationship that exists between the information that is relevant including capital plans/costs, operating costs and projections, funding costs, passenger forecasts, and the pricing model itself. The ACCC data provides little reliable data in respect of any of these important parameters.

Finally, as the airlines experience the airport's quality of service directly, the survey results do not provide any quality information to the airlines to which they do not already have access. Many of the survey ratings are from the airlines themselves.

Name and shame

In its 2002 inquiry report, the Commission stated that part of the effect of monitoring of firms pricing behaviour was through moral suasion and publicity.

WAC currently publishes its airport charges; WAC's financial results are in its annual report. While Perth Airport's quality of service survey results are currently not published WAC intends to do so from 2011 onwards.

The publication of data by the ACCC and its expression of opinions as to what that data might suggest has been of little interest to WAC. More relevant to WAC's conduct is the real risk that if it were to act unreasonably one or more airlines would seek regulatory intervention under general competition law, potentially delaying development of Perth Airport and growth of the business.

Threat of regulatory action

In its 2006 report, the Commission noted that a key element of a light-handed price monitoring approach is the threat of re-regulation if there is an abuse of market power. The Commission noted that this threat offers the prospect of remedial action in response to abuse, as well as conditioning the negotiations between the airports and other parties.

The Commission also noted that there was no explicit process for initiating further investigation or taking remedial action. On this basis, the Commission recommended introduction of a show cause mechanism. While the Australian Government accepted this recommendation, it has not implemented it.

WAC submits that while it recognises that there is an implicit threat of re-regulation, as has been noted elsewhere in this submission, WAC has neither the capacity nor incentive to abuse market power noting, the countervailing market power of the airlines and the incentives WAC has to increase throughput.

In chapter 5 and in its confidential submission WAC addresses the question of whether a show cause mechanism would enhance or detract from achieving the Government's airport pricing objectives.

4.3 Costs of the regime

4.3.1 *Nature of costs*

The costs of the existing monitoring regime include:

- direct compliance costs; and
- indirect costs arising from regime risk, poor monitoring practices and misuse of monitoring information.

WAC submits that while the direct costs of monitoring are moderate, the indirect costs arising from the current operation of the regime have the potential to be significant.

4.3.2 *Direct compliance costs*

WAC incurs some compliance costs while participating in the monitoring process. It takes WAC approximately 6 to 8 weeks of staff time to produce the financial report for the ACCC. This time cost is largely a function of the need to split costs between aeronautical and non-aeronautical services as delineated under the regime. Other direct costs include auditing.

The overall direct cost for WAC to comply with the current monitoring regime is estimated to be \$250,000 per annum.

4.3.3 *Indirect costs of misuse of information and regime risk*

The threat that the monitoring results may trigger regulation that is more heavy-handed presents a significant risk to WAC and its investment plans. WAC considers that this threat exists even in circumstances where there is no abuse of market power by airports. This risk takes the form of:

- regime risk, which involves risk that the Australian Government will take regulatory or administrative action in response to monitoring outcomes;
- poor monitoring practices, which result in monitoring results indicating exercise of market power that may not have occurred; and
- misuse of monitoring information.

Regime risk

Arguably, the bringing forward by the Government of the Commission's current all encompassing review is an example of regime risk. It appears that the timing of this review has resulted from the Government's view of content in the last ACCC monitoring report.

Regime risk is evident in the potential for the Australian Government to introduce regulation that is more heavy-handed and apply it to WAC even though an abuse of market power may be assessed to have only occurred at another airport.

The Government can take a range of potential responses to evidence of abuse of market power, such as implementation of a regime similar to the previous CPI-X price cap regime, applicable to all large airports.

WAC considers the uncertainty arising from there being no clarity as to how the Government will respond to prima facie evidence of abuse of market power at one airport to be a significant cost of the regime. WAC addresses this further in chapter 5.

In chapter 5, WAC outlines in its submission appropriate remedies for abuse of market power that reduce regime risk.

Monitoring practices and misuse of information

The quality of the information provided in the ACCC's monitoring reports has the potential to create risk. Inappropriate use of data or commentary by the ACCC can provide a basis for government action, and accordingly, any defects in this information can add to the costs of the regime.

WAC notes and supports the submissions of the Australian Airports Association relating to the considerable deficiencies of the current ACCC monitoring approach and the costs of this deficient process.

The risk of inappropriate conclusions is significant. For example, in the 2008-09 monitoring report, the ACCC stated that airport car park prices at some airports were consistent with charges reflecting an element of monopoly rent. This statement was made despite the ACCC noting that it was unable to quantify the extent of any such monopoly rents and the ACCC made no attempt to consider whether locational rents or allocation of capacity were influencing the prices charged.

In 2009-10, the ACCC did not imply the charging of monopoly rents across all airports. For Perth Airport, the ACCC noted that parking rates are unlikely to be excessive. Yet, WAC is now having to go to the considerable expense of participating in the Commission's current review on a wide range of matters, including car parking and runs the risk of being caught up in a "one size fits all" response to perceptions about outcomes at other airports. This highlights both the regime risk and the risks associated with deficient (and unnecessary) monitoring processes.

4.4 Future of the regime

WAC is not in a position to make informed comment on what has occurred or is occurring at other airports in relation to market power or the basis of determining price and non-price terms for aeronautical services, so WAC does not seek to express a view on the future of regulation of other airports.

4.4.1 Options for the future of the regime as it relates to Perth Airport

WAC submits that there are two feasible options for future economic regulation of aeronautical services at Perth Airport:

- discontinue the current monitoring regime as the costs outweigh any benefits; or
- maintain the price monitoring regime, but with modifications to:

- make clear the manner in which the regime is to achieve its objectives, including how monitoring results are to be used;
- place greater emphasis on self monitoring/reporting by the airports; and
- resolve problems with the monitoring as currently undertaken by the ACCC.

In the following sections, WAC addresses these two options.

4.4.2 Abandonment of the regime

WAC submits that abandonment of the monitoring regime as it relates to Perth Airport would have no impact on the ability or propensity of WAC to exercise market power, nor on the likelihood of successful direct commercial negotiations with airlines, while it would remove some of the risks inherent in the regime.

There are other non-airport specific regulatory options available if there was considered to be an abuse of market power by WAC. There are provisions in the Competition and Consumer Act to address abuse of market power, as well as the potential for access arrangements under Part IIIA and prices inquiry under Part VIIA. None of these options is dependent upon the operation of the monitoring regime.

4.4.3 Modifications to the regime

If the Commission is to recommend that the monitoring regime remain in place for Perth Airport, WAC submits that a number of significant changes should be made to address some of the costs/risks described herein. These changes would include:

- clarifying the objectives of the regime and how the regime will achieve them;
- shifting to self-reporting; and
- providing more clarity on the methodology (and in particular that public media comment by the ACCC has no role to play).

Clarify the objectives

In its 2006 report, the Commission stated that:

“[T]he switch to a light handed approach was intended to facilitate investment and innovation by airports – while retaining a constraint on misuse of market power in their dealings with airlines and other customers. By providing greater opportunities for the parties to negotiate and build commercial relationships, the ultimate objective was that provision of aeronautical services would be determined primarily through commercial negotiations.”

WAC agrees with this statement and submits that the Australian Government could significantly improve the monitoring regime if it made clear how it proposes the monitoring regime is to achieve these objectives. In particular, a number of risks inherent in the regime arise from uncertainty as to how the Australian Government will use the monitoring information and any prima facie evidence of misuse of market power.

WAC submits the Government should make it clear, in advance, that when faced with prima facie evidence from monitoring processes that an airport had abused market power, its response will be to investigate the conduct of that specific airport, not conduct a general review of the system that detected potential abuse (as is occurring now). As discussed in chapter 5, the Australian Government has several regulatory mechanisms available to it to investigate or constrain the abuse of market power at a particular airport.

This will allow for differences in airport circumstances and conduct to be recognised and for airports and airlines to reach commercial agreements without the added uncertainty.

WAC's current circumstances are that it has devoted very significant effort to conducting high quality far reaching commercial negotiations (with a good measure of success to date) only to find itself distracted from those very negotiations at a critical time and the risk that the current Commission review and Government responses could derail the process.

Self Monitoring

WAC submits that self-monitoring by airports could replace the current ACCC monitoring arrangements under a specified obligation to undertake the monitoring and to publish results. This would address the problem perceived by airports that the ACCC's analysis of monitoring results tends to be poorly undertaken and misleading.

In 2009, the Australian Government introduced self-administered price and quality of service monitoring for the Canberra, Darwin, Gold Coast and Hobart airports. Under the scheme, each airport is required to disclose on their website the prices of aeronautical services and car parking, various service quality measures and complaint handling processes and outcomes. WAC submits that such an arrangement, would be more than sufficient, if despite the evidence to the contrary contained in this submission, it is viewed that continuing specific measures are required in relation to Perth Airport.

Arbitration

WAC agrees with the Commission's 2006 findings that arbitration is not warranted under the monitoring regime. The Commission noted that airport-specific arbitration would undermine incentives to negotiate outcomes.

WAC's experience in negotiating with airlines supports this position. Under the existing regime, negotiations have, in the main, been mature and commercial. This may not have been the case if arbitration was easily accessible to the parties.

In the absence of arbitration the parties have strong incentives to negotiate in good faith to achieve commercial outcomes. Mandating an arbitration process would likely undermine the incentive to negotiate in good faith.

Evidence of disputes from time to time and lengthy negotiations is not evidence in support of arbitration. In a negotiation involving major investments and complex subjects it is to be expected that negotiations will be lengthy and robust. What is important however, is that there is a strong incentive for each party to work through the issues of contention to reach a commercial outcome. WAC is concerned that the introduction of arbitration would diminish that incentive.

For WAC, which is currently considerably advanced in complex negotiations with many airlines, it is difficult to contemplate how a prescribed arbitration process could function without resulting in material delay.

The complexity of seeking to negotiate on a wide range of price and non-price terms with up to 28 airline entities, many in varying degrees of competition with each other, should not be underestimated.

The prospect of one or more of those airlines feeling aggrieved at some point about some of the outcomes relative to their competitors is quite high. The grievance could relate to the nature of the capital program, price and access to infrastructure, among other subjects.

If one or more airlines seek arbitration on any of these matters it becomes difficult to settle any agreements because of the interrelationship between agreements that is necessary in relation to issues such as access. Also, airlines that have not sought arbitration could be expected to adopt a wait and see approach for fear that their competitor might achieve a better outcome via arbitration.

There is also the question of what would be subject to arbitration. How would the arbitrator deal with disputes about the nature of WAC's capital plan for instance?

Hence, WAC's view is that seeking to prescribe an arbitration step into direct commercial negotiation processes may have some theoretical attraction but would be highly problematic in practice.

Mandatory information disclosure

In 2006, the Commission recommended that the Government not implement mandatory information disclosure under the monitoring regime. There was a lack of evidence that there was benefit in New Zealand, where it is in place, and the Commission doubted whether it would add value to negotiations.

WAC considers that the introduction of mandatory information disclosure beyond the information already provided to the ACCC would be an unnecessary intrusion into the commercial negotiation process. In the negotiation of the new pricing agreements, WAC has taken an open approach to information to allow the airlines to assess the merits WAC's proposals and to examine the assumptions underpinning them.

Mandatory information disclosure would hamper this exchange of information by putting in place mechanistic requirements and might promote a compliance mentality.

4.4.4 Future reviews

WAC agrees that the monitoring regime and the periodic reviews undertaken by the Commission were an appropriate means to manage risk associated with the transition from heavy handed economic regulation of airports.

WAC believes that the regulated annual monitoring regime no longer serves a valid purpose in relation to Perth Airport. Should the Commission (or the Government) form a different view, WAC submits that future monitoring processes should not be annual. The issues that the monitoring is supposed to shine a light on do not need annual monitoring.

WAC believes there should be a future review by the Commission, however believes that the current review is being held too soon after the last. WAC believes an extensive review of airport economic regulation should not be before 2019. This will allow a sufficient period following the Government's response to the findings of the current review for the resulting regime to operate for a meaningful period.

This recommendation is made in the context that there will be mechanisms at the disposal of the Government to initiate targeted inquiries should there be any concerns about the conduct of any particular airport in the meantime.

5 Remedies and dispute resolution

5.1 The Commission's 2011 terms of reference & issues paper

The terms of reference for the inquiry require the Commission to consider the remedies available to deal with abuse of market power by an airport.

Term of reference 5 requires the Commission to consider:

- whether the existing range of remedies is effective in dealing with potential and suspected abuses of market power; and
- the appropriate future role of the regime.

In the Issues Paper, the Commission asks whether the existing range of remedies is effective in deterring the abuse of market power and for punishing abuse.

The Commission also questions whether Part IIIA has become the operative regulatory instrument for the major airports or has the threat of possibly easier recourse to Part IIIA 'conditioned' negotiations between airports and airport users, or has it had little impact.

WAC submits that the range of regulatory instruments available to airlines and Government provides a sufficient suite of remedies to any abuse of market power. These mechanisms provide a credible means for airlines to seek access and arbitration, an option for Government to investigate conduct and in the case of car parking, the option to take action against airports that seek to limit the availability of substitutes to their car parking products.

The availability of these remedies, together with the limitations on the exercise of market power by WAC identified in this submission, are such that the existing regime does not require supplementary remedies like a "show cause" mechanism or an ability for parties to resort to independent arbitration.

WAC submits that a show cause mechanism and independent arbitration potentially undermine the commercial negotiations with airlines by reducing the incentives for the parties to reach commercial agreements. Such outcomes would place at risk timely investment in airport infrastructure.

5.2 Existing regulatory instruments

Part IIIA of the Competition and Consumer Act

Part IIIA of the *Competition and Consumer Act* establishes a regime to facilitate third-party access to the services of nationally significant infrastructure. The regime is designed to provide for access where commercial negotiations fail to provide for access or fail to agree terms and conditions for access.

An airline can seek access to airport services under Part IIIA through application to the National Competition Council. On satisfaction of criteria specified in the Act, the Minister may declare access to the relevant services. A declaration provides a right to negotiate the terms and conditions of access, with resort to arbitration of the terms and conditions of access if the parties cannot reach agreement.

There is precedent for an airline accessing Part IIIA in relation to airport services, with some airside services at Sydney airport declared subsequent to application by Virgin Blue.

WAC submits that Part IIIA provides an effective route for parties to seek resolution if intractable disputes arise during negotiation of commercial agreements. However, while WAC submits that Part IIIA can play a role in providing an incentive to airports to negotiate in good faith, Part IIIA should not be so easily accessible that it undermines incentives for airlines to negotiate and attempt to reach commercial agreement.

In 2006, the Commission recommended that the Government amend Part IIIA of the *Competition and Consumer Act* to ensure that the operation of Part IIIA does not overshadow price monitoring. This concern reflected the decision of the Federal Court in *Sydney Airport Corporation Limited v Australian Competition Tribunal*, which weakened the test for declaration under section 44H(4)(a) of the TPA. The Commission stated that the greater accessibility of a heavy-handed regulatory instrument could put at risk new investments, undermine the scope of the light handed price monitoring and increase complexity. The Australian Government adopted the recommendation but it has made no amendment to the Act.

The Commission's concern that Part IIIA may become the operative instrument has not been borne out. However, the wider policy considerations raised by the Commission in the 2001 review of Part IIIA and the 2006 airport review remain relevant.

Part VIIA prices inquiry

Division 3 of Part VIIA of the *Competition and Consumer Act* gives the Treasurer the power to require the ACCC or other body to conduct an inquiry. In applying this power to airports, the Treasurer can instruct the ACCC to investigate conduct by a specific airport and specify the conduct the ACCC is to investigate and the level of investigation.

If the Australian Government considered that there was evidence of a material abuse of market power by an airport, the Treasurer could instruct the ACCC to conduct an airport specific inquiry. The price inquiry would allow the Government to confirm whether there is an abuse of market power and establish the nature and magnitude of the abuse.

WAC submits that the availability of this response represents a credible prospect of intervention/sanction if an airport abused market power. The Minister is open to call an inquiry if and when considered necessary and the outcomes would be expected to inform the Minister on whether any further action was required.

Part IV restrictive trade practices

Part IV of the *Competition and Consumer Act* contains a range of prohibitions on abuse of market power. In particular, section 46 of the Act prohibits misuse of market power, which may occur where a corporation prevents competitors entering into the market. Although of less relevance to aeronautical services, these provisions are relevant to car park services, for which a range of substitutes are available but the actions of an airport operator may prevent a competitor from entering the market.

If an airport breached a provision of Part IV, several remedies are available under Part VI of the Act. These remedies include pecuniary penalties and compensation orders.

WAC submits that these provisions are directly applicable to car parking services and provide a constraint on any attempt by airports to exercise market power by preventing competitors from entering the market for passenger transport to airports.

5.2.1 Are existing regulatory instruments sufficient?

WAC submits that the existing regulatory instruments are effective for constraining and investigating abuse of market power by an airport.

The mechanisms described above provide a credible means for airlines to seek access and arbitration (Part IIIA), an option for Government to investigate conduct (Part VIIA) and in the case of car parking, the option to take action against airports that seek to limit the availability of substitutes to their car parking products (Part IV). These options provide an appropriate balance between accessibility, providing a credible threat of action against abuse of market power and an available remedy for users of airport services, while retaining sufficient incentives to pursue commercially negotiated outcomes.

The implementation of an additional mechanism (such as compulsory arbitration as discussed in section 4.4.3), no matter how carefully the proposed mechanism is crafted, is likely to undermine the incentives for the parties to reach commercial agreement.

5.3 Regulatory triggers for investigation of abuse of market power

In 2006, the Commission recommended the implementation of a “show cause” mechanism when the ACCC considered that there had been an abuse of market power by an airport. In such a case, the Minister would ask an airport found to be abusing market power to show cause as to why they should not be subject a Part VIIA price inquiry or other investigative mechanism.

The Commission based its recommendation on its belief that to be effective, price monitoring and the threat of re-regulation must be tangible. The absence of any trigger was thought to be undermining confidence in the light handed approach which might result in more use of Part IIIA in lieu of commercial negotiations.

On Government’s acceptance of this recommendation, the Department of Infrastructure, Transport, Regional Development and Local Government drafted a guideline for the operation of the show cause mechanism.

WAC considered that the proposed guideline contained significant defects and made a confidential submission to the Department explaining why.

In the National Aviation Policy White Paper (2009), the Government announced that it did not intend to introduce the show cause mechanism due to sensitivity around the ability of airports to attract capital, particularly during the global financial crisis. The White Paper noted that if ACCC monitoring indicated that an airport warranted further investigation, the Minister retains the discretion for a formal inquiry under the *Competition and Consumer Act*.

WAC agrees with the Government’s assessment.

6 Land transport and car parking

6.1 The Commission's 2011 terms of reference & issues paper

The terms of reference for the inquiry require the Commission to address matters that relate to the provision by airport operators of facilities and services for land transport at airports, including the provision of car parking facilities and services.

Term of reference 2 requires that the inquiry focus on the provision of passenger transport services at and surrounding main passenger airports operating in Australia's major cities.

Term of reference 5 requires that the Commission consider the adequacy and arrangements for the control of planning, operation and service quality monitoring of land transport access to major airports.

Term of reference 6 requires that the Commission have regard to the ACCC's Airport Monitoring Reports, including the matters raised by the ACCC in these reports such as:

- landside access to airport terminals such as car parking and its alternatives, and the cost and quality of car parking facilities; and
- the extent to which monitored airports can act strategically to raise costs of on-airport car parking by controlling the conditions of landside access to terminal facilities.

In its issues paper, the Commission states that airports have some influence over the cost and convenience of forms of transport that are alternatives to use of private cars and the airports' car parking facilities. As such, airports have the potential to affect the level of competition with the alternative forms of transport. The Commission also notes, however, a role that the alternative forms of transport play in limiting the ability of airports to use market power when setting car park charges.

The Commission states in the issues paper that it is interested in whether price increases in car park charges are reflective of monopoly rents, locational rents or both and whether monopoly profits are evident in returns for different forms of parking.

6.2 The Commission's 2002 and 2006 findings

In 2002, the Commission determined that airports have a low to moderate degree of market power in provision of car parking services, but greater market power for vehicle access, including front door access to the airport for passengers, transport providers and off-airport car parking providers.¹⁰

Overall, airports appear unlikely to have significant market power in long-term car parking. The market power of airports in car parking is likely to be higher for short-term and possibly staff parking, but there also are factors mitigating the extent of market

¹⁰ 2002 review xxv, xxvi

power in these facilities. For example, because many of the users of short-term car parks tend not to be passengers, alternatives to using the car park are available.

To the extent that airports have market power in car parking, it is likely to be constrained as long as landside access for competing operators (of other travel modes, such as taxis, and competing off-site parking services) is available on reasonable terms and conditions.

The Commission reaffirmed these findings In the 2006 inquiry:

While airports have some market power in setting [car parking] charges, that power is constrained by the availability of off-airport parking, and by other options for travelling to and from airports. A comparison of car parking charges at the monitored airports with those at central city locations where a premium is also paid for parking convenience, suggests that these constraints have been influential.¹¹

The Commission concluded that car parking and other 'landside vehicle services' should no longer be subject to prices oversight.¹²

6.3 What has changed since the Commission's 2006 findings?

An examination of the Commission's 2006 report and findings shows that the following factors were considered by the Commission to be central to its conclusions on car parking:

- constraints on airport market power in setting car parking charges - namely, the availability of off-airport parking and other options for travelling to and from airports - have been influential;
- while car parking charges have increased at all airports since 2001, in some cases significantly, the increases have generally been no larger than at central city locations, and overall charges remain lower.

WAC submits that, in respect of Perth Airport, the evidence since 2006 reinforces that WAC is providing car park services in a competitive airport land transport market and that WAC's behaviour has not, in any way, unreasonably hampered competition in the market. For these reasons WAC submits that the Commission should affirm its 2006 findings.

The remaining sections of this chapter set out information relevant to the Commission's assessment of land transport access at Perth Airport, addressing:

- Perth Airport transport access modal shares;
- a description of Perth Airport car parking operations;
- pricing of car parking services;

¹¹ 2006 review xxvi

¹² 2006 review 99

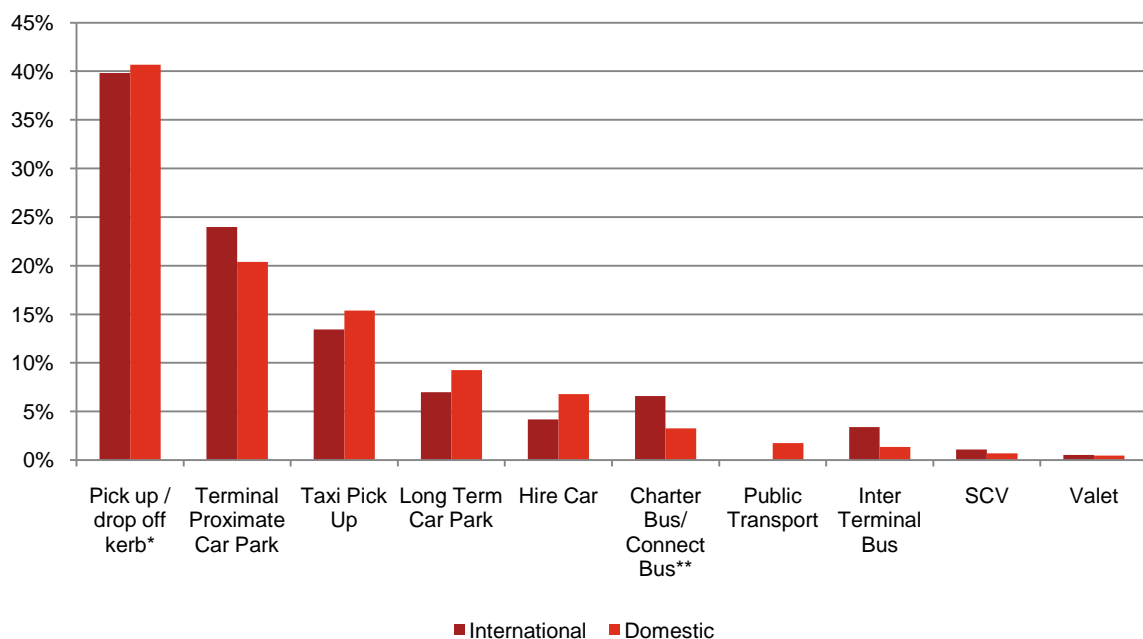
- investment in car parking capacity;
- transport alternatives for Perth Airport; and
- an examination of the existence and abuse of market power in car parking and access to Perth Airport.

6.4 Perth Airport transport access modal shares

Figure 26 shows the estimated proportion of the various Perth Airport access modes, highlighting the following key points:

- Approximately 40% of Perth Airport passengers use transport options that do not generate revenue for WAC.
- Approximately 31% of passengers use Perth Airport's car parking products.
- To increase market share, WAC's car parking products must present a "value proposition" relative to alternatives that are readily available, particularly pick-up/drop-off and taxis.

Figure 26: Passenger mode of transport as at February 2011



* Drop-off includes taxi drop-offs

**Both pick up and drop-off

Source: Traffic study undertaken on WAC's behalf (sample represents 85th%ile day in 2011).

6.5 Description of car parking operations

6.5.1 *Perth parking context*

There are a number of features of Perth Airport car parking demand that are relevant to understanding Perth Airport's car parking services and when making comparisons to other airports, which are described below.

Perth has historically had a materially higher proportion of people who come to the airport to meet/greet and see off passengers when compared to other large Australian airports. This is understood to be due to the fact that passengers are proceeding on a longer journey and have made more effort to come to Perth, resulting in family and friends being more inclined to greet and farewell, combined with the airport being, until recently, relatively easy to access by car. As a result, there has been a relatively high demand for one to three hour parking close to the terminal. This feature is becoming far less pronounced for the following reasons:

- air travel has become more affordable, people are travelling more frequently and the moral imperative to meet and greet is lower;
- due to increasing congestion on Perth urban roads it is no longer as easy to access Perth Airport; and
- WAC's investment in improved terminal forecourts has made it demonstrably easier to pick up and drop-off passengers.

Perth has less demand for one to two day business/corporate parking close to the terminal, compared to Sydney, Brisbane and Melbourne; given the distances, Perth business travellers are typically away for longer than their East Coast equivalents.

There is relatively higher demand for long-term car parking, again reflecting that there are fewer short duration trips. Another substantial contributing factor to the high demand for long-term car parking is the substantial fly-in fly-out market segment that is away from Perth typically from seven to ten days at a time regularly throughout the year.

The fly-in/fly-out market for car parking is particularly price sensitive, reflecting that the customers are very frequent users, mostly incur the cost personally and therefore consider transport to and from the airport as an important component of their cost of living.

The strong growth in resident outbound leisure international travel experienced in the last three years has driven growth in demand for international long-term parking.

In the period 2006 to 2009, there was insufficient car park capacity at Perth Airport and the car park product was not to an acceptable standard. The causes of this were:

- the increased rate of growth of air services, which was not anticipated by WAC, airlines, governments of relevant industry associations;
- insufficient attention by WAC to the quality of car parking services; and
- WAC's car park prices resulted in substantial demand for all forms of parking given its cost relative to its substitutes.

WAC acted decisively to address these circumstances by:

- substantially increasing the supply of car park spaces;
- materially improving the quality of all car park products; and
- changing car park pricing, including sending price signals to customers parking for longer periods to use the long-term car parks.

6.5.2 *Types of parking*

WAC offers the following car parking products:

Product Name	Description	Capacity
Domestic Premium	Higher priced parking adjacent to the terminal	227
Domestic 2 Hour Maximum Stay	Bays in the short-term car park closest to the terminal to assist pick up and drop-off	300
Domestic Short-term	Within easy walking distance of the terminal	1,192
Domestic Long-term	Shuttle bus between car park and terminal	5,160
Domestic Valet (Airport Secure Parking)	Premium service offered by a WAC contractor	470 + 30 collection bays within short-term car park
International Short-term	Within easy walking distance of the terminal	663
International Long-term	Shuttle bus between car park and terminal	2,529 (1,113 bays within 130m walk to terminal)
International Valet (Airport Secure Parking)	Premium service offered by a WAC contractor	100
General Aviation	Within easy walking distance of the general aviation precinct	2,110
Staff Parking International and Domestic Precincts	Shuttle bus between car park and terminal	1,340

Perth Airport currently does not have undercover/multi-deck car parking, but expects to within five years in the consolidated terminal precinct. The absence of undercover/multi-deck parking to date reflects the decision in 2008 to proceed with a phased transfer of airlines from the current domestic precinct to the current international (consolidated) precinct. While the demand for parking in the domestic precinct has reached the point where investment in the higher capital cost multi-deck parking would be appropriate, it is not a prudent investment now that around 40% of the current passenger activity will relocate to the consolidated precinct within three years.

This first phase of consolidation, over the next three years, is expected to be the trigger for the first multi-deck car park in the current international precinct.

Since 2006, WAC has materially upgraded the quality of each of its car parking products, particularly the highly demanded long-term product. The specification for the long-term product now includes:

- Public safety – CCTV, emergency call points, high quality lighting, PA system and regular security patrols.
- High quality regular bus shuttle to/from a dedicated lane at the terminal front; buses are GPS enabled providing real time advice of next bus arrival.
- High quality, air-conditioned bus waiting area in each car park, with flight information display screens.

WAC has also invested \$4 million in new car park access and payment equipment, which is currently being installed. The new equipment will materially improve customer service.

Figure 27: Bus facility in long-term car park



A problem for Perth Airport is the considerable number of people who park illegally on the approach road to the airport, waiting on a call from an arriving passenger they are picking up. WAC is currently constructing a “mobile car phone lot” comprising 100 spaces in one of the domestic long-term car parks. Users will be able to wait in the area for a call from their arriving passenger, so they can time their arrival on the forecourt. The cost will be a gold coin with profits going to WAC’s children’s charities.

6.6 Pricing of car parking services

6.6.1 Prices and revenue

The car park pricing structure for the domestic and international terminals is the same, with the only differences being the availability of Fast Track services at the domestic terminal and the two-hour limit applied to 300 domestic short-term pick-up/drop-off parking bays closest to the terminals.

The tariff structure for car parking provided by WAC is shown in Table 8.

Table 8: WAC car park pricing structure and trends

Duration	Tariff (\$)					
	2006	2007	2008	2009	2010	2011
Short-term						
15 minutes	Free	Free	Free	Free	Free	Free
30 minutes	3.70	3.70	3.70	3.80	3.90	4.00
1 hour	5.20	5.20	5.20	5.40	5.40	5.60
2 hours	7.00	7.00	7.00	7.40	7.80	9.00
3 hours	8.00	8.00	8.00	8.40	8.80	10.00
4 hours	9.00	9.00	9.00	9.40	9.80	11.00
5 hours	10.00	10.00	10.00	10.40	10.80	12.00
6 hours	11.00	11.00	11.00	11.40	11.80	13.00
7 hours						14.00
8 hours						15.00
Daily rate	17.00	17.00	25.00	26.00	35.00	36.00
Fast Track						
Daily rate			42.00	42.00	45.00	46.00
Long-term						
1 day	17.00	17.00	17.00	17.00	16.00	16.00
2 days	34.00	34.00	34.00	34.00	32.00	34.00
3 days	51.00	51.00	51.00	51.00	48.00	52.00
+4 days (per day)	2.00	2.00	5.00	7.00	8.00	9.00
General aviation						
1 hour						Free
2 hours						8.60
3 hours						8.60
1 day				7.00		8.60
+2 days (daily rate)						8.60
Staff						
Daily rate						4.20
Monthly rate						76.00

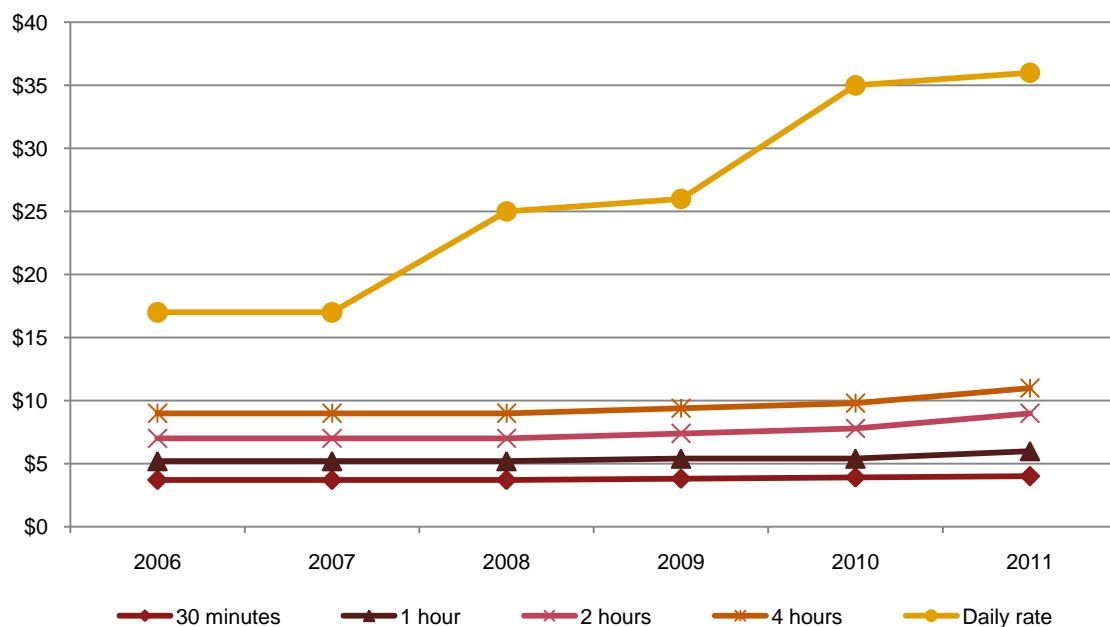
Source: WAC, effective 1/11/2010

Figure 28 shows that, with the exception of rates for parking for 24 hours, short-term parking prices have increased only modestly since 2006. For example, one-hour parking rates have increased by an average of just 1.5% per annum over the six years.

The steep increase in prices for parking for 24 hours in the short-term car parks is a demand management measure to move long-term parkers into the long-term parking areas, which has been successful in opening up capacity near the terminal for short-term customers, particularly meeters and greeters. Before the increase of the 24-hour rate, less price-sensitive (typically corporate) passengers were consuming significant car park capacity near the terminal for extended periods.

Parking for 15 minutes or less is for no charge, and WAC actively encourages customers to use this facility, including for pick-up and drop-off to ease pressure on front of terminal roads.

Figure 28: Short-term parking rates, 2006-2011



Source: WAC

The pricing of Perth's long-term car parking is very attractive and reflects WAC's strategy of seeking to attract customers from other transport modes. The increasing popularity of the long-term product reflects its strong value proposition relative to its competitors, noting:

- one day parking in the long-term car park costs \$16 (reduced by \$1 in 2009) with a free shuttle to the terminal front with a maximum wait time of 10 minutes; and
- an average daily price of \$12.60 for seven days parking.

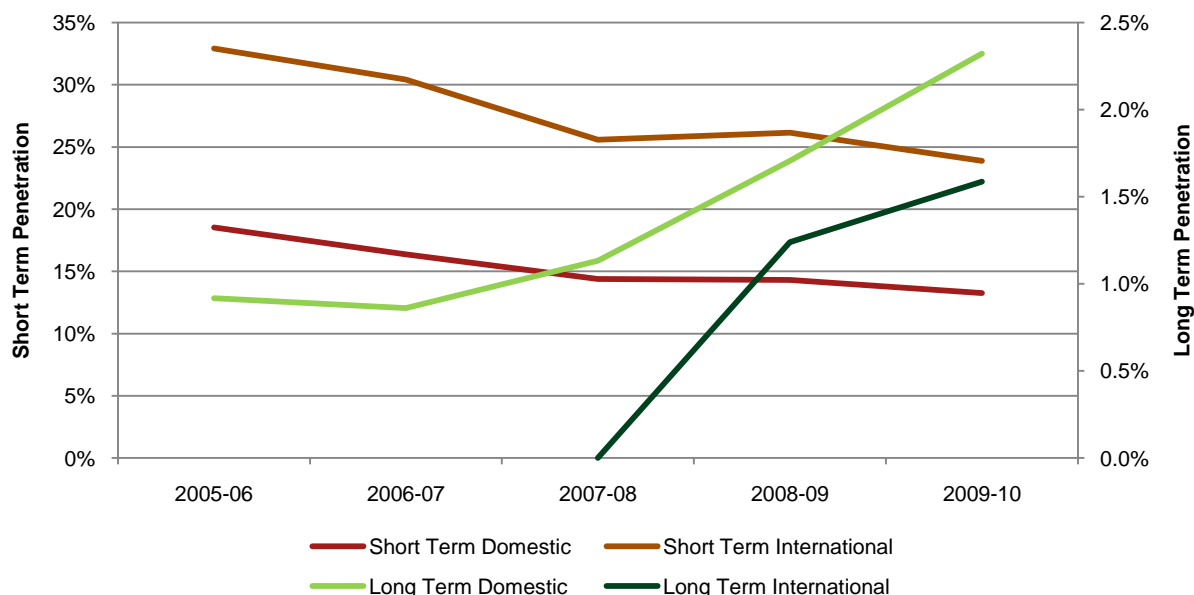
The increase in the long-term parking +4 day rate from \$2 per day in 2006 to \$9 per day currently, reflected that the product was manifestly underpriced (at a time when there was insufficient capacity). At the same time as this increase has occurred:

- capacity has increased and it exceeds demand;
- penetration (parking transactions per passenger) has increased; and

- investments have been made to substantially improve the quality of the product.

Figure 29 shows the change in penetration of each car parking product.

Figure 29: Short and long-term penetration



Overall, the following key points are relevant in considering WAC's car parking business since 2006:

- Revenue has increased by an average of 20% per annum, driven by passenger growth and the improved value proposition offered relative to competitor modes and off-airport car parking providers.
- Operating costs have increased by an average of 22% per annum, reflecting the increased scale of the parking areas and the targeted increases in service levels.
- \$23 million of capital expenditure has been undertaken to increase capacity and improve the products.
- The value of the land used for car parking has increased substantially, reflecting the buoyant property markets during the period and the value of the land due to its location in the Perth metropolitan region, particularly its adjacency to transport infrastructure.

Information on changes in land values is contained in WAC's confidential submission.

The value of land on which Perth Airport's car parks are located has increased by 59% between 2006 and 2010.

6.6.2 Car parking pricing policy/objectives

As with all elements of its business, WAC is seeking to grow its car parking business and maximise returns from it. Pricing policy is a central/critical factor in the overall car parking business, with prices being one key (but by no means the only) factor in attracting/retaining

customers. In some instances pricing is used as an allocative tool to incentivise customers to shift from one product to another.

The most important consideration for WAC in setting car park prices (and deciding whether to increase them) is the impact on demand. Research conducted by WAC shows that many customers compare the cost of parking to the cost of a taxi and research also shows that many of the users of the pick-up/drop-off facilities consider the car parking to be too expensive. WAC also monitors the prices of other off-airport car parking providers that target airport customers.

The only area where WAC has used car park prices to condition product choice is in the one to two day overnight parking segment. The rate for 24 hours of parking in the short-term bays is high relative to the long-term parking areas. WAC selected this price to encourage these customers into long-term parking areas to release short-term car parks proximate to the terminal for pick up and drop-off customers. This price is not an abuse of market power, as a cheaper alternative is available, and if a passenger chooses to pay this price, they do so despite the availability of a substitute.

WAC research indicates that the increased 24-hour rate in the short-term car park did cause a shift in demand toward the long-term car parks, but it also caused some customers to shift to taxi and pick-up/drop-off. This change has contributed to short-term car park penetration declining over the past two years, while penetration has increased markedly in the long-term car parks.

6.7 Investment in car-park capacity

WAC has set a service standard planning parameter (related to ease of finding a car park) that sees construction of additional capacity triggered when the car parks reach 80 to 85% utilisation on the busiest day of the year. In 2009, this target was not achieved, however since then it has been, with only limited exceptions.

WAC has made significant investments in car parking capacity at Perth Airport over the last four years. In the period 2007-2010, WAC invested \$22.84 million creating 5,688 new car bays, a 237% increase on 2006 capacity. WAC is further increasing car park capacity by 5,566 bays during 2011 and 2012 at an estimated cost of over \$31 million. These investments are described in Table 9.

Table 9: WAC car park expansion 2011-2012

Date	Parking type	Investment
May 2011	International long-term	1,545 new bays (construction commenced)
June 2011	Domestic long-term	206 new bays (construction commenced)
July 2011	Domestic long-term	1,200 new bays (construction commenced)
December 2011	Domestic taxi	New taxi holding area – 220 bays
April 2012	Domestic long-term	Upgrade 800 bays
April 2012	Domestic long-term	400 new bays
May 2012	Domestic long-term	Upgrade 943 bays
April 2012	International taxi	New taxi holding area – 200 bays
December 2012	International long-term	2,215 new bays

Source: WAC

6.8 Transport alternatives to Perth Airport

WAC faces a large number of competitors in the market for land transport to Perth Airport. These substitutes include city shuttle services, buses, taxis, pick-up and drop-off, off-site parking and car rental. WAC's customer research indicates that consumers of WAC's car park products typically weigh up the cost, convenience, reliability and quality of:

- parking at the airport;
- parking off airport;
- taxi; and
- being picked up or dropped off by someone else.

6.8.1 Shuttle services

Given the dispersed nature of demand for land transport services to/from Perth Airport and the scale of current airport activity, WAC believes that mainstream public transport modes (rail and multi-stop suburban buses) will not take up a material portion of the transport duty for many years. In this regard it is to be noted that there is currently no public transport to Perth Airport's international precinct and Transperth has reduced the number of bus services to the domestic precinct as it is understood that they are poorly patronised.

International benchmarking undertaken by WAC indicates that high quality, reliable, affordable and direct smaller bus shuttle services can take up a material market share in the land transport market. Recognising the opportunity WAC entered into an agreement with a bus company, Carbridge, to provide shuttle services from Perth Airport's domestic and international terminals to the Perth CBD and Fremantle (Figure 30). The product brand is "Perth Airport connect".

Figure 30: Shuttle services from Perth Airport's domestic and international terminals to the Perth CBD and Fremantle



WAC's objective is to significantly expand the Perth Airport connect shuttle network such that there will be a service connecting all areas of the metropolitan region with all scheduled domestic and international services at Perth Airport.

The prices charged by Carbridge for shuttle services to the Perth CBD and Fremantle, detailed in Table 10, are competitive with other transport options and WAC believes the business will be highly successful once the network expands and the brand reputation is established. The service has carried nearly 30% more customers in the past year and has increased its penetration by 23%.

Table 10: City shuttle prices to Perth CBD and Fremantle

Group size	Domestic terminal to CBD		International terminal to CBD		Either terminal to Fremantle	
	One way	Return	One way	Return	One way	Return
1	\$15	\$25	\$18	\$30	\$33	\$58
2	\$25	\$45	\$32	\$59	\$44	\$80
3	\$30	\$55	\$42	\$79	\$54	\$96
4	\$36	\$67	\$48	\$89	\$64	\$112
< 12 years old	\$8	\$13	\$9	\$15	\$29	\$53
< 5 years old	Free	Free	Free	Free	Free	Free
Family (1 or 2 adults)	\$28	\$50	\$35	\$55	\$52	\$95

Source: Perth Airport website, last accessed 17 February 2011

A number of other companies provide competing services to Fremantle and Scarborough. These companies are not charged by WAC for access to Perth Airport and have access to the terminal forecourts.

WAC's motivations to advance this business proposition are firstly that it is considered a commercially viable opportunity and secondly there are positive business reputation impacts from supporting more efficient (and therefore more environmentally sound) forms of land transport.

It is to be noted that such shuttle services do compete with WAC's car parking business.

6.8.2 Public bus services

Public transport to Perth domestic terminal is available, although it is limited to one public bus route provided by Transperth connecting the domestic terminals to Perth's CBD. No public bus routes service the international terminal. The fare depends on the point of origin, with an adult fare from the CBD costing \$3.70.

The Transperth service is not a direct service and services a number of suburbs between the CBD and the airport. The multiple stops taken by the service almost completely discounts their suitability for air travel users.

6.8.3 Taxis

Approximately 15% of passengers are picked-up from Perth Airport by taxi or limousine services. Comparative numbers for drop-offs are not available. At peak, the number of taxi pick-ups exceeds 70,000 per month from the domestic terminals and 20,000 per month from the international terminal. In the year to June 2010, over 900,000 taxi pick-up transactions were made from Perth Airport terminals.

A taxi fare to and from the domestic terminals to the Perth CBD is approximately \$60, and \$76 to and from the international terminal. This is comparable to four to six days parking in WAC's long-term car parks.

WAC charges taxis picking up passengers from Perth Airport a \$2 fee (including GST). There is no charge for taxis dropping off passengers. WAC has maintained the fee at \$2 since 2002-03. This fee generated \$1.65 million for WAC in the year to June 2010.

WAC has undertaken significant investment in its facilities to support taxi services. The domestic terminal forecourt redesign, completed in 2010 at a cost of \$13 million, separates taxis and private vehicles at the front of the domestic terminal, significantly improving taxi service efficiency.

WAC provides a taxi holding areas of 120 spaces in the domestic precinct and 80 spaces in the international precinct. WAC is planning new investment to support the provision of taxi services by further upgrading the holding area and automating the \$2 transaction through upstream payment (to be done in 2011). WAC estimates that the proposed works on the taxi holding areas will cost \$2.95 million.

WAC has also undertaken activities to increase taxi availability in addition to enhancing physical infrastructure at Perth Airport. WAC has actively encouraged the WA Government

to increase the availability of taxis in Perth and works closely with the Taxi Council to improve the taxi service.

6.8.4 Pick-up and drop-off

WAC provides pick-up and drop-off facilities for passengers at both the domestic and international terminals. Conditions of use for these facilities are that the vehicles must be attended at all times and there is a two-minute maximum set down time. These limitations relate to aviation security requirements and congestion management.

In 2009, WAC made significant investments to improve the pick-up and drop-off areas at the front of the domestic terminals. Prior to the investment the forecourt was poorly configured, resulting in inefficiency, including taxis, shuttle bus and buses being obstructed by private vehicles. The forecourt redevelopment:

- doubled the effective area available for pick-up and drop-off;
- included covered areas providing nearly complete weather protection to and from the terminals; and
- provided dedicated bus and taxi lanes, improving their efficiency and service levels.

WAC intends to make further investments over the next 12 months to improve the customer experience taking into account the operating experience since commissioning of the new facility.

Figure 31: Domestic terminal forecourt upgrade



6.8.5 *Alternative parking sites*

Seven car park providers specifically target airport customers in competition with WAC's parking services. These are:

- Hamer Airport Parking offers short and long-term undercover and open air parking and secure warehouse storage.
- Discount Airport Parking is operated by Budget Car Rentals at their neighbouring car rental facility.
- Skypark Valet Parking offers undercover and open-air parking and a free shuttle service.
- Airport Security Parking offers secure parking at both the domestic and international terminals. Facilities are located on airport property approximately 400m from terminal entrances.
- Qantas Valet Parking is available to any passengers flying on a Qantas, QantasLink or Jetstar service. Car wash services are available at additional costs.
- Park and Fly offers secure warehouse parking with a shuttle service to the domestic and international terminals.
- GA Airlines offer parking immediately adjacent to the general aviation precinct on airport property.

Car park shuttles from these alternative parking sites use the forecourt area of the terminals free of charge.

Airport Security Parking and GA Airlines are charged rent for their facilities on airport property.

Table 11 shows the tariffs for a sample of these services. The tariffs for parking charged by WAC are generally slightly below those of competitors offering a similar open-air parking service and significantly below those offering undercover or valet services.

Table 11: Off-airport car parking tariffs compared to WAC long-term product

	WAC long-term parking	Skypark valet parking (open air / undercover)¹³	Qantas valet parking¹⁴	Airport Security Parking (open air / undercover)¹⁵	Hamer Airport Parking (open air)¹⁶
1 day	\$16.00	\$23.75 / \$28.50	\$47.00	\$21 / 30	\$20.40
2 days	\$34.00	\$47.50 / \$57.00	\$79.00	\$42 / 60	\$38.80
3 days	\$52.00	\$71.25 / \$85.50	\$113.00	\$63 / 90	\$57.20
4 days	+\$9	\$91.20 / \$110.20	+\$34	\$84 / 120	\$66.40
5 days	+\$9	\$120.65 / \$134.90	+\$34	\$105 / 150	\$75.60
6 days	+\$9	\$131.10 / \$159.60	+\$34	\$110 / 150	\$84.80
7 days	+\$9	\$151.05 / \$184.30	+\$34	\$110 / 150	\$94.00

There are web aggregators of these car park services. For example, Airport Parking (www.airportparking.net.au) represents a number of these operators and provides them with a consolidated online presence. This allows customers to view several of these parking options through a single portal. Airlines have entered into relationships with these parking aggregators and direct customers to these portals through their websites.¹⁷

6.8.6 Car hire

All of the major hire car companies and a number of limousine operators service Perth Airport. Hire car operators pay WAC a%age of turnover plus rental for airport space. WAC received \$8 million in revenue from hire car operators in 2009-10.

WAC charges limousine operators \$2.20 for exiting the short-term car park. These limousine operators do not pay the car parking tariffs paid by the public. WAC derived \$95,472 in revenue from this charge in 2009-10.

¹³ Prices from <http://www.skypark.com.au/default.aspx>

¹⁴ Prices from <http://www.qantas.com.au/travel/airlines/valet-parking/global/en#jump3>

¹⁵ Airport Security Parking, <http://www.airportsecurityparking.com.au/dom.html>, last accessed 1 March 2011

¹⁶ Prices from <http://www.airportparking.net.au>

¹⁷ See, for example, <http://www.airportparking.net.au/virginblue/>

6.8.7 *Marketing and research*

In 2010 WAC undertook research, marketing and advertising in relation to its car parking business valued at approximately \$90,000. The advertising included radio, billboard, newspapers and magazines, including promotional offers.

6.9 Existence and abuse of market power

In considering whether WAC has market power in relation to its car park services and whether it has been abused, WAC submits that the Commission should undertake an analysis involving the following steps:

First, the Commission should define the market for analysis.

Second, to determine whether WAC has market power in this market, the Commission should assess:

- whether there are any barriers to entry into the market;
- whether there are any substitutes for the service offered by WAC (i.e. are there any existing competitors?); and
- whether WAC has any control over the availability of substitutes.

If the Commission considers that WAC has market power, the Commission should consider the following indicators to determine whether that market power has been abused:

- whether the price of the car park service is above the efficient cost of supply for a sustained period (noting that the efficient cost includes the opportunity costs);
- whether WAC has restricted or reduced the supply of WAC's car park service (or the supply of substitutes, to the extent that is within WAC's control); or
- whether the quality of the car park service has been reduced with no commensurate reduction in price.

The Commission should also consider other factors that may hinder or reduce the exercise of market power by WAC. These include:

- whether customers for WAC's car park service have countervailing market power; and
- whether WAC's car park service is related to other services provided by WAC.

This section addresses these steps as they relate to the provision of car parking services at Perth Airport.

6.9.1 *What is the relevant market?*

To assess market power, the Commission should define the relevant market for analysis. Markets can be defined across a number of dimensions, including product, functional level, geography and time.¹⁸ To determine whether firms are competing in the same market, the core tests for each dimension are as follows:

- Products are part of the same market if they are reasonably close substitutes.
- Products are of the same geographic dimension if the geographic area in which the buyer purchases the product is geographically the same.
- The functional dimension refers to the functional level of the market, e.g. whether they are retail or wholesale.
- The temporal dimension is a reminder that long-run substitutability is important, not short-term transitory situations.

In the case of WAC's car parking services, the core issue for defining the relevant market is the degree of substitutability between products. WAC supplies car park services for passengers to use Perth Airport's aeronautical services. A number of other options are available for airline passengers to get to the airport, including taxis, pick-up and drop-off by friends or relatives, shuttle bus and off-airport car parking.

A measure of whether two products are substitutes is the cross-price elasticity of demand between the two products. If a product's price changes, does this significantly influence the price of the other? Off-airport parking prices are linked closely to prices offered by WAC. While WAC's parking charges are unlikely to influence the regulated taxi fares, the parking charges are materially influenced by the estimated taxi fares to the airport.

This cross-price elasticity might be relevant across quality dimensions. Where off-airport parking is more expensive, it needs to offer a higher quality service, such as car washing and undercover parking to compete with WAC's products.

The Commission might also apply a practical test as to whether the products are substitutes. In deciding on the appropriate mode of transport to Perth Airport, passengers are likely to be aware of the range of transport options and to weigh up the costs and benefits of each.

On the geographic and functional dimensions, the substitutes for WAC's car park services are in the same geographic market and sold at the same functional level. On the temporal dimension, substitutes are already present and there is continuing scope for the entrance of new substitutes into the market.

Accordingly, the relevant market for assessment of whether WAC has market power is the market for transport to Perth Airport.

¹⁸ For example, see *Re Tooth & Co Ltd* (1979) ATPR 40-113

6.9.2 Existence of market power

To determine whether WAC has market power in the market for transport to Perth Airport, WAC submits that an assessment should be made of the following factors:

- Are there barriers to entry to the market? Market power can only exist if other firms cannot enter the market and remove the opportunity for charging monopoly prices. Possible barriers to entry include natural monopoly characteristics in the industry, network benefits and regulatory barriers.
- Closely related to this question is the need for an assessment of whether there are any substitutes for the service offered by the firm. Are there any existing competitors? If so, an attempt by WAC to charge monopoly prices will move consumers to these substitutes and reduce the opportunity for the charging of monopoly prices. While there might be barriers to offering an identical service, there may be considerable scope to offer substitute services.
- An important factor in determining the availability of substitutes is whether the firm has any control over the availability of substitutes.

On the first test of barriers to entry, the presence of a large number of substitute services, as described in section 6.8, indicates that there are low barriers to entry into this market. WAC is subject to competition from other car park providers and by substitutes such as taxis, pick-up/drop-off, shuttle buses and hire cars.

The final factor is whether WAC has any control over the availability of substitutes. All of the substitute services require access to Perth Airport's forecourt area and for some of these services WAC charges a fee. WAC could exercise some market power by restricting access by these substitutes or by charging fees above the efficient costs of access. However, as is discussed in section 6.8, WAC has undertaken considerable work to improve the access of substitutes. For example, the recent work conducted by WAC in improving the forecourt to the domestic terminal and its continuing work to improve taxi access demonstrate that WAC is actively facilitating the availability of substitutes to its car parking services.

It is also clear that WAC is not imposing unreasonable charges on competitors to its land transport products for access to WAC's facilities. This is not to say that WAC believes its competitors should have free and unfettered access.

6.9.3 Abuse of market power

To determine whether WAC has abused market power, the following serve as indicators:

- whether the price of the car park service is above the efficient cost of supply for a sustained period (noting that the efficient cost includes the opportunity costs);
- whether WAC has restricted or reduced the supply of WAC's car park service (or the supply of substitutes, to the extent that is within WAC's control); and
- whether quality of the car park service has been reduced with no commensurate reduction in price.

Even if WAC had market power in the provision of car parking services, there is no evidence that WAC has exercised any market power. There is no suggestion that WAC is charging

prices above the efficient costs of supply, WAC has been aggressively increasing parking supply and there has been a general increase in the quality of parking services. The following sections address the evidence for each of these points.

Efficient cost of supply

In its 2002 report, the Commission found that rates charged by Australian airports for their car park services did not appear excessive when compared to other parking such as in the CBD. Further, in 2006, the Commission made a comparison between increases in parking charges by airports to those in central city locations and it found that increases at airports were no larger and that overall charges remain lower. The Commission suggested that this was because constraints to market power have been influential.

There continues to be no evidence that prices for car parking services at Perth Airport are above the efficient cost of supply.

A comparison with car parking charges at central city locations, where customers also pay a premium for parking convenience, and the parking charges contain an element of locational rents, shows that WAC's short-term parking charges are comparable. For stays of four and eight hours, WAC's short-term rates are generally cheaper (Table 12).

Table 12: Perth CBD parking tariffs

	WAC short-term parking	Wilson Parking, 378 Murray St, Perth	Wilson Parking, Corner Pier and Wellington Streets, Perth	City of Perth Parking – Convention Centre (undercover)	City of Perth Parking – Queens Gardens
1 hour	\$5.60	\$10.00	\$5.00	\$4.30	\$1.90
2 hours	\$9.00	\$16.00	\$8.00	\$8.60	\$3.80
4 hours	\$11.00	\$23.00	\$13.00	\$17.20	\$7.60
8 hours	\$15.00	\$30.00	\$19.00	\$18.50	\$9.70

In relation to tariffs charged by off-site airport parking competitors, WAC's parking prices are generally slightly lower than those offering a similar open-air parking service.

WAC's car park prices are likely to contain an element of locational rents (a premium that a customer is prepared to pay for the benefits of location of a car park, especially a car park close to the airport terminal).

Restriction of supply

WAC has not restricted supply of its car park services, rather it has substantially expanded supply since 2006 and its planning parameters seek to ensure supply remains ahead of demand. Similarly, and as discussed above, WAC's investments have been facilitating access to Perth Airport by substitute transport services. WAC has not restricted supply of these substitutes in any way.

Quality of car park services

As indicated in section 6.5.2, WAC has actively pursued a policy of materially improving the quality of its parking products.

Surveys undertaken since 2006 show that car park customers have recognised improvements in car parking service quality. Table 13 summarises the results of these surveys.

Table 13: Service Quality Survey Outcomes

	2007	2010
Car park availability	Average to Good	Good to Very Good
Car park value for money*	-	Fair to Good

* Value for money was not surveyed in 2007. Subsequently, WAC changed survey tools.

6.9.4 Summarising market power considerations

WAC submits that a useful way to summarise the relevant market power considerations as they relate to Perth Airport's car parking business is as follows:

The Issue	The Question	The Answer for Perth Airport (PA)
Market Structure	In theory, do you have market power and could you abuse it?	No, PA participates in a competitive market for land transport services to/from PA At the margins, WAC could seek to restrict access or impose unreasonable conditions on competitors using PA and face regulatory sanction
Incentive	In practice, would you do it?	No, PA has strong incentives to maximise throughput and efficiency and has nothing to gain and much to lose if it were to provide high cost, low quality services that constrain growth WAC would suffer reputation damage for little or no gain if it sought to restrict access or impose unreasonable conditions on competitors using PA
Capacity	In practice, could you do it?	Yes, PA could seek to engage in behaviour as if it were a monopoly supplier only to lose market share and sacrifice business value
Conduct	In practice, have you done it?	No, all conduct has reinforced the points made above in relation to incentive and capacity

6.10 What should happen now in relation to airport car park regulation?

The current regulations requiring the ACCC to monitor Perth Airport car park pricing, financial performance and service quality should be discontinued as they serve no purpose.

WAC's car park prices, and those of its numerous competitors, are publicly available and the Government is able to undertake whatever scrutiny of trends in those prices it thinks is necessary from time to time, without the additional regulatory burden that currently exists.

There is no evidence to suggest that any special regulatory intervention is required to provide competitors in the market for land transport services at Perth Airport any additional protection above what they are currently afforded under general competition law.

The ACCC's proposal for legislative change, that WAC should be required to provide an access undertaking in respect of Perth Airport transport infrastructure, if adopted, would amount to writing a prescription for an illness that does not exist.

7 Land transport planning

7.1 The Commission's 2011 terms of reference & issues paper

The terms of reference for the inquiry require the Commission to examine the provision and quality of land transport facilities providing access to airports, 'in line with the Government's urban policy agenda to make our cities more productive, liveable and sustainable' (Albanese and Shorten 2010).

Term of reference 3 requires that the inquiry focus on the provision and quality of land transport facilities providing access to the airports.

Term of reference 5 requires that the Commission consider whether existing arrangements for the planning and operation of land transport linkages to the airports are effective.

In its issues paper, the Commission notes that planning and development on federal airport sites is regulated by Commonwealth law and, in contrast, areas surrounding airports are subject to state/territory or local government planning and building laws. This has led to a lack of coordination, in some instances.

The National Aviation Policy White Paper also noted that Airport developments can significantly impact the surrounding transport infrastructure. The Paper articulated the Commonwealth Government's desire to ensure that the airport planning system is properly integrated with the off-airport transport planning system and contributes to a coordinated transport system that supports cities' broader economic productive capacity and avoids imposing unnecessary social and economic costs.

The Commission's issues paper poses a range of questions, including:

"Are planning and regulations working effectively?"

"Can 'excessive' or 'inappropriate' development at airports impinge on effective transport linkages, or might such development facilitate better transport linkages?"

"What mechanisms exist at airports to coordinate with local and state governments on planning issues?"

"Can more be done by airports and governments to better coordinate planning of transport options?"

"Will recent changes to legislation impose additional requirements on Master Plans (such as ground transport plans) help to alleviate past problems?"

7.2 Background on the Perth Airport estate in the context of the city of Perth

Perth Airport is located 11 kilometres from the Perth CBD and forms a contiguous transport and industrial activity zone with the main city rail freight hub and the Kewdale Industrial area as shown in Figure 32 and Figure 33.

Figure 32: Perth Airport estate relative to Rail Freight Hub and Kewdale Industrial Area

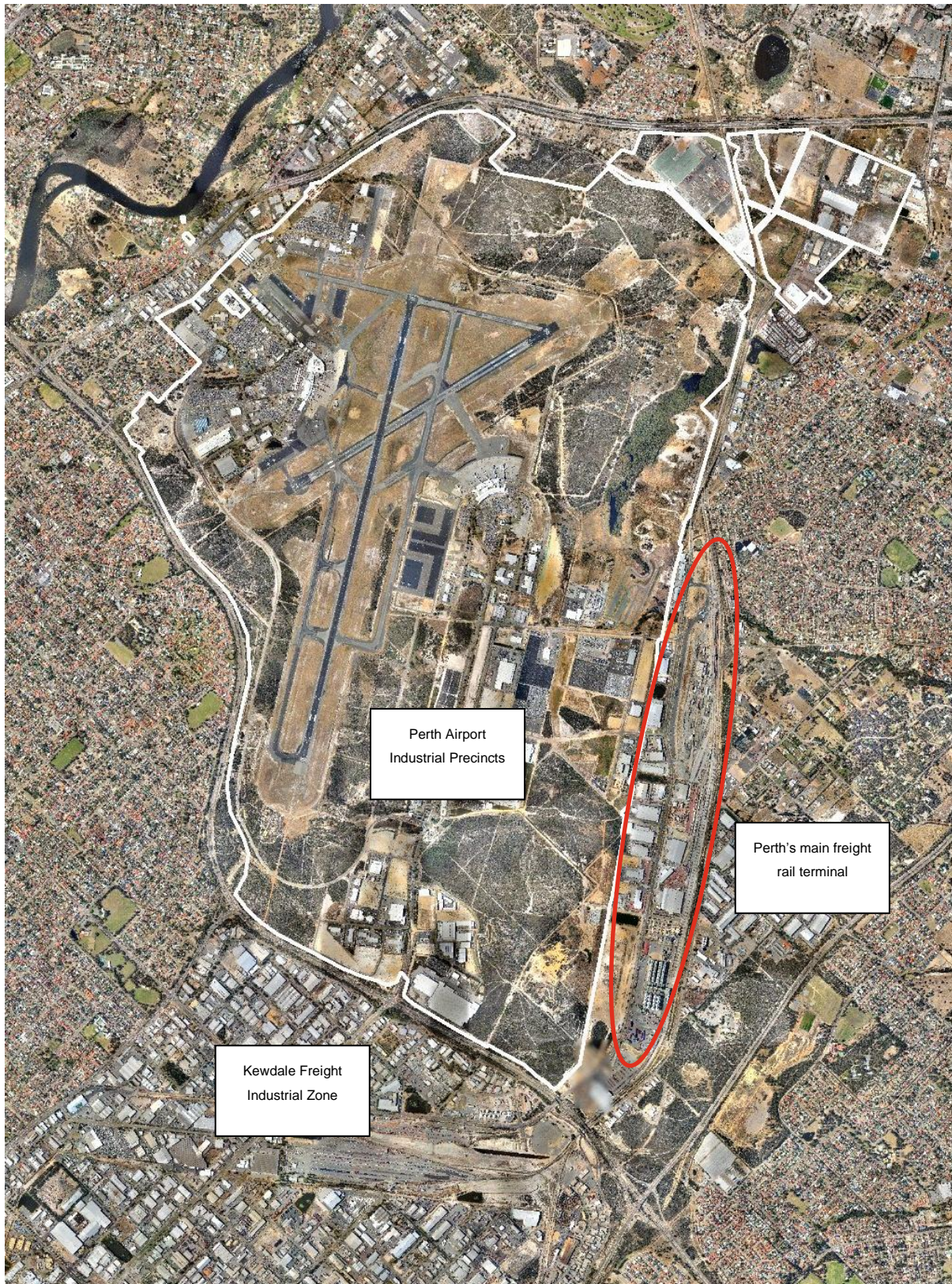


Figure 33: Kewdale Industrial Area and Land Freight Zone



This transport/freight/industrial zone is located adjacent to the major arterial roads – Roe, Tonkin and Leach Highways, which link to the city's industrial port at Fremantle. The Port of Fremantle is "land poor" and the Kewdale area has become an extension of the port.

This area was recently described in a State Government planning document as follows:

*"Perth Airport and the Kewdale Primary Freight Hub are two of the most important and strategic transport hubs in metropolitan Perth and WA. Perth Airport represents the primary portal for international, interstate and regional business and tourism. The Kewdale Primary Freight Hub forms the major freight distribution point in the metropolitan area for interstate and regional freight, and is set to become a priority intermodal hub for international freight consolidation."*¹⁹

¹⁹ WA Government draft Perth Airport Transport Master Plan 2010

7.3 The Perth Airport estate

The Perth Airport estate is 2,105 hectares in size and has ample land to support WA's demand for commercial aviation services over the very long-term. Approximately 1,100 hectares are currently assessed as being required for the airport in its ultimate configuration and 300 hectares have been set aside for permanent conservation given their environmental and cultural heritage significance.

Approximately 700 hectares are available for other uses. Failure to put this land into appropriate/productive use would result in inefficient outcomes from economic, urban land use and environmental perspectives, noting the manner in which land at the airport is being developed is delivering material transport efficiencies.

The Perth Airport estate includes more land than is projected to be required for future aeronautical expansion for very good reasons:

- it is prudent to ensure there is ample land for long-term aviation needs, including buffers, so that the risk of the airport being constrained is minimised; and
- it is important that non-aeronautical development does not compromise aeronautical uses. Incorporating this land into the master planning process ensures that it will be developed in a manner that is consistent with future aviation development (an outcome that history shows is far less certain under State and Local Government planning/approval regimes).

Numerous transport dependent logistics companies and businesses servicing clients in regional WA have located in the Perth Airport estate.

Unfortunately, informed consideration of on-airport land development has been clouded by unrepresentative and emotional debates about “big-box” retail at other airports and the BGC Brickworks at Perth Airport. The adverse perceptions of on-airport development are often encouraged by vested interests that would prefer not to have the competitive threat of alternative/additional development sites.

The broader economic role played by Perth Airport land supply is best summed up by the following quotes from the WA Government's 2009 draft Industrial Land Strategy and the Property Council of WA's response:

“In recent years demand for larger lots of this type has been catered for by the Forrestfield area and most recently, the Perth Airport land. As the rapid take-up rate of larger lots in the airport land by entities such as Woolworths and Toll in particular indicates, industry players are looking for land parcels that are not only strategically located with easy access to key transport corridors that link to port and rail, but also land that is fully serviced and development ready.

With the ease of access and a relatively unconstrained regulatory environment compared with that in other locations, the airport land typifies the attributes considered favourable by such companies. The market preference for this location over others is due to the availability of infrastructure and services allowing for immediate development and occupation.

The airport has done particularly well in attracting major tenants in recent years as it has had the only strategically located land parcel in Perth able to offer fully serviced large lots. The added advantage of the airport land has been in being able to provide

*lots that meet the tenants' specifications and the long-term vision and control over its industrial estate. However, the airport land will not last forever and alternatives will need to be found.*²⁰

*"Without land supply at Perth Airport, Perth would have run out of industrial land by 2007. Outside of Perth Airport, there have been no locations that meet end users requirements".*²¹

The issue of non-aeronautical on-airport development is often portrayed in terms of "trade-off" with aeronautical development or "achieving balance". Such notions are not grounded in reality and demonstrate a lack of understanding of the nature and effect of the Federal statutory airport master planning and airport development approval processes. These processes ensure that land required for aviation is so used and that aviation is prioritised in land use planning. There is no evidence at Perth Airport of aviation being in any way compromised by non-aeronautical development on the airport.

Perth Airport takes a practical and sound approach to ensuring that aviation is not compromised by non-aeronautical developments. Specifically, in the case of any property developments that are on land that may be required for aviation in the future, four-year notice "break clauses" are included in the leases and only relatively low capital intensity uses are permitted such as vehicle storage and sheds.

The "real story" of on-airport development at Perth Airport is one of sensible and appropriate developments making an impressive contribution to economic development and delivering productive/efficient outcomes. Case studies from Perth Airport are included in this submission to amplify this point.

7.4 Airport planning regulation

The land in question is managed by Perth Airport and regulated by the Commonwealth for good reason, namely that the priority considerations in the nature and timing of developments are aviation safety and security and aviation capacity planning.

The combination of Master Plans, Environment Strategies, Major Development Plans (MDPs), and on-Airport Building Controllers and Environment Officers employed by the Commonwealth, under the Federal Airport planning and approvals regime results in very rigorous oversight of Airport development; as rigorous as any State planning regime.

Perth Airport is subject to the planning framework in the *Airports Act 1996*, which stipulates that for each regulated airport:

- There is to be an airport Master Plan approved by the Federal Minister.
- Major Development Plans approved by the Federal Minister are required for significant developments.

²⁰ WA Government 2009 draft Industrial Land Strategy

²¹ Property Council of WA's response to the draft Industrial Land Strategy

- Building activities on airport sites require approval by the Federal Government's Airport Building Controller and Airport Environment Officer.
- Buildings and structures on airport sites must be certified as complying with the regulations.

The Master Plan, updated every five years, outlines a 20-year strategic vision and ultimate projected configuration for the airport site, including future land uses, types of permitted development, and noise and environmental impacts.

The Master Plan and Major Development planning processes require periods of public consultation and demonstration to the Minister that the views submitted by the public have been considered in the development of the plans. State and Local Governments are consulted in the development of the plans and typically they take the opportunity available to them to make submissions.

The Federal Minister can decide not to approve plans and can reject or approve Major Development Plans with whatever conditions considered appropriate.

The airports planning regime places a significant emphasis on seeking to achieve harmonisation of airport and state and local government planning, and compatibility, to the greatest extent feasible, between the airport development and the wider urban context.

The comprehensive regulated airport planning process, including airport master planning, has resulted in there being no examples of inappropriate or excessive development at Perth Airport and the prospects of this occurring in the future are very low.

Suggestions that development on airports is not undertaken on a level playing field, including suggestions that the development approval process is less rigorous, or the conditions for development are less onerous than developing in areas subject to State and Local Government planning/approval regimes, have not withstood scrutiny in prior policy reviews (see National Aviation White Paper).

The fact that the on-airport development approval process might, at times, be more efficient than might arise in other jurisdictions is not a bad thing. Further, airport tenants gain no enduring cost advantage, noting they are charged local council rates equivalent (and as it happens, do not get any council services in return).

7.5 Perth Airport planning framework

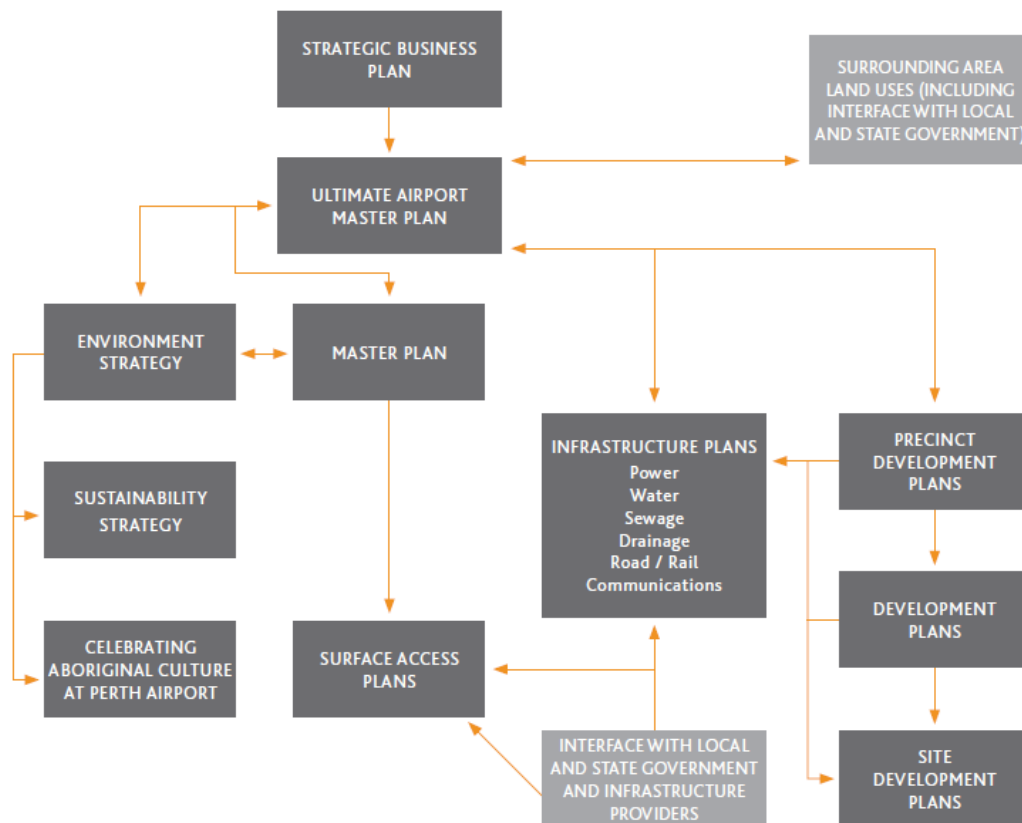
There is full recognition by WAC that the airport's infrastructure plans cannot be developed in isolation from the planning that is undertaken by other authorities that have responsibilities for land use planning in metropolitan Perth and for providing services that directly impact the effectiveness of the airport.

Close and effective cooperation between Perth Airport and other relevant planning authorities and infrastructure providers is critical because:

- Perth Airport's operations impact surrounding communities including the natural environment; and
- The capacity of Perth Airport to meet the community's needs is impacted by land use and infrastructure decisions made beyond the airport boundary.

WAC has an integrated and transparent planning framework that seeks to ensure alignment with State, Commonwealth and Local Government planning processes (Figure 34).

Figure 34: Perth Airport's Planning Framework



WAC incorporated seven overarching development objectives in the 2009 Master Plan:

- Deliver aviation services that airlines, members of the public and business enterprises need, at a reasonable cost;
- Bring land not required for long-term aviation services into productive use to support economic development and employment creation in WA;
- Ensure all facilities are safe and secure for all people who use them or live in the vicinity of the airport;
- Ensure the airport's development and operations respect the strong bond that exists between the Nyoongar people and the land that comprises the airport estate;
- Ensure that the airport's development and operation minimises impact on surrounding communities and the environment and that emissions that contribute to human induced climate change are minimised;
- Ensure that WAC achieves an adequate and sustained return on investment to support continuing investment in the facilities; and
- Ensure the ongoing integrity of other critical infrastructure that may be impacted by airport development.

7.6 Getting to, from and past Perth Airport

The success of Perth Airport in meeting the needs of the public depends on being able to get to and from the airport reliably and efficiently.

There is an absence of suitable high volume public transport to Perth Airport and this is likely to remain the case for many years to come, noting the following:

- The demand for access to the airport is very dispersed – approximately 30% of the traffic is from/to the west, 30% to the south, 30% to the north and 10% to the East of the airport – there are no demand concentrations along corridors or at an end-point.
- Current government rail and bus services do not connect to the airport, and even if they did, their current design would involve multiple stops, with the resulting lack of journey legibility being a substantial detractor.
- The operating hours of the city's public transport network are not aligned with the operating tempo of the airport – one of the airport's main peak periods is around midnight.

That said, State Government's agencies are undertaking important public transport planning, which incorporates the need to connect the airport with rail and bus services (this is addressed further below).

In summary, the airport land transport access task will remain very largely dominated by private cars, taxis and smaller buses for many years to come.

Unfortunately, the arterial roads in the vicinity of Perth Airport have become badly congested during the traditional morning and afternoon commuter peaks, noting this is not unique to the roads in the vicinity of Perth Airport, nor to the city of Perth.

Congestion on the Tonkin and Leach Highways during the urban commuter peaks has made it very difficult to access the airport. The following image taken two years ago shows the problem (Figure 35).

**Figure 35: Traffic Exiting International Precinct – 4.45pm Thursday 19 March 09
(6 light changes – 21 minutes)**

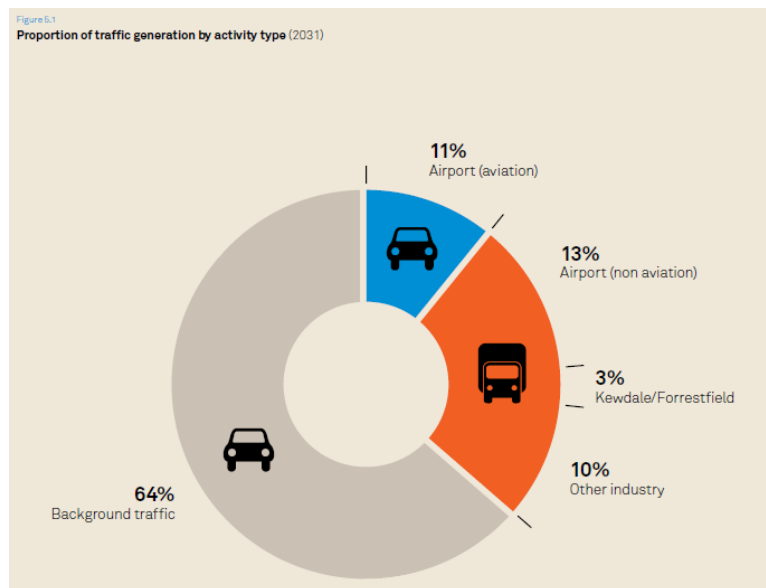


This particular example was at a time which is not one of the peak operating periods for the airport, and was substantially contributed to by there being one-right turn lane from the airport to the Tonkin Highway and light phasing that gives priority to the through traffic on the Tonkin.

Since this time the situation has been partially assisted by the construction of a second right turn lane from the airport onto the Tonkin and an on-airport public inter-precinct link road which has provided another relief point. Both of these improvements were fully funded by WAC (\$22 million), noting the link road is used by the public as a “rat-run” to avoid Tonkin Highway congestion.

It is important to note that traffic studies undertaken by WAC and State Government agencies confirm that Perth Airport is not the cause of the congestion that occurs on the arterial roads during the peak commuter periods. Figure 36 shows the current traffic generation activities. This data, taken from a State Government draft planning document, does not depict the activity in the morning and afternoon urban commuter peaks; the airport’s contribution to the road task can be assumed to be substantially less in the commuter peaks than depicted in Figure 36.

Figure 36: Current traffic generation activities

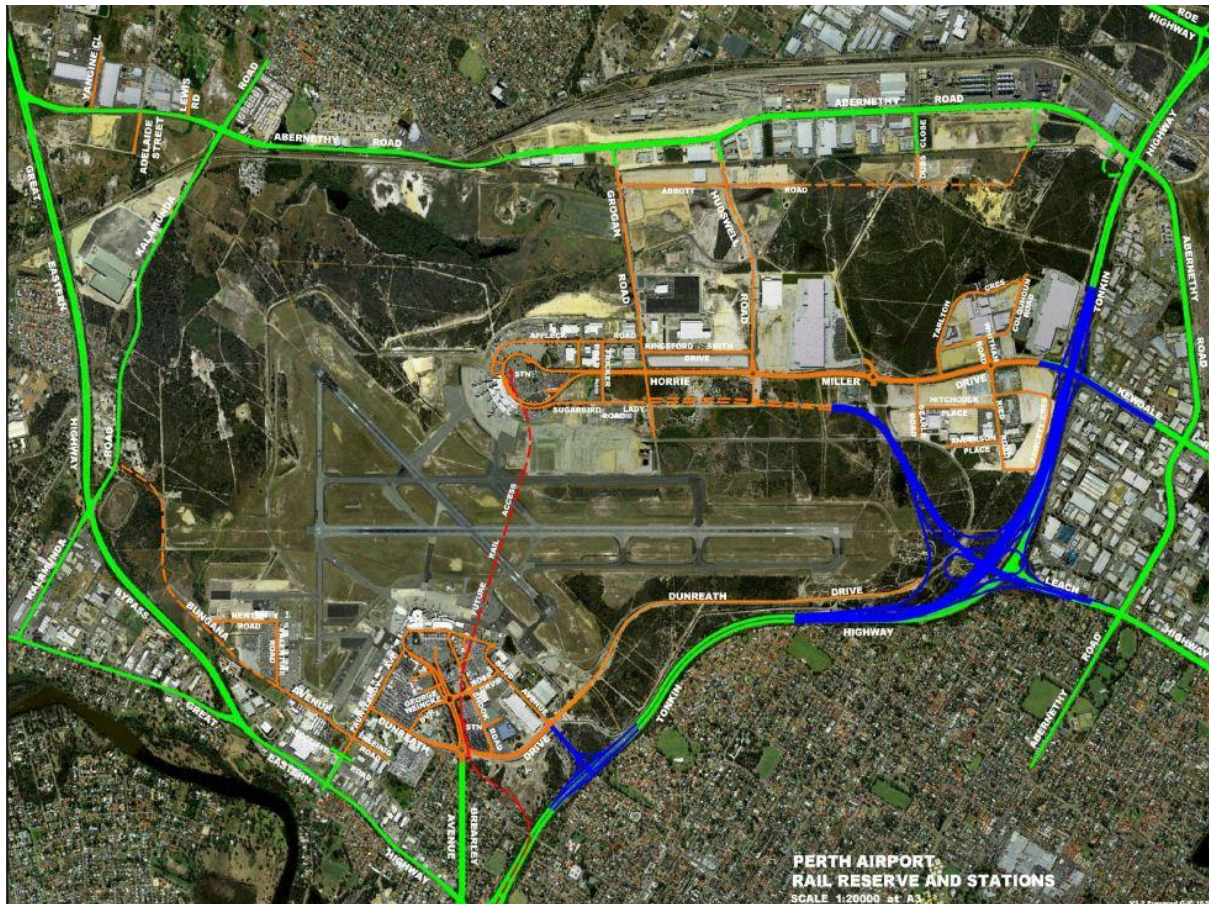


Recognising this most unsatisfactory situation, the State Government has taken decisive action to plan for a very substantial expansion of the arterial roads in the vicinity of Perth Airport. The following is to be noted in relation to the resulting road project, named “Gateway WA”:

- the project design has taken into account the full urban context, including Perth Airport, the Kewdale Primary Freight Hub and the anticipated urban growth;
- the project has been submitted by the State Government to the Federal Government’s Infrastructure Australia agency as a State infrastructure priority;
- the Federal Government has indicated substantial funding support for the project, subject to successful passage of its resources rent tax through the Parliament; and
- the State Government is according high priority to the planning and design phases of the project.

Recognising the long lead times for Gateway WA, the State Government and WAC have agreed an important interim measure that will substantially improve the situation in the short to medium term. This measure involves construction of an additional at-grade intersection between the new on-airport link road and the Tonkin Highway north of Leach Highway. This will allow a further exit relief point from the airport and will provide traffic from the north a slip lane exit onto the airport prior to the main area of congestion on the Tonkin. The interim measure will enhance the situation for the airport and for the urban road network. WAC is fully funding the estimated \$8 million cost.

Figure 37: Gateway WA Road Network (blue denotes upgrades/extensions directly relevant to Perth Airport)



7.7 Urban transport planning and Perth Airport

There are five parties that must undertake complementary activities to achieve optimal land transport planning for the City of Perth incorporating the needs of Perth Airport, including:

- State Government;
- two Local Councils;
- WAC; and
- Federal Government.

While it would be simpler to exclude some of these stakeholders, it is not feasible. WAC is of the view that action should be taken to remove the role of the Shire of Kalamunda from the land transport planning process in the vicinity of Perth Airport for reasons which are addressed below.

Ultimately, effective planning outcomes will depend on cooperation and it is not possible to legislate for cooperation.

Two policy initiatives arising from the Federal Government National Aviation White Paper seek to further improve planning outcomes:

Planning Coordination Forum

The Federal Government has issued guidelines for regulated airports to establish Airport Planning Coordination Forums, aimed at bringing together WAC and senior State and Local Government representatives to consider strategic planning issues. WAC is very supportive of this initiative as it will provide a visible structured forum, which will assist to reconcile the various interactions that already occur, noting that WAC has in place a number of other consultative forums that address planning, including the Perth Airport Advisory Board.

Transport plan requirement in statutory airport master plan

While WAC recognises the need for an integrated long-term transport plan for Perth Airport and the surrounding urban area, Perth Airport has neither the expertise, nor the information to develop a transport plan that brings together both the on-airport and off-airport data that is required to develop a cohesive plan that integrates the airport into the wider regional road network.

This is a case where the airport leasing company and the state and local governments need to work together to develop a plan. Requiring that “a plan” be included in the Airport Master Plan places an obligation on WAC over which it has only limited scope of control. Having said this, it is fully acknowledged that the Airport Master Plan should contain information that facilitates local and state governments to undertake their road network planning.

Perth Airport Transport Master Plan

In addition to these broader national policy reforms, in 2009 the Federal Government provided funding assistance to the WA Government to develop a Perth Airport Transport Master Plan (PATMP), which is understood to be in “final draft” form. Preliminary versions and an Executive Summary are available on the State Department of Transport’s website.

The draft PATMP states that it has been developed in line with existing transport planning policy and strategies, including:

- the Perth Public Transport Network Plan;
- Directions 2031, the strategic plan for Perth and Peel; and
- The Freight Hub Plan in the context of the Metropolitan Freight Network Strategy.

WAC has been extensively consulted during the development of the PATMP and the conclusions emerging from the process were taken into account in the development of the Perth Airport Master Plan 2009, which was approved by the Federal Minister for Infrastructure in November 2009.

WAC considers that development of the PATMP was an excellent initiative by the WA and Federal Governments, however it was less than ideal that the timing of the two Master Plans was misaligned by about 18 months. Having said this, the development of the next Perth Airport Master Plan will commence in two to three years time and the existence of a final PATMP will support further integration/harmonisation of State urban planning and Perth Airport planning.

The draft PATMP provides information on:

- the role of Perth Airport and the Primary Freight Hub;
- why these facilities are critical to the function and growth of Perth;
- why transport and access are issues at this location;
- what transport problems are foreseen if nothing is done to improve current road and rail access conditions; and
- what the recommended actions are to enable ongoing and uncompromised access to these strategic facilities over the next 10-15 years.

Three plans are contained in the draft PATMP, comprising strategies targeting roads, public transport and freight:

- a plan for creating capacity;
- a plan for managing the demand for travel and transport; and
- a plan for reducing the demand for travel and transport.

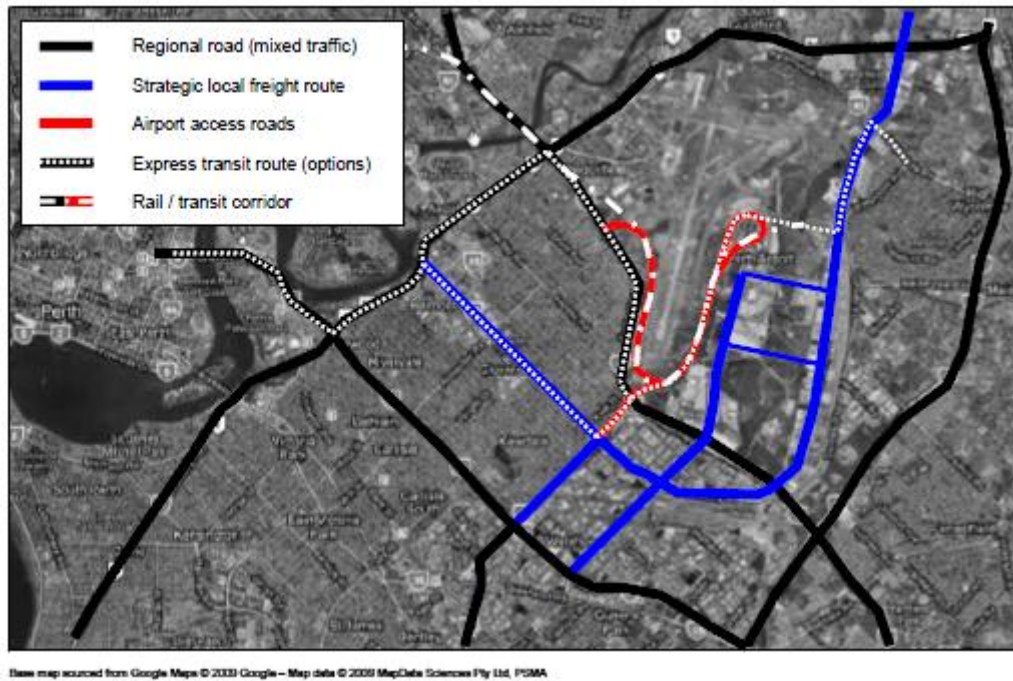
The exposure draft of the PATMP recommends:

- completion of a business plan for an express bus service from the International Airport Terminal to the Perth CBD;
- integration of express bus route planning with the Great Eastern Highway widening project to ensure adequate business priority and carriageway space is allocated and to more generally incorporate medium and long-term public transport into the Airport Ground Transport Plan and the Gateway WA project design; and
- selection of a preferred rail alignment to Perth Airport and reservation of land for a future rail corridor.

Preliminary analysis shows that the potential mode share for a standalone passenger rail link to the airport from the Midland line (not supported by improved bus links) could reach 10% by 2031. Provision of a bus rapid transit system would only create a mode share of 3%. Providing a combination of both road and bus options could potentially increase public transport mode share to the airport by 20% by 2031.

The following schematic drawing from the exposure draft summarises the modal framework in prospect around Perth Airport (Figure 38).

Figure 38: Schematic drawing of the modal framework in prospect around Perth Airport



Rail alignment options within and outside the airport will be further examined.

WAC will incorporate the final rail alignment into future Master Plans once a preferred route is determined by the WA Government.

WA Government's Directions 2031

The State Government's *Directions 2031* document recommends that:

- interconnectivity between Perth Airport and the Kewdale-Welshpool industrial centre be encouraged;
- strategic freight movements corridors to both the Perth Airport and Kewdale-Welshpool be protected from potentially conflicted development; and
- an investment strategy be prepared for road and rail transport access to and around Perth airport for the next 15-20 years.

WAC supports the direction of these recommendations, particularly initiatives to improve airport access for passenger and freight purposes. The strategic challenge for government is to improve public transport options available for airport access and to reduce the dependency on private vehicle journeys and taxi services.

A role for high quality airport bus shuttles

WAC benchmarking indicates that for cities with dispersed demand for land transport access to their major airport, high quality, affordable, reliable and direct shuttle buses can play a significant role.

WAC's plan, which is achievable, is to have such a service connecting all areas of the metropolitan region to all scheduled domestic and international air services within five to seven years. WAC believes such an initiative can take up to 15% of the transport duty with far more efficient outcomes compared to private vehicles and taxis. Early indications from the first two routes are encouraging.

This WAC initiative has the potential to provide the public another affordable transport option, while at the same time reducing demand on the city's road system.

WAC is advancing a business case to assess how the initiative can be scaled up at the earliest possible time.

While the initiative is likely to be at the expense of WAC's car parking business, it is consistent with the company's overarching objective to make Perth Airport more accessible and a more desirable place to visit and conduct business.

The concept does not conform with traditional definitions of government provided public transport, however WAC believes the State Government has a role to play during the formative stages of this initiative to allow it to develop rapidly and become fully self funding. WAC will be seeking to work with the State Government to promote this initiative.

Figure 39: Shuttle services from Perth Airport's domestic and international terminals to the Perth CBD and Fremantle



Poor Planning Outcomes

The fact that Perth Airport, and arterial roads that are strategically important to airport access, are within the boundaries of two local councils has resulted in manifestly poor outcomes.

The very effective working relationship that exists between the City of Belmont and Perth Airport reflects the significant interdependencies that exist between both. Perth Airport is the largest entity in the City of Belmont and the airport's activities have a substantial impact on the residents of Belmont.

Outcomes in relation to the Shire of Kalamunda, which incorporates part of the airport to the East and an important Airport access road (Abernethy Road), have been poor.

In 2007-08, when undertaking design and applying for Federal funding to upgrade Abernethy Road, the Shire “forgot” to consider the needs of the Airport or consult with WAC. As result, the design and funding did not provide for continuation of the existing right turn out capability from the Airport onto Abernethy Road from Grogan Road. A fact that makes this example all the more disappointing is that previously WAC had made a financial contribution to the Shire to establish the very access that the Shire is now curtailing.

The Shire’s position in relation to the oversight is currently that it is regrettable but it cannot secure the additional funding from the Commonwealth that would be necessary to address the design flaw.

7.8 What should happen now?

In WAC’s view both the Federal and WA Governments have taken very decisive steps to cause improved integration of Perth Airport planning and urban planning.

WAC believes that the Perth Airport Transport Master Plan, which is understood to be close to finalisation, has been an excellent initiative and it would be a lost opportunity if it were to be a “one off”.

It would deliver improved outcomes if the updating of the Perth Airport Master Plan by WAC and the PATM by the State Government were synchronised; this is an initiative that WAC will pursue with the WA Government.

For obvious reasons, WAC believes that planning responsibility of arterial roads that are strategically important to Perth Airport and the Kewdale Primary Freight Hub, should not be the province of the Shire of Kalamunda. WAC has previously submitted that the Local Council boundaries should be adjusted so that Perth Airport falls wholly within the City of Belmont.

There are absolutely no grounds for concluding that “inappropriate” or “excessive” development at Perth Airport has occurred or could potentially occur in the future. Continuation of the prudent and value adding development of Perth Airport should be encouraged by the Commission due to the significant efficiencies it is producing.

Perth Airport non-aviation development - case studies

Aker Solutions case study

Aker Solutions is a Norwegian based sub-sea oil equipment supplier with a workforce of more than 4,000 in the Asia Pacific region. The company provides equipment and support to their Australian and Asian client base, including WA’s oil and gas industry.

Aker Solutions chose Perth Airport for their regional base due to the:

- proximity to transport links to major production oil fields;
- similar time zone to clients’ businesses;
- stable political climate;
- reliable transport systems (air, sea and road);

- stability of ownership under airport lease arrangements;
- safety and security 'wash over' from high aviation standards; and
- limited comparable alternatives in the Perth Metropolitan Regional Scheme.

WAC developed for Aker a 3,000 square metre workshop and warehouse complex in which sophisticated equipment and services for the WA oil and gas industry are maintained.

Aker has a substantial facility in Malaysia and benefits from the daily air services between Kuala Lumpur and Perth and also uses the regional air services from Perth Airport to serve its' WA client base. Aker also uses the Port of Fremantle, which is linked by Leach Highway to Perth Airport.

Location of companies like Aker at Perth Airport is delivering transport efficiencies.

Figure 40: Aker Solutions



BGC Brickworks Case Study

The development of a brickworks by BGC on land to the north of Perth Airport's runway system has been a very contentious issue for the local community.

The Major Development Plan for the brickworks was approved by the Minister in August 2006 and included 27 conditions that addressed the following issues:

- plant operation and complaints handling;
- control and monitoring emissions;
- activities prior to plant construction;
- layout of the site;
- actions prior to commissioning;
- compliance auditing;
- provision of information and reporting; and
- effects on airport operations and air navigation.

Perth Airport fully appreciates the legitimate interests and concerns of the local community about this development. We seek to make the following points in relation to this matter, and in so doing do not in anyway wish to discount what are legitimate community concerns:

- The location is under the extended centre line of an active runway in the 35-40 ANEF noise zone and is therefore only suited for industrial use.
- The location is proximate to other industrial facilities.
- The land is not contiguous with the main airport estate. The location is split from the airport by Kalamunda Road. This is not a brickworks on an airport.
- The location is segregated from the closest residential area by a heavily trafficked four-lane highway.

Perth Airport is confident that the 27 conditions, properly implemented, will ensure the brickworks, like other nearby industries, will continue to operate without a detrimental impact on the surrounding community.

Figure 41: BGC Brickworks Location



Rio Tinto Hamersley Iron Operations Centre

Rio Tinto executed an agreement in August 2008 for Perth Airport to construct a 'state of the art' operations centre in the domestic precinct office park, which became operational in June 2009. Purpose built for their Iron Ore Division, the centre has the capability of operating automated processes of the Pilbara mines remotely, with further development leading to more automation and remote operations from the centre.

Perth Airport has since completed a 4,000m² five-star Green Star office building to support the planning function associated with the operations centre. Perth Airport is currently in discussions with Rio Tinto to deliver further office facilities to meet demand related to their projected 50% increase in production by 2015.

Rio Tinto is understood to have chosen the Perth Airport location for reasons which included:

- proximity to the terminal buildings to facilitate business travel;
- accessibility to their fly in – fly out site personnel;
- connectivity to major road networks;
- proximity to the CBD; and
- 24 hour, seven day a week operating environment complementing the centre's operating tempo.

Figure 42: Rio Tinto Hamersley Iron Operations Centre

