

Responses provided to consultation questions as set out in CAP3063. These responses are submitted by Vicki Murdie, Innovation Lead – Future Flight Challenge, UK Research and Innovation on behalf of the Future Flight Challenge team.

*Key consultation questions are set out at the end of each chapter and consolidated below. We welcome stakeholders' views on any aspects of the approach set out in each chapter and, in particular, on the following matters:*

*(a) our overall approach to establishing licence modifications for NERL that will enable it to successfully provide the Airspace Design Service;*

- See the answers to specific questions below.

*(b) the views set out in chapter 1 (The design of licence modifications to implement the Airspace Design Service) that this approach is consistent with our statutory duties, including in relation to safety, furthering the interests of customers and consumers, economy and efficiency, and NERL's financeability;*

- How will this work for UKADS1 only, with changes then required for a transition if UKADS2 is a different body? Consultation suggests that changing licence is lengthy so needs flexibility by avoiding being overly detailed, need to consider the transition or expansion as part of this else effectively locking in to NERL being provider for UKADS2.
- There needs to be clear terms set out for how UKADS1 will interact with ACOG and how ACOG will continue to function within the timeframe of UKADS1, especially given that ACOG is also within the remit of NERL licence.

*(c) the prospective obligation on NERL to perform the Airspace Design Service and the approach to setting the geographic scope of these activities;*

- In CAP3029 the 'joint consultation', in section 7.14, for Option 3 which is stated as the preferred option, it states that that 'UKADS1 would take over sponsorship of the existing ACPs, but would merge them into a single overarching ACP for the London cluster or deployment, where it is appropriate to do so. The existing sponsors would become partners to a new single UKADS1-sponsored ACP'. So, there is the possibility in this wording that it is not one single ACP for the whole London TMA region that is required as it gives flexibility for UKADS1 to decide on what is the most appropriate route for ACPs.
- CAP3063 is proposing to amend the NERL licence to require a 'single airspace design', also sometimes called a 'single design proposal for airspace changes', whilst this is not stated explicitly as a single ACP, there needs to be clarity on whether there are restrictions to the intended design and number of ACPs that result, or whether UKADS1 under the NERL licence would be given the freedom to choose how it creates the design. The language used across the two consultations could be seen to be potentially conflicting or unclear.
- Chapter 5 of the joint consultation discusses whether any other organisations should be able to sponsor and progress ACPs that fall within the scope of UKADS1 where UKADS1 cannot prioritise supporting them. In our response to the consultation, we have highlighted the need for a swift decision making process for determining whether any proposed ACP that falls within the scope of UKADS1 is sponsored and progressed by them, sponsored and progressed by another organization or should not be allowed to be progressed as it is a conflict with the work of UKADS1. There needs to be a clear mechanism for making such a decision. This will need to be covered by the NERL licence and CAP1616 overall in terms of

the process and geography to which applies. However, given that the UKADS1 would be required to make a decision, this obligation at least should be included within the NERL licence.

*(d) the prospective obligations on NERL's with respect to its relations with third parties, including through the Advisory Board and working arrangements with partner organisations;*

- The approach as outlined in this and the joint consultation (CAP3029) seems broadly sensible. Prospective partners and other third parties may have better insight on this question however.

*(e) the approach to distinguishing between NERL's new obligations and those relating to the Airspace Change Organising Group ("ACOG");*

- Paragraph 2.38 of this CAP3063 does highlight that there are existing governance structures in place for ACOG in the form of a steering committee. Given that there is the need to establish an advisory board for the UKADS1, there is a potential conflict that could occur in finding appropriate members for the UKADS1 Advisory Board as some of the most relevant subject matter experts might already be part of the ACOG Steering Committee. This is also potentially compounded by the NERL board independent directors. Consideration of any overlap and the need to maintain the independence of all 3 bodies needs to be taken into consideration when creating the UKADS1 Advisory Board.
- It also needs to be considered whether there should be provision of an appropriate mechanism for any cross-conversations between the ACOG Steering Committee and UKADS1 Advisory Board or whether that is not required. From the governance structure in CAP3029 Figure 8.1, it suggests that there is no intended cross feed but is not clear whether any potential need for this has been considered.
- The transition from ACOG to UKADS1 will need to be well managed for London TMA region. Also, regular communications between the two bodies on the approach and design for this region and the work ongoing in other clusters that remain within ACOG masterplanning responsibilities is advised as there is a need to ensure a consistent approach where possible and relevant. One of the reasons for establishing UKADS1 was the number of gate failures in the ACP process due to inconsistent approaches, so best practice should be able to be shared where possible to improve outcomes.

*(f) any views on the consequential changes to NERL's licence discussed in chapter 3 (Consequential modifications to the Licence);*

- The rationale presented on the need to permit Airspace Design Service collection of charges and exclude it from the calculation of the de minimis cap seems sensible. The other options would potentially limit the ability of NERL to provide the Airspace Design Service to the required scale or to prohibit other work (if it were to be needing to come from within de minimis cap), or would enable even further growth of NERL (by including this within the calculation of the de minimis cap). There are organisations who are already concerned by the growth of NERL's scope to include UKADS1 and hence allowing an increase in activities within the de minimis would only increase this concern further. Any increase in scope of charges needs to be covered by the appropriate regulatory accounting and intervention plans.

*(g) the estimates of the costs of providing the Airspace Design Service and the Airspace Design Support Fund discussed in chapter 4 (Costs of new airspace design services);*

- In general, please see our response to Question 18 in the joint consultation
- It is noted in both this and the joint consultation that the estimates are highly indicative and therefore further refinement is necessary before any implementation, the consultations themselves being likely to also influence the scope and cost. However, the current basis of the modelling is in contradiction to the scope of UKADS1 presented as the combined short and medium term in the joint consultation. Since the time period of the modelling is 10 years, only focusing on the short term activities as per the current assumptions is either trying to indicate that the medium term activities are not going to start until 2035, which will be too late to deliver benefits stated as being part of the reason for UKADS1 or is fundamentally missing a significant element of the costs. This will not be offset in the same way as the Airspace Design Support Fund since it is for ACPs that are not primarily driven by Airports. The costs for the medium term activities need to be included in any further cost assumption work and charge setting.

*(h) any other information stakeholders have on costs or the assumptions it is reasonable to make in projecting costs for the period 2025 to 2035;*

- All the assumptions used in the modelling from Egis of both the UKADS1 and the Airspace Design Support Fund will need to be examined by those more closely aligned to the current work and also those who have good understanding of the intended capacity of UKADS1 and any partners in regards to ability to deliver the deployments. We are not sufficiently involved in such activities to be able to provide any detailed comments on the assumptions nor the generated indicative cost values.

*(i) whether the cost pass through approach for recovering costs related to the Airspace Design Service and the Airspace Design Support Fund is appropriate;*

- The specifics on the charging mechanism are best answered by both NERL (as potentially taking on the risk for any fixed cost model), and the users that are charged. These groups will have the best understanding on the impact.
- The medium term scope outlined in the joint consultation has not yet been costed but also which users this work benefits and who pays for that through what charge have also not been considered.

*(j) whether these costs should be recovered from users in the year that they are incurred;*

- We are not sufficiently close to the detail of the aspect be able to provide relevant detailed input.
- However, in the joint consultation response we raised a concern around the funding provided through the Airspace Design Support Fund since the basis is of cost recovery. That may not fully address the barrier faced by some airports in being able to meet costs involved in ACP sponsorship which has previously prevented some airports from progressing. Having to outlay for the work and recover may not be sufficient to enable them to partake in airspace modernisation as they would need to have the funding to pay up front.

*(k) whether the duration of the initial charge control for the Airspace Design Service and Airspace Design Support Fund should be 2½ years and then be aligned with NERL's main price control reviews;*

- We are not sufficiently close to the detail of the aspect be able to provide relevant input.

*(l) the illustrative charges set out in table 5.1 in chapter 5 (Form of control, other regulatory mechanisms, and illustrative charges); and*

- We are not sufficiently close to the detail of the aspect be able to provide relevant input.

*(m) any comments on illustrative drafting of the licence modifications set out in Appendix B and Appendix C.*

- We are not sufficiently close to the detail of the aspect be able to provide relevant input beyond that which is detailed above in responses to other questions on the content.