



## **Response to the Economic Regulation of NERL: Illustrative Proposals for Modifying the Licence to Support the Implementation of a UK Airspace Design Service (CAP 3063)**

**January 2025**

Please find below the response of AirportsUK to this consultation.

### **Overall Approach to Licence Modifications**

We are aligned with the overall approach to modifying NERL's licence to implement the Airspace Design Service (UKADS). We agree with the proposed framework for NERL's role in delivering the Airspace Design Service and appreciate the emphasis on transparency and advisory board engagement. It is encouraging that this approach is predicated on a clear purpose: enabling NERL to support the Airspace Modernisation Strategy while adhering to the Civil Aviation Authority's (CAA) statutory duties. These include ensuring safety, advancing the interests of customers and consumers, promoting economy and efficiency, and maintaining NERL's financeability.

We acknowledge the flexibility incorporated into the licence modifications, particularly in the early stages when key factors remain uncertain. However, we reiterate the importance of providing high-level obligations that are supported by clear directions or guidance from the CAA and/or the Secretary of State and these should ensure alignment with statutory duties.

### **Transparency, Impartiality, and Accountability**

Transparency, impartiality, and accountability are critical to the success of UKADS. As mentioned in the parallel consultation, stakeholders must have confidence in NERL's strategic delivery plan. This requires:

- Effective engagement between the Airspace Design Service and co-sponsors.
- Timely delivery of NERL's plans.
- Robust oversight, reporting, and assurance mechanisms.

We note conflicting information regarding NERL's responsibilities, particularly in relation to the creation of the Airspace Design Support Fund (ADSF) and its estimated costs, as outlined in the EGIS report. Further clarity is needed on how co-sponsors will guide partners in the event of policy changes or shifting government priorities. What mechanisms are in place for co-sponsors to effectively inform partner organisations? Addressing these challenges will likely require amendments to ensure robust outcomes.



## **Cost Estimates for Airspace Design Service**

Determining the appropriate cost levels for UKADS and ADSF is inherently uncertain. We support the approach of granting flexibility during the initial years of operation but emphasise the need for transparency and accountability in cost management. It is critical to avoid a monopoly scenario where NERL's role in managing costs lacks oversight.

## **Collaboration with Partners**

NERL's collaboration with airports and other partners on airspace change proposals is essential. Determining responsibilities for consultation tasks should consider existing and future airport expansion plans should be noted alongside the following:

- Impact on Stakeholders: Based on the type of airspace change proposal.
- Resource Availability: Evaluating partners' resources and expertise.
- Responsibility Appetite: Factoring in partners' level of interest and control.

## **Governance and Oversight**

The proposal for an Advisory Board to oversee strategy and ensure fair decision-making is a positive step forward. However, we recommend that the CAA, rather than NERL, establish this board to enhance its independence and transparency. Furthermore, it is crucial that key stakeholders, such as AirportsUK, are included in the Advisory Board's composition to ensure broad representation.

We note the suggestions in the paper as to the role of the Advisory Board would fulfil. As a non-exhaustive list, we believe that it should be to ensure that correct processes are followed, resourcing is adequate and holds UKADS to account for delivery. It should ensure that the process is fair, inclusive, and aligned with best practices, fostering trust among all stakeholders and verifying that the correct procedures have been followed.

We do not believe it would be the body to resolve trade-offs in the design, or decide sequencing of deployment, it should be clarified that this is not the case.

Airports UK recommends that the Advisory Board include independent members. We propose that AirportsUK be represented on the Board on behalf of airports as a whole to ensure fair and balanced input. CAA needs to consider if relying solely on subject matter experts from a single airport within the LTMA area risks perceptions of partiality, whilst representation from all could be unwieldy. If subject matter experts are required, an airport or airports from airports outside the LTMA could be considered, as long as it does not create a conflict of interest concerning focus on non-LTMA issues.

However, careful and thoughtful consideration must be given to the roles of both the Advisory Board and the ACOG Steering Committee. While these entities are distinct and serve different functions, it is essential to ensure that their efforts remain aligned, as this alignment will be critical to the efficient and effective operation of both bodies. Therefore, it is crucial that stakeholders in each



group are fully aware of the activities and responsibilities of the other. This can be achieved by establishing clear and consistent channels of communication, which will help foster mutual understanding, prevent overlaps, and ensure that both committees work effectively.

#### **Potential for DfT Changes to Role of UKADS**

There is a significant amount of content in CAP3063 stating the Secretary of State can mandate UKADS1 deliver tasks as government policy changes. Whilst this flexibility can be advantageous, it is important that NERL are protected from the government leveraging UKADS1 resources to deliver other political goals. Therefore, UKADS1 tasks should be clearly defined. NERL must be given the opportunity to legally protect itself from any form of governmental overreach that was not part of the initial strategic intent of this policy.