

Economic regulation of NERL: NR28 review draft method statement (CAP3190)

NERL response
30 January 2026



NATS

Summary

This document provides NATS (En Route) plc's (NERL's) response to the CAA's draft method statement and business plan guidance (CAP3190) for the NR28 price control review.

We are supportive of the **CAA's proposed objectives** for the NR28 review – safety paramount, and then a focus on understanding the needs of passengers and airlines, and how to enable and encourage NERL to continue to deliver a resilient service, supported by an updated proportionate scrutiny of NERL's proposed costs to provide assurance that these remain efficient. We also support the focus on supporting airspace modernisation to deliver user and environmental benefits, principally through our new licence obligation to deliver the UK Airspace Design Service. We have some suggestions about how these objectives might best be framed, so that the CAA is working towards a comprehensive framework (allowed costs plus service and other performance metrics) which overall will more to provide a favourable environment within which NERL can achieve the desired outcomes. This would be more likely to deliver user benefit than simply the addition of new 'resilience' metrics and incentives.

The CAA identifies two important themes for the review, with which we agree. We agree with the CAA's intention to inform its NR28 review with the **views of airspace users and passengers**. It is important to complement direct engagement with our airline customers, with understanding of passengers' views of our service, accessed via consumer research channels. We have started our own NR28-specific passenger research and will develop this project during 2026 in light of airline and CAA feedback. The CAA should recognise explicitly that incorporating these two sources of evidence will require a high degree of judgment, balancing the high level feedback from passengers with the more detailed and specific views of airlines, and resolving any tensions between the two.

Resilience is a critical aspect of our service delivery, which is increasingly recognised by consumers, customers and the Government as having significant value. Predictable and reliable service allows our airline customers to plan and deliver their own network operations more effectively, thereby serving passengers. Passengers also benefit from reduced costs of delay and disruption. The corollary is that this is a benefit worth investing in, with only a marginal impact on the overall cost of flying. This will be a strong theme of our NR28 plan, building on engagement with airlines and passenger research. We therefore welcome the CAA's focus on this topic explicitly. Our suggestions for the CAA's approach to the NR28 review are: (i) to revisit the evidence assessed by the CAA in its last significant assessment a decade ago of the economic framework and incentives in this area; and (ii) to recognise the marked shift in aviation towards the positive value to passengers and airlines of resilience when balancing considerations of cost efficiency and effectiveness versus investment to achieve enhanced resilience.

With regard to the CAA's expectations for NERL's NR28 business plan, we will aim to meet the breadth and depth of the requirements set out in the **draft Business Plan Guidance**. We support the use of benchmarking where possible to provide quantitative insights into NERL's performance. We are active supporters of the work undertaken by Eurocontrol in this regard to produce a rich set of analyses on cost effectiveness of European air navigation service providers, and we consider it demonstrates clearly NERL's performance towards the top end of our peer group.

The scope of the **CAA's work programme** for the NR28 review is wide, with many areas to be reviewed. We recognise the CAA's prerogative to set its own agenda, but would encourage it to consider some wider factors when considering how best to prioritise its work.

First, the Government has set out ambitions for regulators across the UK to work harder to support economic growth as they fulfil their statutory duties. This has several dimensions, including recognising the value of regulatory stability to investors, as well as limiting complexity and time consumed by regulatory processes.

Second, the current financial framework and service metrics have succeeded in the quarter century since privatisation in creating the climate for NERL to reduce underlying operating costs by over 30% in real terms, serving nearly 25% more flights safely, and with average delay down from 2 minutes per flight to around 10 seconds. The combination of conservative and sensible management and proactive regulation and incentives meant that NERL came through the pandemic demand shock in a strong position, supported by private finance and able to restart investment in renewing its infrastructure so that it remains fit for the future. The degree of change which the CAA might consider necessary should be judged against this positive backdrop of performance. We do though agree that the incentive framework for capital expenditure and user engagement on this should be a priority for reassessment as part of the NR28 review.

In response to the CAA's request for stakeholder feedback, there are **three areas** where we do have **significant concerns** with the CAA's draft method statement:

- > **Timetable:** we continue to support a five year price control period and identify material adverse impact for users from a six year period, which compounds risk from using a dated traffic forecast for the extra 6th year and cost projections that would by then be 8 years' old. The CAA's case for change does not appear, to us, compelling, given the separation already in place between Heathrow and NERL regulatory cycles, and especially in light of the comments above regarding regulatory prioritisation, focus and cost of process.
- > **Traffic forecast:** we believe that users' interests would be best served by the use of NERL's own forecasts for UK and oceanic traffic, which would enable integrated financial, operational and investment planning. Evidence indicates that NERL's forecast is more accurate than the Eurocontrol alternative, notably in projecting service units which are integral to NERL's financial planning.

- > **Business plan incentive:** NERL will always strive to meet the CAA's requirements for comprehensive and timely information to support the CAA's regulatory considerations. We therefore do not agree with the premise of the proposed business plan incentive that this could elicit better quality information leading to a materially different and better outcome for customers. There could also be tensions between responding to the incentive in setting 'stretch' targets and NERL's wider judgement about the best balance of cost, service and investment in users' medium-term interests. This was the criticism raised by the Independent Water Commission which recommended that such incentives be retired. We note that the CAA's proposed assessment criteria are largely qualitative and imply a high degree of judgment. This in turn reduces the effectiveness of the proposed incentive as we would be unclear what specific actions would be likely to maximise any positive incentive.

We stand ready to work with CAA this year on several topics highlighted in CAP3190, notably reassessing **capex incentives**, considering the evolution of **flight efficiency metrics**, and assessing the merits of any further metrics to capture dimensions of **NERL's resilience** performance. Aside from the individual topics identified by the CAA on which we comment, there is the broader issue of the overall financial balance of the price control for the NR28 period, in the context of a more volatile economic and political environment. We encourage the CAA to build into its NR28 programme consideration of these factors and the interplay of the price control parameters, NERL's financial resilience and ability to absorb future shocks.

Contents

Summary	2
1. Comments on CAA summary	6
2. Comments on draft Method Statement	8
Overall context and priorities	8
Timetable and Process	10
Proposed approach to setting price controls	12
Consumer priorities	12
Traffic forecast	13
Service Quality and Resilience	15
Environmental Sustainability	18
Efficient costs	19
Incentives and Risk-Sharing	21
Financial Framework and the RAB	24
Draft Business Plan Guidance	28
Scope and priorities	28
Safety	28
Consumer priorities	28
Traffic	28
Service quality and resilience	28
Environmental sustainability	28
Cost	28
Financial issues	29

1. Comments on CAA summary

We refer throughout to the paragraph and other references in the CAA's document.

1.10 Key milestones

We understand and accept in principle the CAA's previous 'right shift' and extension of the NR28 review timetable, in order to reduce overlap in workload for itself and some airlines between the Heathrow H8 and NR28 price control reviews. Nevertheless, we consider that the delivery of a final decision in August 2028 is unnecessarily late, and there is excess time in the CAA's schedule in the latter stages of the review (notably 8 months between Initial and Final Proposals and five months between Final Proposals and Final Decision). We encourage the CAA to re-examine the timing of these latter stages, with a view to bringing forward final proposals and decisions, by which time it is due to have completed the Heathrow H8 review and should have ample staff time and executive decision-making capacity to accelerate the completion of the NR28 review. This would be of direct benefit to consumers and customers, as it would enable NERL to focus sooner on delivering the expected outcomes of the NR28 settlement. It could also avoid the need to re-assess new information tabled by stakeholders during 2028, which could complicate the process of reaching a final decision.

1.12 Priorities for the NR28 price control review

The subject areas for the CAA's stated priorities are sensible, in line with its statutory duties, and look to reflect appropriately the context of the aviation sector at present and the interests of passengers and airlines. However, we are concerned that the way these priorities are described is not fully aligned with the statutory framework, and suggests a misunderstanding of the CAA about the role of economic regulation in creating the right set of obligations and incentives to deliver desired outcomes.

On **safety**, the CAA states that it will "continu[e] to prioritise our "primary" duty under the TA00 to maintain a high standard of safety in the provision of air traffic services ("ATS"), by ensuring NERL continues to deliver a safe service". We fully endorse the desired outcome of a safe service and agree this should be the CAA's first objective for the NR28 review. We suggest that the CAA clarify its approach here and define its objective in terms of enabling NERL to deliver a safe service.

Safety is an emergent outcome arising from myriad actions across NERL, planned and coordinated by management operating within the company's governance framework. This in turn is influenced by NERL's obligations under its licence. The terms of the licence regarding safety are long-standing and not typically varied at each review, as befits an enduring and primary objective. To fulfil licence, the NERL Board is accountable for maintaining the personnel and systems across the company to meet its safety obligations.

We encourage the CAA to recognise this wider context for safety when framing its NR28 review objective.

With regard to **Understanding the needs of users**, the CAA references both Constructive Engagement with airlines and airports and consumer research as means to understand those directly using and affected by NERL's services. We agree with the CAA's objective of ensuring that evidence on the views of both NERL's customers (airlines) and the ultimate consumers (passengers) is fed into the NR28 review, both to inform NERL's plan and the subsequent assessments by the CAA. We have started work, in consultation with airlines and the CAA Consumer Panel, on specific passenger research to inform the NR28 review, and will develop this further during 2026 in light of feedback. We would welcome the CAA's method statement confirming that the CAA expects NERL (i) to conduct its own passenger research to inform its NR28 business plan, and (ii) to engage with airline customers on such research findings.

We note that evidence on passengers' views, sourced from research, is typically more general and less technically detailed than airlines' views. The CAA would need therefore to take into account the views of consumers carefully in particular if these diverge from those of airspace users.

On **resilience**, the CAA describes its objective as "ensuring NERL delivers a resilient service, including by reviewing and where appropriate improving its incentives, and supporting the organisation to achieve any necessary changes to provide for better resilience". We agree with the prominent focus given by the CAA to resilience, which is of growing salience to passengers, airlines and the Government. As with safety, resilience could be viewed as an emergent property which is the result of careful custodianship of, and investment in, a complex operation. As such, it is essential to seek to influence resilience outcomes through a 'whole system' assessment of the balance of resources and the overall governance and reputational framework which influence NERL's decision-making, rather than too specifically through one or two metrics.

On **airspace modernisation**, the CAA's draft objective is "to deliver user and environmental benefits". We strongly support this objective and are preparing now to take on the new licence obligations to deliver the UK Airspace Design Service, which will be the key vehicle for making progress in this area during NR28.

For the most part, we consider that there should be close alignment between passengers' and airlines' interests in fuel-efficient flight paths and procedures, and the resultant environmental benefits. There may be cases though where maximising use of runway infrastructure can lead to greater airborne holding with consequent impacts on delay and fuel burn. We encourage the CAA to ensure that environmental metrics on NERL seek to target NERL's impact on en route flight efficiency and to separate out any adverse impacts on performance arising from other factors, such as non-standard flights and airport procedures.

2. Comments on draft Method Statement

Overall context and priorities

We recognise the CAA's description of the wider context of the NR28 review and agree in general with the implications it has drawn. With demand recovering consistently since the pandemic, the UK aviation sector now faces renewed challenges of sustaining a growing and resilient service using existing runways and airspace structures. The consequences of operating very close to the capacity of ground infrastructure, and increasingly close to capacity for some airspace sectors, is that any disturbance to the smooth planned flow can result in magnified delay impacts. This in turn has resulted in a growing industry and political consensus on the need for investment in additional capacity, notably at several London airports and in the airspace above London that enables the efficient use of all runways. Aviation is recognised by Government as an important enabler for wider UK economic growth, and the Government has challenged those regulating UK infrastructure (including aviation) to do so in a manner which supports this growth – see Government Regulation Action Plan, March 2025. The CAA is identified as a Key Action Plan Regulator, within the scope of the proposed Growth Duty

With regard to NERL's recent performance more specifically, we recognise that our airline customers and their passengers rightly expect us to aim for and deliver the highest possible levels of safety and resilience. Our safety performance has been very positive as traffic has recovered. So, in large part, has our resilience. We understand though that where there have infrequent but major technical incidents which result in passenger detriment, the CAA will rightly investigate and take steps to seek to reduce the risk of future such events. The NR28 review is the first opportunity to consider any modifications to NERL's price control to respond to the findings of the CAA's independent review into the August 2023 technical incident. Similarly, the CAA has previously identified concerns about shifts in the delivery timescale for NERL's major technology upgrade programme. The NR28 review presents an opportunity for the CAA, NERL and other stakeholders to consider what changes to the reporting and incentives affecting investment might best support project delivery. It should also consider how resilience can be supported more broadly through appropriate funding for operational resourcing and sustainment investment, to secure continuity of service, as well as focus on investment in airspace change and technology upgrades which can unlock more capacity in future.

Against this backdrop, we consider that the CAA's proposed objectives are in general reasonable given the current context of the aviation sector and the CAA's enduring statutory duties. In particular, we welcome the explicit focus on understanding and responding to the needs of both consumers (passengers and cargo owners) and airspace users. We also consider that, given the clear priority that consumers and users attach to reliability of service delivery, the heightened focus on resilience (and lower priority attached to affordability) is a sensible stance for the NR28 review.

2.7 Wider context

The CAA states that "expansion plans at several London airports could result in increased pressure on the overall capacity of the ATS provided by NERL to accommodate demand". We recognise this summary of the context in which we operate: this anticipated increase in demand, served by new runway capacity, will place pressures on our service capacity, if we simply stood still. This is one of the key factors motivating our proposals to build our controller workforce in the coming period and to step up the rate of investment in both technology systems and airspace change. Now is the time to act, given the lead times on bringing new recruits through training and into control positions and for major technology projects, in order to prevent NERL becoming a constraint on capacity and growth in future.

2.13 Egis review

We engaged extensively with the CAA on the findings of the 2023 Egis review into NERL's capex plan for NR23. We consider that we have demonstrably acted on the three recommendations addressed to NERL. We recognise that the recommendation to the CAA (to consider "mechanisms to incentivise efficiency, delivery, and benefits in NERL's capex programme") is outstanding and one of the substantive topics of the NR28 review, on which we are prepared to engage fully with the CAA.

2.21 Priorities

The CAA highlights: "The need to prioritise system resilience and efficiency for all users is demonstrated by the new and unique challenges presented by:

- > new users;
- > increased demand driving the need for airspace modernisation; and
- > ongoing risk and uncertainty in the operating environment."

We consider that our resilience performance continues to be credible, meeting or exceeding CAA benchmarks¹ for every year 2013-25 and comparing favourably against our major European ANSP peers in term of both overall punctuality delivered and comparatively lower impact of infrequent technical outages on delay². We agree with the challenges highlighted by the CAA. These raise the bar for NERL in continuing to meet airlines' and passengers' growing expectations of consistently high standards of resilience. This step up in effort and preparation will require timely investment across operational resources and technology.

2.25 Scope of price controls

The CAA comments that: "To date, stakeholders have not raised concerns about the scope of the current charge controls". To confirm, NERL is content with scope of the UKATS, London Approach and Oceanic charge controls. With regard to specified services, we believe there are two updates to NERL's Licence that remain outstanding, due to other higher-priority regulatory activity:

1. **North Sea Helicopter Advisory Service:** We provided formal notice under Condition 4.1(a) of NERL's Licence on 31 March 2023 to slightly modify the scope of the North Sea Helicopter Advisory Service by amending the definition in Schedule 4 of NERL's licence from "oil and gas" installations to "offshore" installations. This change was intended to widen the scope of the service to include flights to all installations in the North Sea, reflecting the increased volume of flights to wind power installations as well as oil and gas infrastructure.
2. **Global Aeronautical Distress and Safety System (GADSS):** The CAA has indicated that a specified service should be added to NERL's Licence in respect of the provision of the GADSS, in order to ensure/demonstrate State compliance. This change, which relates to the management and updating of the relevant database, has not yet been reflected in an update to the Licence and therefore remains outstanding.

Furthermore, as noted below, we consider that the CAA should take forward a parallel assessment to the NR28 review of potential licence changes to establish a new common

¹ CAA, CAP1682, 2018

² See Technical Resilience chapter of NERL's NR28 review prospectus for data and references.

information service provider role, which would support system wide information management in lower airspace to enable integrated operation of crewed and uncrewed aircraft.

2.37 Future of Flight

The CAA concludes that “Given the uncertainty as to the nature of any infrastructure solution [to enable uncrewed aircraft integrated with crewed flights], we take the view that it is too early to consider how any potential solution is subject to price control arrangements at this time, but we will monitor developments during the NR28 process and consider whether modifications to our NR28 proposals are appropriate”. This statement may be true as of December 2025, but in our view there is a pressing need, for the UK aviation sector, for the CAA to develop its thinking and regulatory policy in this area rapidly, to meet the Government’s goals for safe efficient Future Flight in the UK.

In particular, we understand that the CAA is working towards issuing this month a policy on how a Common Information Service Provider (CISP) function might best be provided. Depending on the market structure imposed or implied by this policy, there could be immediate implications for the economic regulation of any such CISP. We have argued that the proposed OpenAir service provided by NERL, with costs separated from those funded by en route charges, would be a national CISP with enduring market power, and as such should be subject to some form of economic regulation. There is limited time to consider the architecture of such regulation before the CAA’s and the Government’s target for low level urban and fully integrated BVLOS flights operating by 2028 with the support of a CISP³.

We therefore encourage the CAA to set out in its NR28 method statement much clearer linkages between the development of airspace and system wide information management policies to enable BVLOS flights at scale, on the one hand, and the economic regulation framework for CISP(s).

Timetable and Process

We agree with the shift in the review timetable which the CAA implemented, to reduce the extent of overlap between the Heathrow H8 and NERL NR28 review processes, and we accept the implication of this being that we will start the NR28 period in January 2028, working on the basis of CAA initial proposals. However, we continue to believe that the proposed elapsed time between initial proposal and final decisions in force (some 14 months) is unnecessarily long and would prolong uncertainty for NERL and its customers, which could detract from the focus required on stepping up the organisation to deliver NR28 outcomes. Furthermore, final decisions in late summer 2028 would be based on data 2 years’ old, from constructive engagement in summer 2026. We encourage the CAA to look again at how it might plan to deliver final decisions and licence changes much earlier in 2028 than currently planned.

We remain firmly of the view that maintaining the five year price control period for NR28 would be in users’ interests, and that the alternative six year period proposed should not be necessary and would introduce additional risks for users and NERL, as variances between plan and outturn would compound further over the extra year potentially leading to a growing mismatch between resources and demand. If the CAA proceeds with a six year period, the additional compounding risk to NERL should be recognised and mitigated in the traffic risk share mechanism and/or compensated through the return on risk capital.

³ CAA, Future of Flight: BVLOS Roadmap, October 2025

2.48 Timetable – constructive engagement

We agree with the CAA's proposal to retain the existing schedule for Constructive Engagement. We conducted CE1 meetings in late January and are currently assessing the outcomes and implications with the NERL and airline-appointed co-chairs. We currently plan to provide further information to airlines at the end of May, building on our prospectus, in order to inform CE2 meetings during June and July.

2.56 Timetable – interim arrangements

We understand the CAA's rationale for not being able to commit to conclude the closing stages of the NR28 review completely by end 2027, which therefore requires interim arrangements for setting prices and service targets for 2028. The use of the CAA's Initial Proposals (expected July 2027) would be reasonable in this context.

However, we are concerned that the extended period of a further 14 months to September 2028 until the CAA's final decisions for NR28 come into effect is excessive and not likely to be in users' and consumers' interests. It would prolong the period of uncertainty, and delay the point from which NERL can start to implement in earnest its NR28 plan, as amended and then endorsed by the CAA – this in turn could delay the delivery of service benefits and cost efficiencies. By way of example, internal resourcing plans for NR28 (including increasing controller supply) cannot be enacted at pace without certainty, potentially pushing back the resulting improvements to resilience and operational flexibility. Similarly, investment plans are structured around an annual delivery cadence that requires stable regulatory parameters to deliver benefits safely and efficiently. Consequently, any delay in regulatory certainty compresses the period available within NR28 to deliver planned opex savings and reduces the total efficiency benefit achievable for customers that would then roll into NR33 charges.

We understand that this NR28 price control 'end game' would be out of line with the shorter normal practice across other UK economic regulation. Finally, it would expose NERL and customers to the risk that the CAA's ultimate decisions would be based on information that had by then become out of date. This could be especially true of traffic forecasting, as happened at the NR23 review, where final decisions in October 2023 were based on traffic forecasts issued six months previously in March 2023. It is essential, if the CAA were to maintain its current timetable, that the CAA create a clear process by which NERL can provide updates in the latter stages (notably on traffic forecasts) to inform final proposals and then decisions, for that information to be taken fully into account, and for NERL not to be criticised for any such later delivery of information in the NR28 review cycle.

2.67 Regulatory period

As set out in our submission to the CAA's September 2025 consultation, we continue to consider that a six year period for the NR28 price control would not be in users' interests, when there are practicable alternatives to maintain a five year period and manage CAA regulatory workload around the next NERL and Heathrow price reviews. The benefits of a five year period are that it provides a sufficient length of time for NERL to organise to deliver the outcomes specified in the NR28 regulatory settlement, working within the financial incentives of the price control. At the same time, the risks of operating against increasingly outdated traffic forecasts are significant, even when mitigated by the traffic risk share mechanism. As a long-standing feature of NERL's regulatory framework, this risk though is one which is understood by investors. Extending the price control by one year would materially increase financial risk to users and to NERL, by more than simply the 20% extension to the control period duration, given the impact of accumulating

divergence between forecast and actual traffic levels over time. One potential counter against this, using a mid-period review to reset traffic forecasts, would likely need to become more complex and thus, in practice, a mini price review, which would then undermine incentives to enhance cost efficiency. Experience from other sectors⁴ which have tried longer control periods is that this has not been successful.

The CAA acknowledges that there is a further external constraint in the form of the Eurocontrol charging principles⁵, which specify price controls must only be of three or five years' duration, but it is "engaging with Eurocontrol to understand whether there is a mechanism by which we can set a price control for a different duration".

Proposed approach to setting price controls

Consumer priorities

We welcome the CAA's focus on encouraging NERL to understand the priorities of passengers to help inform the NR28 business plan. Although NERL has no direct relationship with specific passengers, we do as a matter of course conduct regular passenger surveys to understand general passenger sentiment about their experience of flying and especially the dimensions of service over which we have some influence. We published our 8th annual Aviation Index survey of passengers in July 2025⁶. This showed punctual arrivals and departures as passengers' leading priority for the industry. We have already supplemented this annual survey with bespoke research designed to inform the early stages of the NR28 review, and shared this with airlines and the CAA Consumer Panel. We intend to commission further passenger research during 2026 to gain further insights into specific aspects of our plan as it develops.

We interpret the CAA's requirement for "robust consumer engagement and research" to mean qualitative and quantitative surveys of air passengers as part of a deliberative research effort. As our service is provided 'wholesale' to airlines rather than directly to each passenger, we have no other practicable means of achieving consumer engagement. We will continue to brief airlines, the CAA and its Consumer Panel on our consumer research plans and outcomes. We would welcome further engagement with the CAA as we develop our consumer research, to identify priority areas and/or gaps in understanding, with the aim of achieving the shared goal of "showing how consumer priorities are reflected in its business plan".

The CAA instructs NERL to engage with "relevant stakeholders including, but not limited to airlines, airspace users, airport operators and slot coordinators and bodies representing consumer interests". This is an exhaustive list of relevant parties: it would be helpful if the CAA could clarify what other stakeholders beyond those identified explicitly we should engage with.

2.83 Consumer priorities and the Halliwell Review

We welcome the greater emphasis to consumer interests in the business plan principles: "to emphasise that NERL should ensure that its business plan contains clear links to consumer impact and resilience, while still demonstrating how it will continue to meet its statutory safety obligations". We will endeavour in our NR28 plan to articulate the links between safety and service management, operational resourcing and investment planning and delivery, on the one hand, and consumer outcomes on the other.

⁴ Ofgem, RII0-2 price control for GB gas and electricity networks, 2018

⁵ Eurocontrol Principles: [doc-20.60.01-eurocontrol-principles-january-2020-en.pdf](#)

⁶ NATS Aviation Index 2025: Punctuality and Sustainability Top Priorities in NATS 2025 public survey - NATS

2.85 CAA consumer panel

We support the CAA's NR28 review team in seeking guidance from the CAA's Consumer Panel "to understand its views on the approach to consumer engagement". We have also engaged directly with the Panel in 2025, to discuss the approach to and outcomes from our first NR28-specific passenger research. We envisage engaging further with the Panel this year as we plan for and deliver further rounds of passenger research.

Traffic forecast

We note the CAA's intention to use the Eurocontrol traffic forecast, given its independence from NERL. We consider that there would be practical benefits to users from the use of NERL's own long term traffic forecast, which is better integrated into our operational and financial planning, and has a better track record of accuracy. We would welcome CAA scrutiny of the technical basis of our model, in order to provide greater transparency and assurance of its validity.

2.90 Traffic forecast – CAA 2024 review

The CAA cites feedback from stakeholders to its 2024 Review in support of using the STATFOR forecast for NR28. We consider that the CAA statement does not fairly or accurately summarise NERL's response to the CAA's 2024 Review, the relevant extract of which stated:

"2.3.1 ... We consider that it will be important to take explicit account of the potential impact on traffic of climate policies towards carbon pricing and sustainable aviation fuels, which could increase the cost to passengers and thus dampen demand. We note that NATS' own latest forecast (made in December 2023) starts to identify such demand impacts on traffic towards the end of the NR23 period. Currently, Eurocontrol's forecast does not factor in these policy effects explicitly."

The above statement implies NERL's strong preference for use of its own forecast since this, unlike STATFOR's, does factor in impact of climate policies. More broadly, we consider that there are several benefits for users from NERL using its own traffic forecast:

- > A more relevant and reliable forecast which helps deliver NERL deliver its service for customers by ensuring that operational resourcing and network planning are built on a UK-specific assessment of demand – our forecast disaggregates traffic flows into more granular detail than does STATFOR's, notably by considering trans-Atlantic overflights and arrivals/departures as separate segments from other overflights and arrivals/departures, respectively. This helps us to assess the impact of factors which might particularly affect one traffic segment versus another.
- > A more accurate forecast, which supports financial planning and allocation of resources and investment, and reduces variability in outturn costs and charges – for example, our forecast is 4.8 percentage points more accurate than STATFOR's so far during NR23 in predicting chargeable service units. From 2013 to 2024 (excluding Covid years of 2020/21), NATS Long Term Forecast was closer to traffic actuals than Eurocontrol STATFOR in 9 out of 10 years, and closer to service unit actuals for 7 of those 10 years.

We request that the CAA should correctly describe NERL's earlier view and respond to the points raised in its final method statement.

2.92 Traffic forecast – merits of alternatives

The CAA invites alternative approaches to traffic forecasts, as long as these are "supported by robust evidence explaining why the alternative forecast is clearly preferable to STATFOR on a forward-looking basis". We will propose the use of NERL's own forecast, and will support this with quantitative evidence on its relative accuracy in recent years versus STATFOR forecast – our initial assessment is set out in the NERL NR28 prospectus for the first round of constructive

engagement. The future accuracy of any particular forecast will clearly only be known with hindsight, but we will set out why the methodology and factors considered by NERL's forecast mean that it is more likely to be more accurate in the NR28 period, as well as to date in the NR23 period.

One suggestion for addressing the CAA's concerns regarding forecast robustness, accuracy, independence and transparency could be to commission, jointly with airlines and NERL, an independent expert assurance review of NERL's forecast model, practice and track record, compared to that of STATFOR. This could provide an objective expert basis for considering the best forecast for use in the CAA's NR28 price control decisions.

2.93 Traffic forecast – Oceanic

NERL's current approach uses the NATS Long Term Forecast Oceanic model: this forecast utilises historic actuals and applies internal growth rate assumptions based on factors such as global economics. It does not use any STATFOR inputs. We consider this to be a much more robust way of forecasting Oceanic traffic than the CAA's preferred method, for the reasons set out more fully in NERL's NR28 prospectus for constructive engagement, round 1. In particular, having an integrated approach to forecasting Oceanic and UK FIR traffic is an important contribution to integrated planning between our Oceanic and UK operations, so that appropriate resources and operational processes are applied to manage the interface between the two flight regions and to ensure the efficient flow from the ocean into the UK and vice versa.

We do not believe that there is an existing independent traffic forecast which fully covers the Shanwick area of the North Atlantic for which NERL provides air traffic services. The ICAO North Atlantic Economic, Financial and Forecast Group (NAT EFFG) forecast addresses only around 80% of NERL's oceanic traffic due to the data set used being trimmed of all flights other than commercial scheduled passenger flights, and then excluding carrier combinations with fewer than three flights per week. This was one of the reasons that the CAA decided not to adopt this forecast for the NR23 review. In addition, the NAT EFFG forecast only covers the period 2025-2029.

We agree with the CAA (paragraph 2.94) that it is "unlikely to be proportionate for the CAA to commission the production of an independent forecast of Oceanic volumes". We encourage the CAA to adopt NERL's Oceanic forecast.

The CAA describes NERL's traffic forecast for Oceanic flights as "[applying] STATFOR growth rates to historical Oceanic flight data". This is not an accurate summary of the approach adopted by the CAA at the NR23 review. That is better described as a STATFOR derived Oceanic forecast, using historical NATS Oceanic flight data as a baseline and then applying STATFOR region pair growth rates to forecast future years.

2.95 Oceanic – Traffic Risk Share

We welcome the CAA's consideration of whether to "introduce a TRS mechanism for Oceanic services to address forecast risk". We argued for this mechanism at the NR23 review, with supporting evidence on the historical trends in Oceanic traffic and revenues which highlighted the volatility and materiality in financial terms. We consider that these arguments still hold, and the benefits to users of reducing windfall gains and losses more than balance the relatively modest additional complexity that would be added to NERL's price control conditions. On the question of materiality, we note that a downside traffic shock of 10% versus forecast, in the absence of any Traffic Risk Share mechanism, would have reduced Oceanic regulatory profit by c£4m (2024 results) – this sum would be very material, 4 times the projected regulatory return for the Oceanic service, and 7% of NERL's total (UK plus Oceanic) projected return of £59m for 2024.

Service Quality and Resilience

We agree with the CAA's focus on "ensuring appropriate incentives for NERL to provide high levels of service quality" – this is a key element of the price control that aligns our actions with delivery of benefits to airlines and passengers. As with any performance system, it is appropriate for periodic review to check that it is calibrated effectively, to drive improvements where practicable and to remain balanced against other aspects. We have highlighted in our initial constructive engagement with airlines that there is a real self-evident and obvious trade-off during the NR28 period in allocating operational resources between service performance in the near term, and training and transformation projects which will enhance capacity and resilience in the medium term.

Our performance to date in the NR23 period, and over the previous two decades since NATS' public private partnership was established, has been very strong, with average delay declining over ten-fold from 2 minutes per flight in the early 2000s to around 10 seconds in recent years. NERL welcomes the continuous challenge from our airline customers to seek means to sustain service delivery as traffic rises – the CAA's service metrics and associated targets and financial incentives reinforce these stimuli. It is important that the targets are reconsidered carefully in the context of each review and, where necessary, adjusted (up or down) to reflect the best balance of focus for the control period between near-term service delivery versus enabling airspace and technology transitions, which tend to impact on punctuality. It should also be recognised that seeking to drive further marginal punctuality benefits may not be cost effective, as this would require increasing marginal costs and take operational resources away from training and transformation activity which will sustain service performance through the 2030s.

In our view, the current suite of capacity metrics continues to serve our customers and consumers well, and thus aligns with the CAA's statutory duties, by providing a balanced set of reporting and financial incentives which NERL can act upon, both tactically and strategically, to drive further incremental gains. (We, our airline customers and the CAA share concerns about the continued effectiveness of our flight efficiency metric 3Di, and whether it could be complemented by smarter metrics better aligned to customers' needs – this is discussed below).

Against this backdrop, we would urge caution against the introduction of brand-new metrics. These could have the unintended consequence of disturbing the current focus of our operation, and the supporting investment in systems sustainment and enhancement. We therefore encourage the CAA to revisit the specification of its draft objectives for its work on service metrics, to recognise more explicitly the value of continuity, the need for good evidence in support of metric evolution, the marginal benefit versus marginal cost to deliver any new metric and target, and the need to consider carefully the overall balance of financial incentives for service performance against the wider financial settlement.

2.104 Halliwell review recommendations

The Halliwell review's recommendations pertinent to service quality metrics are context for the CAA's own thinking. In taking forward these recommendations, which were made in the context of a review focused on the causes and impact of a single major technical incident, we encourage the CAA to consider carefully the principle of performance metric design, the evidence base and the practicalities of proceeding in the direction recommended.

Our concerns about measuring cancellations and knock-on delays attributable to NERL for use in its incentive framework were set out in our responses to the Halliwell review during its work and to its findings and recommendations, and are summarised below.

This subject was fully explored by the CAA itself in the period 2015-18 following the independent investigation into two major NERL technical incidents in 2013 and 2014 which led to reduced service and significant delay and disruption for passengers and airlines affected. The CAA

examined the possibility of incorporating into service metrics a measure of cancellations directly attributable to NERL service disruption. It concluded that this would not be practicable or desirable, given the indirect link between NERL service and decisions by airlines to cancel specific flights⁷.

Instead, the CAA developed, in consultation, the C4 metric which measures a cumulative score from days where delay is significantly impactful. We suggest that the CAA explore whether and if so how the parameters of C4 might be adjusted to meet its objectives of alignment with what matters most to passengers, and then consider the proportionate materiality of the C4 financial incentive, in the context of NERL's overall financial capacity.

2.105 Service quality and resilience – CAA objectives

The CAA's proposed objectives could be viewed as targeting a 'step change' improvement in NERL's delivery of service performance and resilience, and that therefore the CAA should impose more regulatory levers, with greater financial leverage, in order to stimulate NERL to make this change. We challenge this premise – NERL already performs well, both absolutely, with trend improvement over the past decade, and benchmarks strongly against other comparably large European ANSPs which also serve highly complex and high traffic airspace.

We also caution against the working assumption that any perceived shortcoming in NERL's current performance would be best remedied by one or two new metrics, on top of the current suite of metrics. For outcomes such as resilience which (like safety) are emergent properties of complex systems, it is likely to be challenging to identify key output metrics which stand as a good proxy for the outcomes experienced by customers and consumers. Careful consideration would need to be given to the potential tension with existing metrics and incentives. A more productive approach to understanding NERL's resilience performance and encouraging consistent efforts towards continuous improvement could be a closer engagement between CAA and NERL, informed by expert assurance reporting, which could provide the evidential basis for a more active 'supervisory' relationship.

We are open to considering options for incremental change to metric definition, to align better the outcomes against which our performance is measured against the actions within our scope. We also note that targets will need to be recalibrated in light of traffic forecasts – in doing so, there will be the need to balance allocation of resources towards service delivery in the near term versus support for training and technology evolution in support of longer term service outcomes.

With regard to each objective articulated by the CAA:

Objective 1 Maintaining safety as a core priority, while incentivising NERL to build resilience to meet current and future demand

As drafted, this could imply that the resilience we currently deliver is materially below acceptable levels. We would not accept that characterisation, which is not supported by evidence. The objective might be better framed in terms of continuous improvement and taking account of future demand and expectations.

Objective 2 Incentivising NERL to deliver a high standard of service quality including delivering broader outcomes that are valued by consumers and industry. The service quality and resilience

⁷ CAA, CAP1682, Appendix C: Policy statement on enforcement triggers and contingency arrangements - "We have used the standard delay metric (measured by Eurocontrol). Other metrics, such as cancellations, are not routinely collected in a format where it is easy to attribute the cause directly to NERL"

framework should promote actions that improve the full passenger experience, rather than just AFTM delay. Rewards and penalties should be sufficiently material to influence behaviour and drive broader service quality improvements. [emphasis added]

Conceptually it would be challenging to attribute NERL's contribution to broader passenger outcomes which are influenced by many actors. In practice, designing and implementing a comprehensive measurement and attribution system which was robust enough to build a regulatory framework and financial incentive on would also be taxing. An alternative approach could be for CAA to explore with stakeholders the scope for metrics which capture broader passenger outcomes and are contributed to by the actions of NERL and airlines and airports.

With regard to the level of financial incentives under which NERL operates, we consider that the current suite (including delay, flight efficiency, capex engagement and capex efficiency) is of material order of magnitude when measured against the allowed return on regulatory equity. This comparison provides a benchmark of the level of performance risk to which NERL shareholders are exposed, and which should be assessed carefully against the comparable risk for investors in other economically regulated sectors. It should also be benchmarked against the equivalent limits for the ANSP performance regime in the European Union (maximum 2% of determined costs for capacity incentives, and 2% for environment metrics).

We also point to the historic record of trend improvement in punctuality and flight efficiency since 2015⁸, against a backdrop of rising flight volumes (+9% 2025 versus 2015), and NERL's excellent performance versus European peers on both delay and flight cost effectiveness (including route charges and costs of delay). This is the clearest evidence that the current suite of metrics, targets and incentives has and continues to incentivise the company towards continuous improvement in outcomes. The case for substantial change is not self-evident.

Objective 3 Ensure service quality incentives are transparent, clearly defined and understood by all stakeholders. NERL's performance should be visible and accessible, with rewards and penalties clearly tied to specific, measurable outcomes.

We consider that this is a well drafted objective, and one that is fully met at present by NERL's reporting to the CAA and airline customers on a quarterly basis, six-monthly and annual basis, through a variety of channels (performance reports, Service & Investment Plans and the associated in-person consultations, and regulatory accounts). We consult with airlines annually on the content and format of the service standards statement and respond to suggestions for improved explanations of metrics and modes of reporting. Likewise we are attentive to airlines' and CAA's feedback on the style and content of the SIP, which includes data on recent service delivery trends and explanations.

Objective 4 Ensure incentives are proportionate to the significance of the outcomes they aim to deliver. Incentives should be calibrated to encourage NERL to deliver high service quality, investment to deliver longer-term increases in capacity and resilience. Greater materiality should be placed on outcomes that matter most to consumers and industry.

This objective overlooks the risk-bearing capacity of NERL's balance sheet and investors – it could imply that outcomes which impose big costs on users should be disincentivised with similarly big penalties. This does not recognise the relatively small scale of NERL's service in the overall aviation value chain which delivers full benefit to passengers. It should also take account

⁸ C2 delay metric: NR23 (2023-25) 7.0s/flight, 17% better than RP3 8.4s, 3Di metric: NR23 28.49, 4% better than RP3 29.64

of the level and trend in NERL's operational gearing, and the size of the RAB versus operating costs, and hence the 'equity buffer' available to absorb shocks. The overall consumer loss due to a technical incident affecting NERL's service delivery could not reasonably be borne by NERL's financial resources, without adversely affecting NERL's ability to raise investment capital, which would face greatly increased downside risk for no commensurate reward through the regulated cost of capital.

The CAA's goal of proportionate incentives is already satisfied by, for example, the maximum incentive for C2 delay being 0.25% of determined costs and that for C3 (which rewards avoiding longer delays at peak times of the operational day, of most value to airlines) being 0.75%. As noted above, long term trends in C2 indicate that incentives at the current level are effective in delivering sharp operational focus on delay management – leading to improvements in NERL's performance over the quarter century since privatisation, plus good current benchmark performance versus comparable complex and large ANSPs.

The incentives for capex should also be calibrated carefully, reflecting relative importance of the outcomes. Notably, we consider that the maximum level of penalty to which NERL is exposed via the penalty-only capex engagement incentive is disproportionate to the importance attached by airlines – engagement being only an intermediate activity supporting investment which itself is an input into the future delivery of service. The maximum capex engagement incentive for NR23 is of the same order of magnitude (c£50m) as the total of all NERL's delay and 3Di maximum incentives. This balance does not on the face of it reflect the outcomes that matter most to consumers and customers. We encourage the CAA to place careful attention in the NR28 review to overall level of performance incentives, the relationship to the risk-bearing capacity of the balance sheet, and the allocation of incentive across different areas of performance. In doing so, it could draw on relevant comparisons from other UK regulated utility sectors.

Given the range of concerns we have identified with the CAA's draft objectives for its service metrics work, and to expedite the move to a better founded basis for this important aspect of the NR28 review, we recommend that the CAA draws on **guidance** issued by the National Audit Office (NAO) on "Performance measurement: Good practice criteria and maturity model".

2.108 Service quality metrics – CAA concluding comments

We agree that "any new metrics would need to be carefully defined to ensure they are measurable, proportionate and targeted". This is, though, only a partial set of criteria – we encourage the CAA to adopt a more comprehensive framework, based on the NAO's best practice model. Notably the CAA should include the criterion of attribution – the activity measured must be capable of being influenced by actions that can be attributed to the organisation subject to the metric; with clarity about where accountability lies.

Environmental Sustainability

We agree with the CAA's assessment that "Improved environmental performance through reduced fuel burn supports the wider industry by aligning environmental objectives with service quality". Actions to improve flight efficiency and fuel burn are complements to ATC practices and airspace changes which are aimed at improving capacity and reducing delay.

We have already begun to engage with airlines and the CAA on our developing proposal to introduce a broader suite of metrics to measure our performance in this area, and to move the key performance indicator to a new metric which more closely aligns with airlines' focus on reducing fuel per flight. We look forward to continuing this work in 2026 to inform our business plan submission.

2.112 Description of 3Di metric

The CAA's description of the 3Di metric ("estimates a score for the fuel inefficiency of a flight based on comparing the actual path flown to its requested profile") is not correct. We suggest that that a more accurate summary would be:

"3Di scores the inefficiency of the flight by comparing the actual 3D trajectory flown to a theoretical one, using great circle and continuous climb and descent. The scores are based off an average of a (2012) sample of modelled fuel flow differentials which provide coefficients of inefficiency for track extension and for segments of level flight."

2.121 New metric development

We agree with the CAA's assessment that: "Moving from a % model-based metric to an estimate of absolute emissions potentially allows for a more transparent link between the incentivised metric and actual operational outcomes".

2.124 CAA's proposed environmental objectives for NR28

Objective 1 Incentivising NERL to invest flexibly and efficiently in projects that deliver environmental benefits, provided that the investment represents value for money for consumers.

Value for money for customers is, in our view, too limiting as a key criteria – this would prevent investments which are more widely beneficial for the environment but which may not pass a cost-benefit test viewed strictly from the consumers' perspective. The purpose of environmental policy in general is to recognise and account for the negative externalities that are generated by the otherwise value-maximising actions of consumers and industry. The CAA's formulation here precludes any balancing between near term consumer interests and wider longer term environmental impacts.

Objective 2 Ensure environmental incentives are transparent, clearly defined, and understood by all stakeholders

The current 3Di metric meets the first two criteria, but we have increasingly found in our engagement with airlines that it is challenging to explain the construct of the metric and its salience to airlines' own operations. That is one of the key factors we are considering in our work to date on metric development.

2.125 CAA assessment of environment metric proposals

We agree with the CAA that proposals for new metrics in this area will need to be assessed carefully against a range of criteria, including likely effectiveness, interaction with other service metrics, and proportionality of any financial incentives. With regard to calibration against current 3Di performance, we suggest that a period of parallel running would be likely to provide a good evidence basis for setting targets and incentives for a new metric.

Efficient costs

We recognise the CAA's objective to conduct a thorough cost assessment of our NR28 plan, to ensure that NERL's cost allowances are both efficient and adequate to enable NERL to deliver on all aspects of safety, service performance, resilience and system development and sustainment. It is only by taking such an 'in the round' view of what efficient costs should be that the CAA would meet its statutory duties to consider users' interests in their widest sense, not just related to the cost today of the service. The CAA should therefore weigh up the results of its cost assessment against the broader range of criteria it must also consider when setting NERL's price control – safety first, and then quality and resilience of service which NERL can provide from within the determined cost base.

In line with some of our feedback on the NR23 review process, we would urge the CAA to consider the starting point for its cost assessment – NERL is a well-run company which has been operating within a stable regulatory regime for some 25 years, has delivered demonstrable improvements in cost efficiency⁹ and service performance over that period, and compares well against peer group major European ANSPs which operate highly complex airspace. This is reflected in the EUROCONTROL ANSP economic cost-effectiveness benchmarking, where NATS has consistently been one of the most cost-efficient ANSPs in its comparator peer group and, in 2024, was around 12% below the European average and ranked second among DFS, ENAV, DSNA and ENAIRE. The consistent application of incentive regulation over this period has had the intended effect of improving and then maintaining NERL's cost efficiency.

Against this backdrop, the CAA's overall cost assessment would be likely to confirm a similar conclusion to the NR23 review. Results from any cost assessment should also be weighed carefully against evidence on trend improvements in safety and service performance noted above, and the fact that even maintaining current levels becomes more than proportionately more challenging as traffic rises over the period above previous high points achieved in 2019^[OBJ]. As such there may be little benefit to users from the CAA investing very much more widely and deeply in cost assessment exercises, with the aim of discovering material but as yet unearthed pockets of inefficiency in NERL's cost base. A proportionately scaled cost assessment would likely to be sufficient to discharge the CAA's duty to further passengers' and airlines' interests.

We agree with the proposed use of *relevant* benchmarks as a means of gaining insight into NERL's relative cost performance. We are commissioning a range of studies to explore benchmark data in a number of dimensions (whole company, by activity, by cost type), the results of which we will share with airlines as part of constructive engagement.

We encourage the CAA to make more active use of the long-established body of work by Eurocontrol on ANSP Cost Effectiveness benchmarking. This provides a rich dataset, to which all Eurocontrol member states contribute, enabling detailed analysis over time and between ANSPs in a given year, focusing on a variety of top level and intermediate metrics of financial and service performance.

2.134 Capital investment assessment

The economic regulatory framework for NERL's capital investment is unusual compared to other UK utilities in that NERL benefits from the flexibility to adjust the size and composition of its proposed portfolio for each five year price control period, in light of emerging requirements. The rationale for this approach is the primacy of NERL's safety focus in delivering continuous service to meet demand – investment plans may need to change to respond to a range of factors and should not be overly specified by the regulator up to six years in advance of spend. This fundamental nature of Air Navigation Service Providers is also reflected in the Eurocontrol charging principles for en route services, where "unforeseen changes in costs of new and existing investments" are exempt from the normal requirement that the regulated ANSP bears these financial risks.

The corollary of this flexibility is the onus on NERL to explain regularly and comprehensively how and why its investment plans are evolving – we fulfil this through the twice-yearly Service & Investment Plan documents and associated customer consultations, and are currently financially incentivised to a significant degree to meet the CAA's baseline expectations for high quality engagement.

⁹ 30% improvement in real underlying operating costs, as noted earlier in this submission.

Within this framework, we suggest that the CAA may not need to undertake the breadth and depth of capex assessment suggested in its method statement, in order to fulfil its duties to further customers' and consumers' interests and encourage efficiency by NERL. A more practicable approach would be to form an overall judgement, for its NR28 decisions, on the acceptability of the portfolio size and broad composition, informed by NERL's engagement with customers and various technical assessments. The CAA could complement this with a greater degree of insight into the evolution of the investment portfolio and project delivery through the NR28 period, for example via regular assessment for the CAA by an appointed technical advisor. This approach, of separating out the various decisions that are typically bundled into a single price control settlement into those that need to be made at the start of the period and those that can be made within period, could address some of the workflow issues which the CAA has been considering in the context of the NR28 review timetable.

There is also a practical question about the viability of the CAA's proposed detailed scrutiny approach. When we submit our NR28 plan, many projects due to commence later in the NR28 period will not yet be specified to the level of detail that would provide enough data for the CAA to conduct a meaningful efficiency assessment. This is not an indicator of inefficiency on NERL's part, but rather a function of project maturity. The CAA recognised the evolving nature of the investment portfolio and the need for different degrees of information detail for different time horizons in agreeing to NERL's '2+5' approach, which has been the basis for investment reporting during NR23.

Related to this, the CAA should recognise and account for in its own planning the fact that NERL's investment portfolio will evolve from the submission of its NR28 plan in November this year, through to the CAA's final price control decision in late summer 2028. It would not be good practice or in customers' interests for NERL to 'freeze' the plan at its autumn 2026 version, pending the CAA's 18 month regulatory assessment and decision-making process. We will explain clearly to the CAA and customers any changes to the plan proposed during this period. We should not be penalised for doing so, for example in the CAA's assessment of the proposed business plan incentive score.

We will from iSIP26 onwards provide a mapping of project definitions and milestones into the NR28 period, focusing in more detail on the next two year horizon, and identify any changes as the NR28 review proceeds towards CAA decision-making.

We agree that costs and capex attributable to the provision of UK Airspace Design Services should be separately identifiable to allow efficiency assessment as part of NR28.

Incentives and Risk-Sharing

This is a broad area, which covers long standing risk-sharing arrangements, such as for pension costs and traffic risk, and some newer incentive frameworks such as for capex and the newly proposed business plan incentive. In general, we consider the long-standing financial risk-sharing mechanisms to be working well, with sufficient clarity about their operation, and do not warrant significant reform – there is a positive value to users from stability here, as that helps NERL to continue to access cost efficient debt and equity finance. We welcome the proposal to reconsider the set of capex incentives, provided this is undertaken sensitively, considering the specific context of NERL's technology investment and the potential impact of regulatory incentives on the practicality of delivery. We do not support the need for a business plan incentive, and have concerns about the CAA's proposed design of such.

2.148 Capex incentives

We agree that there are outstanding concerns about NERL's previous delivery and explanation of its investment plans, which has resulted in the set of reporting and incentive mechanisms currently in place. We recognise that some of these measures have yet to be tested and proven

(notably the application of the *ex post* efficiency review), while others (such as the engagement incentive) drive much activity by NERL but with continued questions raised by the CAA and airlines about its effectiveness. So the topic is worthy of focus at the NR28 review, noting that it was also closely examined at the RP3 and NR23 reviews. This suggests that devising enduring incentives which improve outcomes remains challenging.

We encourage the CAA to clarify its stated objectives for regulation of NERL's capex – as drafted it is difficult to discern the key priorities. As per our earlier comments on the need for clear principles and assessment criteria when considering any new metrics, we encourage the CAA to work carefully on this topic to avoid imposing measures which might have adverse impacts on NERL's ability to manage its investment programmes effectively. The objective should not be simply to increase financial incentives related to some delivery schedule or cost metrics, but to consider what the overall impact of such might be on the pace and flexibility of delivery, and the ultimate impact on NERL's service to customers.

We are very willing to engage with the CAA in developing practicable options, learning lessons from other capex incentive regimes, including those applied to companies investing in information technology which has different characteristics to mechanical and construction investment.

We encourage the CAA to form its own independent views on these issues, informed where need be by up to date technical assessment, rather than rely on high level findings from earlier reviews as cited by the CAA.

2.156 Business plan incentive

The CAA's stated case for introducing a business plan incentive does not appear compelling, and there may be other means to achieve the high quality timely insight that the CAA is seeking. We have noted above the fundamental constraints on seeking detailed information which may not yet exist, and the alternative approaches to assessment within a regulatory period, for example through use of an appointed technical advisor.

Our principal concern, aside from the question of whether such an incentive is necessary, is how it might work in practice. The CAA's description suggests a very largely qualitative assessment (apart from on time submission of plan) against criteria which are not fully explained: for example, what is the meaning of "appropriately challenging" in the service performance target setting, and what are the CAA's "expectations against the criteria". If the incentive and associated guidance do not provide sufficient clarity for NERL to understand explicitly what score would be likely, then this provides no basis for NERL to plan to respond to the incentive. In such circumstances, the incentive does not appear to have a well-founded rational basis, and simply adds to the regulatory risk which shareholders bear.

We note that the recent Independent Water Commission concluded against such an incentive for the economic regulation of water companies, as it could distort companies' decision-making as to the balance of costs, outputs and performance targets within their respective regulatory plans. We encourage the CAA to consider the arguments and evidence presented here before proceeding with such an incentive for the NR28 review.

The translation of the CAA's assessment into a score and financial incentive is not completely clear from the draft method statement, but we infer that the CAA would set an incentive on a sliding scale between maximum bonus and maximum penalty.

2.165 Incentives for efficiency and the Eurocontrol Framework

There is a well-established process for capturing the value of unforeseen and significant changes in items subject to cost exempt principles. This provides important precedent for what has

previously been considered as unforeseen and significant. Amendments to this approach could expose NERL to greater risk, which would not be in the wider interests of airspace users.

Furthermore, the well-established process for pension costs is also supported by a regulatory policy statement (within CAP2119) that itself provides commentary on “unforeseen” changes. It notes the CAA view that this should be considered on a case-by-case basis. We share that view, and as such do not consider it necessary, and therefore not appropriate, for CAA to allocate resources in the lead-in to NR28 to define more clearly “unforeseen and significant”.

NERL considers that the current framework provides it with the appropriate incentives to drive efficiencies across its opex base, thus helping to drive down charges in the long-term. Cost exempt principles are explicitly restricted to unforeseen changes arising from factors outside of NERL’s control so in no way encourage, or reward, inefficient spend.

For the period 2023 to 2026 the Cost Share Mechanism (CSM) term accounts for c0.8% of the overall amounts included when determining NERL’s component part of the UK unit rate.

There are also a number of existing requirements which provide significant transparency around risk sharing mechanism to airspace users and other stakeholders. These include:

- › Bi-annual returns to the Eurocontrol Central Route Charges Office (CRCO) setting out the impact of risk sharing mechanism on the unit rate;
- › Regulatory accounts which report performance against the price control, movements on the regulatory asset base (RAB) including the impact of risk sharing mechanisms and additional information tables which explain the basis for these risk sharing mechanisms (e.g. pension pass through, tax clawback and tax pass through). Additional information is also provided on actual traffic volumes, inflation and service performance relative to the price control;
- › An annual cost exempt return which sets out the detailed basis for pension pass through and spectrum cost recovery.

2.167 Pension costs

With regard to the CAA’s proposed approach to pension costs, the existing regulatory policy statement provides significant incentives for NERL to behave in a manner consistent with a commercially minded company. It also provides the assurance to the independent pension trustees of CAA’s approach to regulating pensions. In this regulatory policy statement, the CAA has already established a clear framework for protecting users and discharging its financeability duty with respect to defined benefit scheme pension costs. As a result of the significant work undertaken in this area, there is already an appropriate framework ready for use in NR28. NERL’s business plan for NR28 will provide evidence of its fulfilment of its obligation to manage the costs of the defined benefit pension scheme, aligned with the provisions of the regulatory policy statement.

With regard to the Defined Contribution pension scheme, we continue to judge that a competitive DC scheme is essential for attracting and retaining talent to enable NERL to deliver a resilient service to meet growth of air traffic volumes and to support capital investment.

NB It is not correct to say that the CAA adopted NERL’s business plan forecasts in relation to pension costs for NR23. The NR23 settlement retained the DB rates included in NERL’s plan for 2023 and 2024 as these were set by the schedule of cash contributions agreed with the independent Trustees following their triennial valuation as of 31 December 2020. However, the NR23 allowance for DB costs were £94m, 23% less than NERL’s initial business plan. This is explained clearly in the CAA’s own NR23 proposals and decision documents. (We wrote to the CAA on 7 January to draw attention to this error.)

2.180 Traffic risk sharing

We concur that the traffic risk share mechanism is an essential part of NERL's regulatory framework, which serves customers by capping NERL's financial exposure to aviation demand volatility, thereby enabling NERL to access lower priced debt and equity funding. (A very similar mechanism is in place for other European ANSPs). Stability in this area is thus critically important for investors, especially considering that NR28 will see the return of the second half of the TRS revenues which were accrued in the pandemic period and were subsequently added to the RAB to enable transparent recovery of these revenues over the decade of NR23 and NR28.

We look forward to discussing with the CAA its consideration of available options around design and calibration (particularly in the context of future market shocks). In that, it would be helpful if the CAA could clarify what objective it might be aiming for in any adjustment of the TRS parameters, noting the value that NERL's investors attach to stability in the regulatory framework. As noted above, if the CAA proceeded with an extension of the NR28 period to six years, then this would compound traffic risk and increase NERL's cumulative exposure. This might be mitigated by careful calibration of some of the TRS parameters.

2.185 Inflation risk sharing

NERL firmly supports CAA's intention to retain the overarching principle that costs arising from variations between forecast and actual inflation should be shared with customers symmetrically, so that neither NERL nor airlines experience windfall gains or losses from this macroeconomic factor. Stability in relation to this matter, and maintenance of the alignment with Eurocontrol principles generally, is important for maintaining efficiency in NERL's financing costs.

We also support the CAA's exploration of a transition away from RPI as the index used to inflate the RAB. Equally, we agree that it would be sensible to consider whether a true up of the RPI-CPI wedge remains necessary.

Financial Framework and the RAB

Overall, we consider that the current financial framework, built around the Regulatory Asset Base, serves users well by providing a well understood and stable context for NERL to raise debt and equity finance in a cost effective manner. Our starting position is to seek to maintain these arrangements, which were vital to the private sector refinancing of NERL in 2021 enabling it to come through the severe drop in cashflow during the pandemic. Changes should only be contemplated where clearly warranted and/or driven by external factors (such as the move away from Retail Price Inflation indexation). We do not support simplification *per se* as an objective in this area, as this risks removing some important risk mitigations.

2.190 RAB Approach

We firmly agree that the RAB approach provides regulatory consistency and stability for investors, avoiding unnecessary increases in costs of financing investment. Equally, we agree that it is an approach that enables a smoothing of investment cost recovery and as such, it a useful tool for ensuring affordability for customers.

We believe the first sentence in 2.191 is technically incorrect for two reasons:

- > The RAB reflects the amount of revenue NERL can recover in the future to remunerate it for investment. Therefore the use of "and" in this sentence is not correct as the revenue it provides is the remuneration of past investment.
- > The value of the RAB includes, as an input, all NERL capital investment relating to the regulated business, offset by reductions from regulatory depreciation. It is for the CAA to determine whether, in its opinion, any of this investment may be inefficient and (if so) whether to disallow it from the RAB total.

2.193 Simplification

We welcome the CAA's proposed 'guardrail' that simplifications and changes to NERL's regulatory calculations should not unduly affect the overall balance of risk. Equally, we remain of the view that simplification options should be considered carefully on a case-by-case basis. Simplification, for its own sake or for the convenience of financial modelling, should not be a guiding principle for conducting the NR28 price control review. There need to be clear benefits arising from simplification, that do not erode important risk protections.

Equally, simplification of the PCM must not result in an erosion of fundamental financial model principles, such as the requirement for the balance sheet and cash flow statement to show an aligned cash position. In addition, the PCM will need to retain the ability to assess income statement based credit metrics given the requirement for NERL to examine the same credit metrics as used in the NR23 final proposals and decision, as these contained both income statement and cash flow statement based credit metrics.

2.197 Working capital

We consider that there could be merit in removing some relatively immaterial working capital items from the calculations in the PCM. However, any decision to focus solely on TRS payable/receivables could lead to the omission of some potentially material regulatory debtors and creditors.

We are assuming, therefore, that the CAA's reference to TRS payables/receivables is just shorthand for "All Regulatory Debtors and Creditors", such that it includes items associated with Condition 21 which includes TRS (on both Determined costs and RP3 TRS Debtor recoveries) and Inflation adjustments, price profiling, TVAR and also the recovery of qualifying pension cost and tax variances. Focusing on just the TRS payables/receivables, without reference to other regulatory balances, would reduce transparency within the financial modelling and would ignore important and potentially significant working capital funding requirements.

The regulatory framework is cash-based. As such excluding any non-material cash flow items would undermine that framework, to the detriment of all stakeholders. We encourage the CAA to consider this carefully and assess whether transparency is optimised by having a PCM that can handle these important cash flows, or whether it is optimised by addressing this matter in potentially a more opaque fashion within the allowed cost of capital.

2.201 Backlog depreciation

We acknowledged our support for the CAA's proposal to remove backlog depreciation in relation to capex investment as part of the CAA's regulatory model simplification proposals in November 2024. An important point to note with this acceptance is that for regulatory depreciation forecasts to be correctly calculated in NR28 the inputs to these calculations need to be updated to reflect actual capex spend, capitalised finance costs and cost exempt items claimed in NR23.

2.202 Total Service Unit (TSU)/Chargeable Service Unit (CSU) calculations

We consider that there may be benefits in performing all calculations on a CSU basis and converting to TSU where necessary for Eurocontrol reporting and charging. We would welcome an opportunity to discuss this in more detail with the CAA.

2.208 Pension and Spectrum Passthroughs

An N+2 adjustment mechanism for pension pass-through and potential other mechanisms such as tax pass-through might serve to simplify the financial modelling. However, this would be at the expense of a risk of significant volatility in the unit rate, as both the pension pass-through and the tax pass-through can be material sums. Risk sharing mechanisms serve to protect airspace users and NERL from exogenous factors and differences between actual outcomes and the original

price control assumptions. This volatility increases over the course of the price control given the passage of time since the price control decision itself. We observe that material changes in en route charges, between and within control periods, can cause shifts in traffic patterns as some airlines adjust flight plans to seek to minimise total flight cost (fuel + route charge + aircraft usage). This in turn impacts on our and other ANSPs' ability to forecast demand and plan network capacity to meet that demand.

This is therefore an example of where simplification of financial modelling does not serve to add value to NERL's customers. As such, we do not support it.

2.210 TVar Removal

The TVAR calculation is an integral part of NERL's financial risk management and an important contributor to NERL's financial robustness.

The CAA's expression here of how the TVAR operates is incorrect. In 2.210 CAA note that the TVAR is "calculated on the basis of contemporaneous forecast traffic for the year in which the adjustment is made". This is not true as the calculation is on the basis of the traffic forecast set at the start of the regulatory period, which can lead to material variances when N+2 items (which include TRS and Inflation) are first recovered, especially later on in a control period.

CAA also note that this calculation is "typically of very low materiality". We would not agree as under NERL's latest traffic forecast, due to the difference between this forecast and the NR23 traffic forecast in 2026 and 2027, the TVAR value for 2028 and 2029 is expected to be around £15m in each of 2028 and 2029. These are highly material values.

Finally, we do not consider TVAR to be an overly complicated calculation that requires simplification. The calculation in our financial model, which sets out all the required inputs to the calculation, is only twenty rows and uses simple formulas.

TVAR in its current form represents a key component of how NERL manages traffic risk volatility. It is sourced from Eurocontrol charging principles and provides robustness that is recognised by NERL's rating agencies and investors alike. This calculation is not complex or unduly complicated and the values are likely to be material in NR23. As such, we would not support any material reduction in the risk mitigation provided by this.

2.214 Inflation indexation of the RAB

NERL supports the CAA's intention to transition away from indexing the RAB by RPI and considers that there is strong case to use CPIH for the new index. CPIH is the ONS's lead measure of the rate of inflation. In addition it is the RAB indexation used by both Ofgem and Ofwat, the economic regulators of the majority of UK regulated entities by both number of companies and value of regulatory asset / regulatory capital value.

We will prepare our business plan for NR28 on the basis of a transition from RPI to CPIH. This plan will include a transparent calculation of the necessary adjustment to the closing NR23 RAB to address the impact of this transition on existing, unrecovered capital investments.

2.219 Regulatory depreciation

NERL agrees with the CAA on this topic. However we note the following points:

- > The CAA refers to 15 year depreciation on "new assets", however depreciation is also calculated on capitalised finance costs, and on items covered by the cost exempt mechanism (pension and tax pass through).

- > To ensure regulatory depreciation forecasts in NR28 are correctly calculated, the inputs to these calculations need to be updated to reflect actual capex spend, capitalised finance costs and cost exempt items claimed in NR23. Also, NERL needs to continue to earn or repay capitalised financing costs on actual capex differences from forecast and items covered by the costs exempt mechanism (currently DB Pension and tax differences) via the RAB as these are added to the RAB during NR28 and become an input to the NR33 calculation.
- > We agree an adjustment is still required to remove the impact of pension pass-through from the regulatory depreciation building block so these can be included in the cost exempt line in Condition 21. We also note that we have assumed that cost exempt items relating to tax will also follow this treatment and this has been documented in NERL's regulatory accounts.

2.220 Cost of capital

We agree with the CAA that the cost of capital for NR28 should use NR23 as its starting point, with updates for new market evidence and relevant regulatory precedent. Equally, we agree that it is likely that the WACC applied to the NR28 price control will be higher than that used for NR23. Furthermore, we support CAA in its aim to recognise explicitly the impact on cost of capital of the incentive package being applied to NERL in the NR28 period. This is an area that has been under-explored in previous price controls.

2.228 Corporation tax

The financial impact of the continuation of full expensing and the reduction in writing down allowances on legacy assets from 18% to 14% will be determined by NERL in due course. We will also assess the amounts to be recovered for the unforeseen and significant increase in employer national insurance contributions which the NR23 settlement did not anticipate – CAA have been made aware of this and the amount to be recovered is reported through the Regulatory Accounts.

2.240 Financeability

NERL would support a target credit rating consistent with a notional gearing level of around 60%, per the CAA's draft Business Planning Guidance. In relation to downside scenarios, the CAA should include traffic shocks, but not limit this to just a 10% downside scenario (as per NR23), as this would under-represent the cash flow risks actually faced by NERL. The CAA should also include scenarios associated with operating costs and capital expenditure, in each case, taking account of incentive mechanisms.

Without this consistent cross-check across all key aspects of the price control (namely, demand risk, cost risk, investment risk and performance risk) that can impact shareholder return, there could be a risk that the CAA sets a price control which is materially less attractive to investors than implied by the headline equity return in the allowed cost of capital. This in turn could adversely affect NERL's ability to finance its business and thus sustain the financial resources needed to deliver and develop the licensed business in line with users' requirements.

2.245 Format of the RAB rules

Due to the importance of the RAB to NERL's financeability, we believe the methodology to calculate it should be set out in detail in a clearly drafted prose document, with equations also drafted clearly, rather than solely in a spreadsheet. Writing the rules in text and equations in a document serves to increase clarity and transparency. This is because the rules can be shared, cited and examined in a more user-friendly format than relying on formulae or notes within a spreadsheet. We consider that there could be merit in a spreadsheet being used to supplement a RAB rules document for certain users, but not to replace such an important document which is relied upon by long term investors in NERL.

We recommend that the CAA considers best practice in this area by other UK regulators and any guidance offered by the UK Regulators' Network.

Draft Business Plan Guidance

Scope and priorities

We agree with the proposed scope and priorities, subject to our overall comments on the method statement above.

We welcome the recognition that the level of detail available will vary by time horizon: “The business plan should provide a level of detail on projects and programmes which reflects the time periods for delivery: projects/programmes that are further in the future will typically have less detail, but should include current (planning) assumptions/risks”. We encourage the CAA to include specific guidance to this effect in the capital expenditure section, which it appears to require NERL to submit high levels of detail for all projects above a threshold spend level, regardless of project maturity.

Safety

We agree with the CAA’s draft guidance in this area.

Consumer priorities

We agree with the CAA’s draft guidance in this area.

Traffic

For the reasons set out above in comments on the method statement, we will propose the use of NERL’s own long term traffic forecast, for the UK and oceanic flights and UK service units, as the better basis for building and then implementing the NR28 plan.

With regard to traffic scenarios and their implications, we will aim to secure agreement with airlines about a plausible range of high-low around the base forecast on which our plan is based. There will be direct implications of high and low outturn versus forecast for the punctuality targets (which are subject to traffic modulation) which we will explore with our customers. We do not though envisage offering lower cost options which would result in lower capacity than we judge to be in users’ interests. Instead, as at the NR23 review, we will use our analysis of traffic and planning scenarios, and evidence on the variability of costs, to illustrate the high level impacts of different traffic outcomes against the base case and illustrative alternatives.

Service quality and resilience

Subject to our comments above on the method statement, we agree with the proposed scope of the business plan guidance with regards to these topics.

Environmental sustainability

Subject to our comments above on the method statement, we agree with the CAA’s draft guidance in this area.

Cost

66-79 Capex

The CAA’s draft guidance would require a very high level of detail on comparatively small scale individual projects. In line with our comments on the method statement, we question whether this depth is either necessary or practicable. We would be keen to engage with the CAA further on what might be an appropriate level of required detail, before this requirement is embedded in final Business Plan Guidance, and becomes the basis on which the quality of the plan would be assessed.

Financial issues

85 Requirement to assess Financeability

The financeability policy in the draft method statement makes clear that the notional finance structure will reflect the views of the CAA with regard to the scale and nature of NERL's debt liabilities. Therefore, in order for NERL to provide robust evidence of financeability within its business plan, the CAA must first share its views on what it considers to be the notional finance structure.

We believe this can be achieved by sharing this structure within the PCM. We request the CAA confirm that this is the approach they will take, or if not, how the notional finance structure will be shared with NERL. At present, the only guidance provided by the CAA is that the notional finance structure would have a gearing of 60%. This may be sufficient information, but we would welcome views from the CAA on this point.

88 Target credit rating

As CAA suggests, we will identify any structural or regulatory changes which would support our proposed credit rating, as part of our NR28 business plan. We note though that some of the regulatory simplifications proposed by the CAA for NR28 would have a significant impact on NERL's financial risk, and would thus be likely to weaken the current support of the credit rating. These simplifications include the proposals to restrict RAB working capital to TRS only, and the proposal to change or remove the TVAR term.

We agree that there should be a target credit rating for NERL, and a key input to this decision will be plausible downside scenario analysis. As part of our financeability analysis we will also run plausible downsides (including capex scenarios) and will assess these against our proposed target credit rating for NERL. We believe this assessment will be sufficient for financeability purposes, and do not see what extra value or insight would be added if the net impact of a higher or lower rating was considered for each relevant scenario as part of this workstream.

90 Notional gearing

See our earlier comments on the need for the CAA to provide further guidance on what it considers NERL's notional financial structure should be.

This paragraph states that a notional gearing of 60% was used in NR23. This statement appears to be incorrect, as in the CAA's NR23 Final Decision the cost of capital assumed a gearing level of 34% and the average gearing in the NR23 Final Decision PCM was 40%. Looking forward to NR28, though, we welcome the CAA's approach of assuming that the efficient capital structure will likely have its gearing nearer to 60%.

92 Financial modelling

As the PCM needs to be agreed prior to the time the final Method Statement and Business Plan Guidance is issued (late April 2026), we propose that the CAA shares the PCM with NERL as early as possible in February 2026 to enable NERL's review and for these discussions to take place in February and March 2026.

101 Taxation

The quality of NERL's explanation and justification for any differences between regulatory allowances for tax and its own forecast is dependent on an extensive, technically robust and transparent explanation for the calculation of the regulatory allowance.

104 Regulatory Asset Base

The RAB Statement in NERL's Regulatory Accounts includes a reconciliation between the actual RAB and the RAB assumed in the NR23 Decision. In NERL's November 2026 Business Plan, to

save duplication, this requirement will be met by published Regulatory accounts for 2023 to 2025. Our plan document will include the same reconciliation for our forecast RAB for 2026 and 2027.

Consistent with previous regulatory periods the CAA will need to include provision in the RAB rules to cover any differences between NERL's forecasts for 2026 and 2027 and the actual RAB for those periods.

108 Cost of capital

NERL will provide a clear and thorough explanation for each of the proposed cost of capital parameters. However, given the broad range of evidence types listed by the CAA it may not be practical, or even possible, to broadly align our proposals with all of them. It will be necessary for NERL, and indeed the CAA, to interpret the available evidence and where necessary prioritise certain types of evidence. We would welcome acknowledgement of this by the CAA in its final business plan guidance.