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10th November 2017

Sent by email to economicregulation@caa.co.uk

Re. Guidance for NERL in preparing its business plan for Reference Period 3: consultation document (CAP 1593)

Dear Bronwyn,

British Airways (BA) welcomes the opportunity to respond to the CAA's consultation document on the CAA's guidance for NATS (En-Route) Limited (NERL) in preparing its business plan for Reference Period 3 (RP3).

SUMMARY

1. BA supports the consultation process used for RP2 being used again for RP3 as we believe this is both proven and effective. We understand the CAA rationale for NERL to develop the initial business plan but the CAA must also undertake its own assessment of the key business plan requirements and regulatory inputs such as the cost of capital. Whilst the proposal for NERL to identify core and wider requirements in the RP3 business plan appears sensible more detail is needed to allow us to make a fully informed judgment. We welcome the proposal that LAMP2 should be a core requirement for NERL in RP3 as successful delivery of airspace modernisation in the South East will deliver the greatest level of benefits for both airspace users and communities. BA supports the increased focus on noise and resilience but believe that RP3 should focus on resilience as the wider UK policy and regulatory approach has a greater focus on noise. Addressing overall delay levels should form a key element of RP3. To ensure the RP3 consultation is effective the CAA's consultancy studies must be made available to participants prior to the start of the process. Overall we support the CAA's proposed approach.

APPROACH TO RP3 BUSINESS PLAN DEVELOPMENT

Q1. Do stakeholders consider that a two track approach to NERL's business plan is reasonable?

2. It is reasonable to ask NERL to provide an initial business plan that includes their thoughts on what they consider "core" requirements, and then a range of more discrete "wider" initiatives. This approach should enable meaningful consultation on real choices that can be made when considering what the performance plan for the period 2020-2024 should eventually include. In RP2 the initial choices presented were presented in terms of a service-led plan or a price-led plan, it is hoped that, given guidance to prepare a two track initial business plan, NERL will take into account airspace user (and other stakeholder) requirements, and consider cost and benefits from a user perspective.
3. The guidance should focus NERL on developing an initial business plan for which they feel a high level of "ownership".

OUTCOMES AND OUTPUTS FOR RP3

Q2. Do stakeholders have views on the allocation of activities and outputs between the core and wider categories for NERL's business plan?

4. BA understands the CAA's proposed allocation of activities and outputs between the core and wider categories. LAMP2's designation as a core requirement for RP3 is fully supported by BA and we note that this view was shared by Virgin Atlantic and was recognised by the CAA¹.
5. Whilst NERL are currently required to manage and report on their own attributable delay BA believes there is scope within RP3 to consider measures that look at overall delay, to encourage more proactive management of elements of delay beyond what is wholly attributable to NERL but that impact on passengers and airlines as airspace users². This could also include arrival delay.
6. Under operational resilience BA would suggest that the core requirements could be supplemented with two new elements:
 - Thunderstorm resilience – more proactive management of thunderstorms across the LTMA would benefit all airspace users and should be a priority³;
 - Enhanced Time-Based Separation (eTBS) Phase 2 – making delivery of this in 2021 will fundamentally enhance LHR resilience for the most prevalent weather event, strong winds on approach.
7. Under noise we would suggest that 'meeting' the new UK Government airspace policy and regulatory approach should be a core requirement rather than a wider requirement. Likewise we

¹ CAP1593 para 16

² See also para 11

³ See also para 13

think that 'considering' opportunities to measure noise on overflowed communities should be a wider requirement rather than a core requirement.

8. Drone policy should be retained as a core requirement, but our position would be that all other new technology should be designated as a wider requirement, as there is as an element of choice in moving to new technologies and consideration of this will be embedded in the ongoing management of RP3 through the service and investment plan (SIP) process. For the avoidance of doubt BA does not believe that civil aviation should be burdened with the full cost of regulation and activity related to drones and that drone user should be bearing some or all of the that cost.
9. A table showing the CAA's proposed core and wider requirements allocations with BA's suggestions added is included in Appendix B to this response.

Q3. Are there any further views from stakeholders on extending the scope of the incentives on NERL to put greater emphasis on resilience and noise?

10. British Airways would certainly endorse a greater focus both on operational resilience within the context of economic regulation as noise is being given far greater attention through UK policy, ICCAN etc. However, the focus needs to be on operational resilience initially as noise is already the subject of great political scrutiny, particularly in the context of the airport environment, whereas operational resilience is not receiving the same level of focus. In addition there is a concern that without a balanced approach to incentivising noise mitigation there could be a detrimental effect upon flight efficiency and operational resilience.
11. Currently, NATS is very much focussed on NATS attributable delay and its performance is admirable within this context. However, from a passenger perspective, the focus is very much on total delay with weather delay forming the vast majority of the overall delay experienced. Weather delay comes under the definition of non-NATS attributable delay and thus does not always attract the necessary focus.
12. NATS is to be credited with the introduction of time based separation at LHR back in March 2015; a system which mitigates strong winds on final approach and has certainly enhanced resilience and, consequently, the overall passenger experience on the many strong-wind afflicted days at LHR. Therefore, the introduction of eTBS Phase2 which will benefit LHR through an increase in the landing rate of approximately 3 aircraft per hour is a core requirement within RP3.
13. Conversely, BA has been largely disappointed in recent years with NATS focus on thunderstorms and their impact upon the LTMA. It should be noted that thunderstorms are the worst of the weather events as they are an airspace event and with direct impact upon both arrivals and departures. Conversely, fog and strong winds are airport specific events and only directly impact arriving aircraft. BA has invested significant time and cost to increase NATS focus on thunderstorm impacted days; for example, BA arranged and funded tickets for NATS on a visit to the New York area to understand the American approach to management of thunderstorm impacted days within a similarly congested airspace structure. However, BA has seen little improvement in the UK operation as a 2016 NATS trial was both poorly managed and suffered from a total lack of effective communication. While the provision of Met Office forecasters into Swanwick earlier this year is certainly a step in the right direction, BA would like to see more dynamic decision making

to improve resilience and NATS needs to be incentivised in the business plan to achieve the necessary focus with penalty clauses for lack of success.

COSTS

Q4. Is the broad approach to the draft business plan guidance on costs reasonable and is there additional third party assurance that NERL could reasonably provide to help demonstrate its forecasts of costs are efficient?

14. Until airspace users see what third party assurance NERL provide, and the quality (in terms of applicability and level of detail) of that assurance it is difficult to say if there is any additional assurance that NERL could reasonably provide.
15. The CAA states various requirements for NERL in this respect that provide reassurance to airspace users that what NERL present should be credible; such as:
 - benchmarking
 - clear and compelling cost benefit analyses and strategic optioneering
 - transparency of costs
 - improved visibility and granularity of benefits
 - an appropriate level of evidence that its cost forecasts are efficient
16. There is a concern that it will likely be difficult for NERL to benchmark itself effectively and objectively. Recently NATS sought to benchmark ATCO pay against flight crew pay, but even BA was not willing to share information about pilot pay. If NERL have to commission external research there has to be a question as to the degree of trust airspace users will have in the findings; however the concept of NERL having to internalise the concept of having to prove its own efficiency is a good one, and the debate that will ensue should prove useful in terms of coming to a conclusion on this key cost aspect of the eventual performance plan. It will be important to have the CAA appointed external consultancy report judging both non-staff and staff opex (inc pensions) efficiency and capex efficiency when discussing this aspect of their initial business plan with NERL.
17. In theory the requirements set out seem like a good basis for consultation; with NERL being required to demonstrate efficiency on the “core” requirements – and then establish a range of extra “wider” options – on which they will be required to demonstrate the cost/benefit of. NERL have always previously stressed the interrelatedness of their projects – and so the degree to which any real choice on a “wider” initiative (project) can be offered remains to be seen. Whilst we have an expectation that this process will be complicated, it should have value.
18. We have similar concerns about the CAA expectation that NERL will suggest, in relation to the capital expenditure, “whether better financial incentives, reporting requirements or licence conditions are required to help encourage capital efficiency.” Whilst we would expect NERL’s response here to be born from self-interest, as opposed to a true customer-centric perspective, the ensuing consultation debate will at least be interesting, and hopefully eventually establish clear positions in this regard for the CAA to eventually determine on as part of the performance plan and licence conditions.

19. In light of the difficulties that have been faced in regards to the RP2 capex programme, it may be useful to have NERL both consider and propose alternative methods of airspace users funding capex programmes over a period of time that is not tied to Reference Periods and which funds what is actually delivered, as opposed to what is only imagined. The concept, maybe in the guise of some form of a conditional price cap, could incentivise delivery and assure users that they are actually funding agreed priorities and deliverables, as opposed to enabling repurposing of the funds and facilitating the delay of any project delivery.

Q5. Should the business plan set out information to facilitate the ex-post efficiency reviews of RP2 capex (which could include the disallowance of inefficient expenditure from NERL's RAB) or would these reviews be best carried out by a separate process?

20. Whilst it would be useful for the business plan to contain information to facilitate ex-post efficiency reviews for RP2 it may be too soon to conduct those reviews in the RP3 consultation process itself. The significant changes to the RP2 capital plan were only formalised in May 2017 and covered a large part of the overall plan. In order to allow for a wide choice of projects / programmes to be considered through efficiency reviews it may be more appropriate for these to be done by a separate process that sits outside of the RP3 consultation timescales and can continue past September 2018 into 2019. They could then inform the CAA's consultation on the revised business plan in 2019 and allow the re-baselined RP2 projects to reach a greater level of maturity that allows efficiency reviews to be more meaningful.

Q6. Is the above draft business plan guidance on transparency of NERL's capital programmes and projects fit for purpose or could it be further improved?

21. The guidance in relation to the transparency required on NERL's capital programmes is fit for purpose.

Q7. Is there stakeholder support for the continuation of the FFF? If so, do the current governance arrangements remain appropriate for RP3? Should we give further business plan guidance to NERL on the FFF arrangements?

22. BA does support the continuation of the Future Airspace Strategy Facilitation Fund (FFF) and we are open to a review of the current governance arrangements as we move into RP3. A key concern here is how the UK's exit from the EU will impact SESAR Deployment funding available to the UK aviation industry. Will it be replaced by some form of UK direct funding, which will be added to the FFF? If the FFF was to become a fund for the broader investment in UK ATC and ATM modernisation, then an appropriate governance process would need to be established. The FFF should be a topic for review in the RP3 consultation process.

Q8. Should we provide further business plan guidance on expenditure governance arrangements and/or incentives?

23. At this stage we believe that it is appropriate to let NERL propose, and justify, in their initial business plan, the governance scheme to review cost efficiency and to suggest any incentives they believe would be beneficial in this regard.

Q9. Is the draft guidance set out above on pensions reasonable and can it be improved?

24. In regards to the pension costs the CAA has laid out a good level of detail about what is expected. The guidance may benefit from a clearer explanation of the CAA's expectations and logic in regards to how and why there would be a differentiation between some of the costs of pensions deficit repair for future service between core and wider costs.

25. We look forward to being presented with details of how NERL has balanced the costs of increased pay remuneration in exchange for their employees foregoing rights to future pension service, and how this impacts on the cost of deficit repair and overall pensions costs.

FINANCEABILITY

Q10. Is the draft business plan guidance on the cost of capital, regulatory depreciation and financeability appropriate?

26. *Cost of Capital* – The CAA proposes to take an approach that allows NERL to propose a cost of capital and to justify that as part of the initial business plan. In asking NERL to do this work BA's strongly held view is that should not mean that the CAA are not also concurrently doing their own internal work to inform their own view of the appropriate cost of capital. Whilst the CAA's own view on the cost of capital for the HAL H7 price control review can be used to inform this debate there should also be separate work done to apply this to the environment NERL operates in. Whilst the RP3 process may start from a position of NERL taking the lead on defining its own business plan proposals the CAA cannot let the regulated monopoly lead throughout the whole process. BA expects the CAA to develop their own views on cost of capital independent of NERL.

27. *RAB and regulatory depreciation* – BA will engage with NERL and the CAA on development of new policy on regulatory depreciation if required. In the first instance NERL will need to fully demonstrate the impact that lower levels of depreciation in RP3 will have on their ability to secure efficient financing.

28. *Financeability* – In addition to the evidence the CAA has specified BA would want NERL to demonstrate how it manages its investor portfolio and what opportunities it has identified for more efficient financing.

CUSTOMER CONSULTATION

Q11. How should we best include airports in the scope of the Customer Consultation mandate?

29. BA would support airports being a consultee as part of the RP3 consultation process but we would fundamentally disagree that they should be given equal weight to airlines in the process. Airlines pay user charges to NERL based on our use of airspace. Airports do not pay any airspace user charges therefore they are not subject to NERL's monopoly and so do not have the same level of exposure to all of NERL's activities. BA disagrees with any proposal that airports should be given the same key consultee status as airlines. Our preference would be for airports to be designated as a stakeholder which better reflects their relationship with NERL in the context of economic regulation. In particular we see RP3 as being a tripartite process between the NERL, airlines and the CAA. A clear airline community voice is needed within the RP3 consultation process and including airports in the definition of customer, when they have their own objectives and drivers separate to airlines, would compromise this. Airlines pay the economically regulated en-route rate and are customers of NERL, airports do not. We would encourage the CAA to reconsider their proposals in this area.
30. Whilst airports may be impacted by South East airspace modernisation that activity is only one part of NERL's activities. When airspace modernisation goes ahead NATS will need to consult with airports as part of the airspace change process which is the more appropriate primary forum for NATS and airport engagement. As a stakeholder airports should be involved in the specific part of the RP3 consultation process on planned airspace changes to ensure that those parts of the RP3 business plan are understood and agreed more widely.
31. BA would suggest that there could be a role for specific bi-laterals between NERL and airports focused on the element of airspace modernisation as part of the RP3 consultation process that could then inform a wider topic workshop for all stakeholders within the RP3 process.

Q12. What steps should NERL take to reflect the views of wider stakeholders, such as passengers and overflow communities, in the development of its business plan?

32. BA believes that airlines best represent the passenger within the NERL regulatory process. The incentives airlines face in optimising capacity, reducing delay, and controlling and reducing prices strongly correlate with the passenger's interests. As in previous regulatory periods BA would share our knowledge of our passengers with NERL to assist development of the RP3 business plan. Ultimately we would contend that delivery of LAMP2 and airspace modernisation would meet the expectations of passengers more than any other initiative in RP3.
33. Whilst the impacts of noise on overflow communities are important BA strongly suggests that consulting communities in the context of the economic regulation of NERL is not the best place for such consultation to take place. The Government's new airspace policy and the new CAA airspace change process are focused on the impacts of noise on those communities and will cover ongoing noise management and the impacts of airspace changes. Ultimately any RP3 project that leads to a change in airspace usage or an airspace change will be subject to community consultation and that is the most appropriate place for that consultation to take place.

34. There is a danger that consulting overflowed communities within the context of economic regulation of NERL creates an unrealistic expectation of noticeable changes in noise and overflights that cannot be met solely by the RP3 business plan. To be clear it is not a question of whether communities should be consulted or not rather it is a question of where that consultation is most appropriate and effective.

Q13. Should the customer consultation process follow the same broad approach as RP2, with a requirement for a structured engagement programme, customer consultation working group and an independent/joint chair?

35. BA would support taking the same approach as used in RP2 with a structured engagement programme based around the both the key components of the regulatory settlement and using the CAA's consultancy studies to inform and lead the process. The customer consultation working group and the joint chair process worked well during the RP2 consultation and we would be supportive of following that model again. BA would be willing to consider putting forward a representative to act as the airline co-chair if the CAA decide to use this model again.
36. In addition BA would be supportive of the CAA Independent Reviewer (IR) function that has been deployed in the RP2 SIP process also being used in the RP3 consultation process. The IR has built up a good working knowledge of the NERL RP2 business and an understanding of the business plan assumptions that relate to ongoing programmes extending into RP3. The RP3 consultation process would clearly benefit from making use of both the IR's knowledge and their expertise and it would be useful to further develop this and have access to that during the process.

Q14. What topics should the customer consultation programme address and what improvements can be made compared to the process for RP2?

37. The topics covered in the RP2 consultation largely hold for the RP3 consultation process such as key priorities of airspace users for the RP3 period, NERL's proposed business plan, key components of the business plan etc. The RP2 consultation proposed a spectrum of business plan outcomes with a service quality-led and price-led plans at either end. Our expectation of the broad approach set out by the CAA for RP3 is that rather than follow a similar approach this time the onus will be on NERL to propose their initial plan and then the process to achieve the revised plan will incorporate users views on service quality and price among other drivers. As such having specific topics on potential service quality / price trade-offs will not be necessary as it should be embedded in the business plan options NERL present to users throughout the process.
38. BA has made it clear that our primary objective in RP3 is to successfully deliver LAMP2 following its removal from the RP2 plan. Airspace modernisation in the South East will deliver more benefits for capacity, performance, delay, resilience, noise, and flight efficiency than any other measures that maybe delivered in RP3 and this would address the key concerns of passengers – safety, in the first instance, followed by punctuality and delay. BA fully agrees with the CAA's position that LAMP2 should form a core requirement for NERL in RP3.
39. Notwithstanding this position it is also clear that although NATS should lead on driving LAMP2 forward to delivery it is not wholly within their gift to deliver it. Recognising that change may

happen in RP3 BA believes that there needs to be a debate about how such change, if it happens, is dealt with and what mechanisms should be put in place to manage it and ensure airspace users have real choices. Managing the business plan within the RP3 period needs to be discussed as part of the consultation process.

40. Areas of the business plan that maybe impacted by Brexit should be clearly identified within the RP3 consultation process and information shared as and when arrangements for the UK's exit and transition out of the EU become known.
41. The sensitivity analyses that NERL and the CAA undertake in the RP3 consultation should include likely airline responses to changes in both passenger demand and fuel price.

Q15. Are there alternative model(s) of customer consultation that might be followed for RP3 – bearing in mind the constraints created by needing to align the timetable for customer consultation with the SES Performance Scheme and associated milestones.

42. BA does not believe that there are alternative models of consultation that would significantly improve the process. The proposed process, as used for RP2, should drive effective engagement providing key inputs, such as consultancy studies and the initial business plan, are delivered to plan and the CAA is able to hold parties to account and take an active role where necessary beyond simply being an arbiter between NERL and the airlines. The co-chair process allows for areas of difference to be identified, jointly worked upon, and for alternative proposals to be made. It also facilitates clarity in detailing the respective positions of NERL and airlines which makes the CAA's job easier in understanding the key issues to be addressed.
43. During 2019, when the CAA consults upon the draft RP3 performance plan and up to the start of RP3, BA does expect there to be an opportunity to update the plan in light of any potential UK-EU Brexit arrangements that have a material impact on the proposed business plan. We would consider that a mechanism - including customer consultation in an appropriate format for the stage of the RP3 development process – is developed to facilitate this.

Q16. What views do stakeholders have on the proposed CAA consultancy activities as discussed above and set out in Appendix D – in particular the nature of the proposed studies, their objectives, scope and deliverables?

44. Detailed comments on the proposed consultancy studies are set out in the Appendix to this response.
45. Consultancy studies should be made available to stakeholders prior to the start of the RP3 consultation process, or in the early stages of the process. They must have been made available in good time prior to any specific customer consultation that takes place on those topics. In RP2 some of the consultancy studies were released very late and after the process had finished. This should be avoided in the RP3 process.

Other issues

46. Separate to the guidance being offered to NERL for the creation of their initial business plan for RP3, we would like to raise another RP3 consultation issue with the CAA, in regards to seeking a formal consultation with the Met Office for the services that they offer in RP3. We see value in the provision, to industry, of the continued development of the Met Office tools and the sharing of data (in a CDM arrangement) with the aim of delivering improved now-casting and forecasting of thunder storms. As the focus on this area increases the service needs to be properly funded (funded as part of the Met Office's component of the unit rate – and not [as now] hidden with the NERL unit rate) and performance plans determined in RP3.

If you have any queries on this response please contact me at david.milford@ba.com.

Yours sincerely,



David Milford
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APPENDIX A – BA COMMENTS ON PROPOSED CAA CONSULTANCY STUDIES

Study	Comments on the range, scope, content and timing of these studies
Cost allocation	<p>The consultant should also be expected to present their findings to airspace users.</p> <p>It would be useful to have the output from advisor ahead of the multi-lateral RP3 consultations sessions affected by this subject.</p>
Non-staff opex review	<p>The consultant should also be expected to present their findings to airspace users.</p> <p>It would be useful to have the output from advisor ahead of the multi-lateral RP3 consultations sessions affected by this subject.</p> <p>Whilst continuous improvement, and a reference to NERL prior year cost efficiency is interesting, it is not, in and of itself, a benchmark of cost efficiency – and even less so an indicator of value for money for airspace users.</p> <p>The review of non-staff opex should include a critical review of the degree to which the spend provides a benefit to airspace users.</p> <p>Crucially there needs to be a critical assessment of the appropriateness of the specifications to determine if there is any ‘waste’ that can be removed or reduced.</p> <p>A value for money assessment should be considered, which goes wider than a review of cost efficiency. A simple example of this concept can be illustrated by taking the example of office window washing, which would form part of the FM costs. It may well be that NERL have a quantifiably low cost when it comes to the cost of washing a window, but an assessment needs to have equally be made about the value gained from the specification. Is there value to be gained from specifying that the windows should be washed every 6 months, every year, every five years, or on some sort of objective test when the windows are actually dirty.</p>
Staff opex review	<p>The consultant should also be expected to present their findings to airspace users.</p> <p>This is the most important of all the studies, given that NERL is an opex driven business – and given that previous consultancy studies have shown just how overpaid NERL staff are.</p> <p>We will be particularly interested to see what efficiencies will be delivered in RP3 as a result of the various technology developments in RP2.</p> <p>This study needs to consider all aspects that contribute to staff costs; including the length of the working week, holiday entitlement, roster efficiency (including a critical evaluation of the value of a “watch” system), response to Government changes to State pension arrangements and the consequential impact on NI payments. It should be noted that Maastricht, who BA considers to be the most modern ANSP, has a dynamic resource allocation of its people and is not burdened by a legacy watch system.</p> <p>In response to the RP2 report we also asked for the CAA to encourage NATS to keep records of the time ATCOs actually spend “plugged in” and controlling aircraft when on shift. The inability to access information relating to the actual utilisation of an ATCO</p>

Study	Comments on the range, scope, content and timing of these studies
	<p>when rostered is unhelpful and frustrating when trying to understand efficiency. To properly assess the staff opex costs in RP3 it will be of real benefit to understand the degree to which on the day operational decisions are made to band-box positions and release controllers, either to do project work, or to take longer breaks or even leave work early.</p>
Capex review	<p>The consultant should also be expected to present their findings to airspace users.</p> <p>It would be useful to have the output from advisor ahead of the multi-lateral RP3 consultations sessions affected by this subject.</p> <p>In regards to the forward looking part of the report – the scope should include a requirement to assess and report upon the appropriateness of the overall investment strategy for the “core” elements of the initial business plan, and then again for all discrete elements of the “wider” initial business plan including with reference to:</p> <ul style="list-style-type: none"> • whether the quoted benefits of the strategy are realistic (which should include an analysis of the appropriateness of the assumptions NERL have used to determine costs and benefits that would accrue to airspace users, such a traffic volumes, price of fuel, impacts of Brexit, etc. • whether the quoted timescales for delivery of the benefits are realistic • consistency with the future implementation of SESAR • timely and efficient progress towards the implementation of FAS • the responsiveness of NERL to its customers business priorities • the feasibility of the plan in terms of the scope, design and sequencing • whether the plan includes efficient and economic projections of capital expenditure with deliverables defined and measureable • consideration of the prioritisation of the capex projects proposed in terms of delivery of the largest delivery of benefits for the return for the money invested • commentary on the appropriateness of the level of risk and contingency that NERL have allowed <p>Prior to any consultant being asked to look at the efficiency of the historic capex spend in RP2 it will be important to establish which version of the capex plan they are being asked to judge, or to consider if the exercise needs to relate to different versions of the plan (e.g. the initial RP2 plan that was meant to deliver airspace change, or subsequent versions that covered “escape from legacy” technology (at the at least two different price points [as per SIP16 and SIP17])).</p> <p>In regards to the historic review aspect of the report – the scope should include:</p> <ul style="list-style-type: none"> • An assessment of the degree to which planned benefits have been delivered. (Analysis of the impact to the initially planned delivery of benefits for any late delivery should be included.) • Assessment of how total costs of delivery compare to the planned cost of delivery • Guidance on the reference point to establish on-time delivery – which should really start with the times proposed in the initial Capex Plan for RP2 - as opposed to the current latest planned delivery dates used in project planning by NERL, as these change through re-planning throughout NERL’s project management process

Study	Comments on the range, scope, content and timing of these studies
	<ul style="list-style-type: none"> • An assessment of the extent to which NERL’s sourcing strategy and ongoing supplier management is able to demonstrate effective delivery of value for money, e.g. through tender processes and/or contract management processes • A view of NERL’s “make vs buy” decision making; looking at the balance of work carried out by external suppliers and by NERL or its affiliates, how that varied from initial plans, and the reasons why it changed, e.g. whether this was due to changes in scope versus cost over-runs? • An assessment of the work done by external suppliers to compare, in terms of cost, quantity and quality, what was delivered to that which was initially planned? • An assessment of the relative value for money actually achieved by use of internal or affiliate resources in comparison to use of external resources • Commentary on the degree to which there were rigorous tests of costs associated with the make vs buy decisions • Commentary on the appropriateness of the level of risk and contingency in the plan.
Cost of capital review for NERL	<p>The consultant should also be expected to present their findings to airspace users.</p> <p>It would be useful to have the output from advisor ahead of the multi-lateral RP3 consultations sessions affected by this subject.</p> <p>Whilst it is appreciated that a fuller cost of capital study will be commissioned by the CAA later it is not clear why economy-wide parameters are being excluded from this study. An appropriate WACC for an airport and an ANSP are quite different.</p>
Review of NERL pension costs	<p>The consultant should also be expected to present their findings to airspace users.</p> <p>It would be useful to have the output from advisor ahead of the multi-lateral RP3 consultations sessions affected by this subject.</p> <p>The review needs to include commentary on the degree to which NERL had any discretion in the way they implemented the changes, in the way they handled both the employer and the employee element of the NI contributions, due to the legislative changes to the State Pension effective from 6 April 2016.</p> <p>In determining the appropriateness of the assumptions underpinning the estimated pension costs NERL include it would be useful in the consultant could also provide a sensitivity assessment, illustrating the impact on those costs of a variety of changes to the assumptions made on those factors that impact the employer funding required (e.g. life expectancy, inflation rates, bond yields, the financial health of the employer etc.)</p>

APPENDIX B – CAA PROPOSAL OF CORE AND WIDER REQUIREMENTS FOR NERL IN RP3

BA proposed changes highlighted.

CORE REQUIREMENTS	WIDER REQUIREMENTS
CAPACITY	
<ul style="list-style-type: none"> • Establish challenging and affordable targets for RP3, in the context of the provision of a safe service, using high quality data and analysis to understand historical trends, traffic evolution, and customer requirements. In doing so, NERL should set out any concerns it has with the current measures, identifying and justifying any proposed changes; • Provide appropriate traffic forecasts as the basis for calibrating these targets, explaining and justifying the basis for these forecasts; and • Conduct sensitivity analyses of the impact of higher and lower traffic levels at magnitudes it believes credible, justifying their rationale. 	
RESILIENCE - TECHNICAL	
<ul style="list-style-type: none"> • Ensure it understands and provides the appropriate level of systems resilience to achieve a high level of network performance, including as it safely deploys new ATM technologies; and • Consider the appropriateness of current performance and incentives and suggest improvements where appropriate. 	
RESILIENCE - OPERATIONAL	
<ul style="list-style-type: none"> • Ensure it has in place robust procedures and processes to identify and plan for future operating requirements; • Take into account the Project Oberon recommendations; and • Develop the means to perform a capacity oversight, assessment and advice function to advise airports and airlines of the opportunity to make early decisions between accepting delay or re-routes where there are particular hotspots. • Thunderstorm resilience – more proactive management of thunderstorms across the LTMA would benefit all airspace users and should be a priority⁴; • Enhanced Time-Based Separation (eTBS) Phase 2 – making delivery of this in 2021 will fundamentally enhance LHR resilience for the most prevalent weather event, strong winds on approach⁵. 	

⁴ See para 6

⁵ See para 6

ENVIRONMENT	
<ul style="list-style-type: none"> • Reflect the principles of using past performance trends to establish challenging targets going forward in the context of understanding traffic evolution, supported by high quality data and knowledge of customer expectations; • Take into account improvements in data, anticipated operational improvements and factors that can affect performance; and • Propose any modifications to the 3Di model and draw out factors that could have a significant operational and performance impact. 	
NOISE	
<ul style="list-style-type: none"> • Meet the new policy and regulatory approach (CAA airspace change decision making) [moved from wider to core]⁶ • Set out why its proposed approach best supports strategic or consumer outcomes and to clearly articulate the rationale behind its proposals; and • Identify how to balance incentives for flight efficiency performance with minimising the impact of, and where possible reducing, noise experienced by overflown communities. 	<ul style="list-style-type: none"> • Consider opportunities to develop means to measure the impact its actions have in relation to noise and overflown communities; and where practicable, to identify appropriate incentives, in light of the SES Charging Regulations and principles; [moved from core to wider]⁷ • Explore and consider opportunities to directly measure noise performance and make reductions
AIRSPACE	
<ul style="list-style-type: none"> • Consider delivery of LAMP2 as a core requirement 	<ul style="list-style-type: none"> • Take greater coordination and delivery role in wider requirements of business plan
CYBER SECURITY	
<ul style="list-style-type: none"> • Have arrangements in place to ensure protection, safety and service continuity in respect of cyber security threats as business as usual activities. 	<ul style="list-style-type: none"> • any additional requirements to arise from the recent EU Network and Information Systems Directive and associated implementing legislation
NEW TECHNOLOGY	
<p>NERL is required to produce an outline technology plan covering the RP3 period by 20 June 2018:</p> <ul style="list-style-type: none"> • continue to safely and efficiently manage existing airspace users, as new classes of airspace users look to operate near and in the same airspace; • be proactive in implementing new technologies to mitigate safety risks and improve cost efficiency where possible; • set out options around potential improvements to be delivered through new technologies; • set out the impact of drones that will impact on its business and costs for En Route and London Approach services and should be funded by airspace user charges; • ensure consistency between the Condition 10(6) outline technology plan and its RP3 Business Plan. 	<ul style="list-style-type: none"> • Decide whether technology choices are a core or wider requirement⁸ • Develop and assess the choice of technology and incremental costs and benefits, where there is uncertainty as to whether a technology should be adopted as part of its licensed monopoly business; • Identify those activities it is assuming are part of the monopoly business and those activities that are not, and set out their rationale; and • Address innovative ways of operating that do not constrain the ability of the development of new technologies to deliver positive consumer outcomes.

⁶ See para 7

⁷ See para 7

⁸ See para 8