Draft Decision

on the Second Interim Review

of the 2019 Determination

in relation to 2022

Commission Paper 2/2021

22 October 2021

Commission for Aviation Regulation

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1. Executive Summary

1.1 This paper sets out our Draft Decision on the Second Interim Review of the 2019 Determination in relation to the regulatory settlement for 2022. It follows our Consultation on a Second Interim Review due to COVID-19 of the 2019 Determination on Airport Charges.[1] In that paper, we expressed the opinion that a review of the 2019 Determination for 2022 and beyond may be necessary, and examined a number of potential options.

1.2 In the Consultation paper, we indicated our preference to conduct a limited interim review this year to address issues relating to incentives and regulatory mechanisms, similar to the approach taken in the 2020 interim review. Since the consultation responses were received, the appeals process in relation to the first interim review was completed on 28 July. From July to September, we have engaged further with stakeholders in relation to the appropriate next steps.

1.3 The approach outlined in this paper for 2022 remains in line with this thinking, although we have also now concluded that a full building block review should commence now in time for implementation from 1 January 2023.

1.4 As such, we propose that the second interim review broadly carries forward the adjustments that were applied for 2021. This includes the continued removal of the Capex reprofiling triggers and Opex passthrough mechanism. It also includes the suspension of the Capex clawback mechanism, the suspension of the commercial revenue rolling schemes, and we propose to retain the requirement to consult on the progression of further CIP2020-2024 projects (or components of projects) with an expected final cost of more than €4m.

1.5 Relative to leaving the 2019 Varied Determination unchanged, the price cap now proposed for 2022 is approximately €1.55 (or 24%) higher. The continued suspension of the Capex clawbacks is expected to result in higher future revenue for Dublin Airport of between €65m and €80m. With 21m passengers, the proposed price cap of c€8 would provide aeronautical revenues of €168m in 2022, an increase of €33m compared to no intervention. Adding these figures to the impact of the first review brings the total sum of the value of our COVID-19 related regulatory interventions for Dublin Airport, based on our best current estimates, to approximately €200m to €220m over the period 2020-2022.

1.6 In the consultation, we expressed the view that it may be in the best interests of passengers to begin the reintroduction of the quality of service revenue adjustments. We now propose to reintroduce the security queue time targets as defined in the 2019 Determination, but with the associated penalties reduced by half. We also propose to retain the service standard and associated financial penalty for the wait times for passengers requiring additional assistance. For all other quality of service measures, we are proposing that we will continue to monitor and report where possible throughout 2022.[2] We also propose that the maximum price cap at risk for these quality of service targets is also reduced by half, to €0.11. Further detail on this is provided in Section 6.

1.7 Having considered the responses to the Consultation, we have reached the conclusion that a full review of the 2019 Determination is required. This will commence now and provide for revised regulatory settlements from 2023, realigning the building blocks with the current circumstances. We currently expect that the wide-ranging review will consider a range of

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[1] https://www.aviationreg.ie/_fileupload/2019%20Determination/2021-03-31%20consulation%20on%20second%20interim%20review%20FINAL.pdf

[2] The monitoring of passenger satisfaction may not be possible if travel restrictions are re-implemented due to the small sample size, and potential issues with social distancing measures. For FEGP and AVDGS, systems should be in place to report on these measures in Summer 2022.

issues including passenger forecasts, commercial revenue, Opex, cost of capital, the timing and/or scale of the Capital Investment Plan (CIP) that was allowed in the 2019 Determination, quality of service, and any potential broad adjustments to the regulatory model. There is further discussion on the full review, including a proposed timeline, detailed in Section 7.

1.8 This is a Draft Decision. We invite reasoned, evidence-based submissions on all aspects of our proposals by **5:00 PM, Tuesday 23rd November 2021**.

2. Notice of Making a Determination

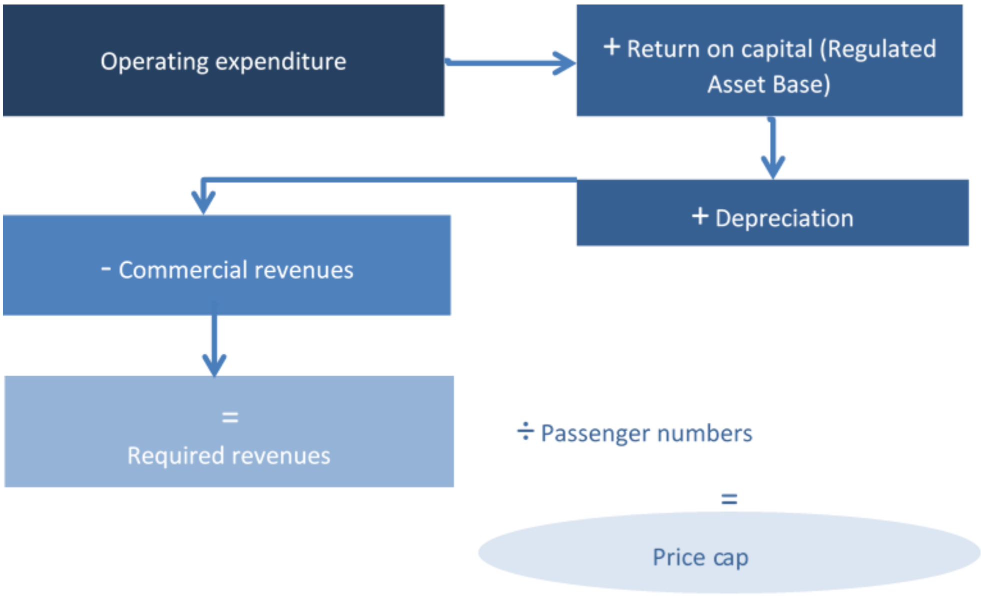
2.1 In accordance with Section 32 (7) of the 2001 Aviation Regulation Act, as amended, we hereby give notice of our intention to make an amendment to the "Varied 2019 Determination pursuant to Appeals Panel referrals" (CP5/2020), as amended by the 2020 Interim Review.

2.2 Pursuant to the 2001 Act, we must allow a statutory consultation period of no less than one month from the date of publication of this notice. As in previous periods, we give notice by way of publishing this Draft Decision. The deadline for receipt of representations is **5pm, 23 November 2021**. Interested parties should note the contents of Section 8 concerning the deadline. The conditions contained therein will be strictly applied without exception. Interested parties should also note the guidelines regarding issues such as delivery of documents and confidentiality.

3. Introduction/Background and Actions taken due to COVID-19

3.1 The 2019 Determination, published in October 2019, set the maximum level of airport charges (price caps) at Dublin Airport for 2020-2024. Guided by our Statutory Objectives, and relevant statutory factors to which we must have regard, we used a building blocks approach to calculate these price caps. This approach involves calculating targets for future operating expenditures, commercial revenues, passenger numbers, and capital costs (which in turn requires an assessment of proposed capital projects and the cost of capital); see Chart 3.1 below. We use a single till, which means we include commercial revenues generated from retail, car parking, Food & Beverage, and other commercial activities at the airport, and also costs associated with providing these non-aeronautical services.

Chart 3.1: The building blocks approach



3.2 We set quality standards to ensure that cost efficiencies achieved by the airport are not made at the expense of the quality of service delivered, incentivising it to sustain and improve its performance in the areas that are important to airport users (passengers and airlines).

3.3 We enabled the financial viability of Dublin Airport by checking that, when all the building blocks are taken together, Dublin Airport was able to raise debt at an efficient cost. To achieve this for 2020-2024 we made a financial viability adjustment of €109m, bringing forward depreciation from future periods into the current period. This adjustment was required to enable the delivery of the allowed Capital Investment Programme (CIP) under a variety of reasonable scenarios. The CIP was larger in scale than any previous investment programmes.

3.4 We implemented incentive-based regulation, meaning that for the most part, Dublin Airport holds the risk within the period, and it is transferred to users at the time of the subsequent determination. Where Dublin Airport outperforms our targets, it keeps the gain and vice versa. This creates incentives for Dublin Airport to act as a company in a competitive market would, in responding to circumstances as they unfold.

3.5 Following publication in October 2019, the determination was appealed by Dublin Airport and Ryanair on a range of grounds. The Commission made some relatively small reductions to the base price caps for 2022 and 2023 in response to the findings of the appeals panel in relation to one of the grounds of appeal brought by Ryanair, whereas the Dublin Airport appeal did not lead to any referrals which would change the price cap.

3.6 Table 3.1 sets out the base price caps per passenger originally determined in October 2019, as well as the final varied price caps set pursuant to the referrals from the appeals panel. These price caps are subject to change within the period due to a range of adjustments and triggers set out in the price cap formulae. Full details in relation to the analysis and calculations underpinning the 2019 Determination are available on the Commission's website.[3]

Table 3.1: Base Price Caps

	2020	2021	2022	2023	2024	Average
October 2019 Determination	€7.50	€7.50	€7.88	€8.12	€8.32	€7.87
Final Varied Determination	€7.50	€7.50	**€7.75**	**€8.05**	€8.32	**€7.82**

Source: 2019 Determination, Varied 2019 Determination

COVID- 19

3.7 Subsequent to the publication of the determination in October 2019, in early 2020, it became clear that the COVID-19 pandemic would have a substantial impact on the assumptions and forecasts underpinning the determination. In June 2020, we issued a high level, wide-ranging consultation paper (CP3/2020) seeking views on the appropriate response from the Commission and setting out our current thinking in relation to potential reviews of the 2019 Determination.[4] We received six responses to that paper, from Aer Lingus, Airports Council International (ACI), Dublin Airport, IATA, the Commission for Regulation of Utilities (CRU), and Ryanair.[5]

3.8 In CP3/2020, we indicated that we would carry out at least one interim review of the 2019 Determination. We expected that the first interim review would take place in 2020, addressing immediate unintended pricing consequences arising from the pandemic in 2020 and/or 2021 in a balanced way. We did not envisage that this review would make any changes to the core aspects of the 2019 Determination building block allowances or the risk allocation.

First Interim Review

3.9 A decision on the first interim review was published in December 2020. It identified that the impact of COVID-19 on the aviation industry constitutes substantial grounds for a review of the determined charges for 2020 and 2021. The main aim was to implement solutions to avoid or resolve any unintended consequences that had arisen from the large reductions in traffic. All triggers and adjustments to the price cap were removed for these years, including the Opex passthrough mechanism and price cap adjustments associated with the Capex reprofiling triggers. This was deemed necessary to avoid incentivising Dublin Airport to continue with capital investment projects that were no longer in line with immediate requirements. The continued implementation of triggers and adjustments would have led to unpredictable volatility in the price cap in the prevailing circumstances.

3.10 The downside risk which had materialised was exceptional and unprecedented, and we concluded that this warranted a degree of regulatory relief for Dublin Airport, where we considered it to be proportionate, having regard also to our obligations to protect the interests of airport users who were themselves suffering from a severe downside shock.

3.11 For 2020, the Interim Review replaced the per passenger price cap with a set of individual caps

[3] https://www.aviationreg.ie/regulation-of-airport-charges-dublin-airport/2019-determination.841.html
[4] https://www.aviationreg.ie/_fileupload/COVIDConsultation%20(1).pdf
[5] Responses are on this page: https://www.aviationreg.ie/regulation-of-airport-charges-dublin-airport/2019-determination.841.html

that reflected Dublin Airport's menu of charges applicable during 2020. It was decided that, having regard to each of our statutory objectives, it would be disproportionate to require Dublin Airport to rebate the 2020 overcollection in the circumstances of the pandemic. The standard regulatory mechanisms for undercollection or overcollection would be enforced for 2021. The review further stated that there would be no clawback or adjustments related to 2020 and 2021 in future years.

3.12 The 2020 Interim Review ultimately allowed an effective price cap of €9.94 per passenger for 2020, and €7.50 per passenger for 2021, in nominal prices. This resulted in aeronautical revenue of €74m in 2020 and will result in aeronautical revenue of €56m in 2021 if passenger numbers are in line with 2020.

3.13 In contrast, had the 2019 Determination (as varied in 2020, pursuant to the appeals panel referral) remained in place unaltered, we estimate that the price cap would have been approximately €7.19 for 2020 and €6.06 for 2021.[6] This would have resulted in revenue of approximately €53m in 2020 and €45m in 2021. In total, the decision to adjust the price caps results in approximately €31m in immediate additional aeronautical revenue for Dublin airport in 2020 and 2021.

Table 3.2: Immediate impact of the 2020 Interim Review

Price and Revenue	2020	2021
Price Cap before review	€7.19	€6.06
Price Cap after review*	€9.94	€7.50
Estimated revenue without review	€53m	€45m
Estimated revenue with review	€74m	€56m
% increase due to review	**39%**	**24%**

Source: CAR Calculations

**Price cap equivalent for 2020, as the global price cap compliance requirement was waived.*

3.14 For 2020, this additional €20m, combined with government wage supports of €27.6m, Local Authority rates waivers from August 2020 totalling approximately €13m, and the substantial cost savings achieved by the company, ultimately limited Dublin Airport's EBITDA loss to €2m (excluding exceptional items).[7]

3.15 A further feature of the 2020 interim review was the decision to not clawback unspent capex for the years 2020 and 2021. Ordinarily, this would be clawed back at the time of the next determination. There were two reasons for this decision:

- A recognition that, while these capital costs were being collected in theory, given the extent of the downside risk which had materialised, this remuneration was not being collected in reality and consequently it would be disproportionate to claw it back in future.

- Removing an incentive for Dublin Airport to continue to incur Capex, despite the pandemic, in order to avoid future clawbacks.

[6] Including the impact of the 2020 rates waiver, but not including potential service quality breaches for the face-to-face survey metrics, for which data has not been collected due to the impracticality of doing so during the pandemic.

[7] https://www.aviationreg.ie/_fileupload/Regulated%20Entity%20Accounts%202020%20ABRIDGED%20%20Final%20signed%20pgs%2014%20April%202021.pdf

3.16 In 2020, Dublin Airport spent just 30% of the allowed CIP2020-2024 capex, meaning that approximately €24m in 2020 in capital costs associated with unspent Capex will not be clawed back as a result of this decision.[8] If, as expected, it spends c24% of the allowance in 2021, the quantum of capital costs not clawed back would be €52m.[9] Thus, in total approximately €77m in capital costs for 2020 and 2021 will not be clawed back.

3.17 Between the changes to the price caps and the clawback decision, the 2020 interim review improved the current and future value of the 2020 and 2021 regulatory settlements for Dublin Airport by approximately €108m, relative to a no intervention scenario.

3.18 The Interim Review decisions were challenged by Aer Lingus, Ryanair, and Dublin Airport. The airlines' core argument was that airlines should not be asked to shoulder the burden of compensating daa for losses at Dublin Airport. They suggested that the decision involved a disproportionate transfer of the volume risk from Dublin Airport to the airlines. Ryanair further emphasised that the Irish Government is the single shareholder of daa, and that shareholders have a responsibility as equity providers to shoulder a share of the burden of losses caused by the pandemic.

3.19 Dublin Airport, on the other hand, challenged our approach to enforce any per-passenger cap for 2021. It also challenged the decision to implement a requirement to consult with airport on the progression of any capital project with an expected cost of €4m or more, in 2021.

3.20 Ultimately, the Appeals Panel determined that *'CAR's Decision was a balanced and reasonable response to the unprecedented emergency caused by the collapse in passenger traffic arising from the COVID-19 pandemic*', and therefore did not refer any of the points of appeal back to the Commission for further consideration.[10]

[9] These figures are estimates, as expenditure at an individual project/group level has not yet been reconciled for 2020/2021. Real February 2019 prices.

[10] https://www.aviationreg.ie/_fileupload/Decision%20Aviation%20Appeals%2028%20July%202021.pdf

4. Substantial Grounds, Scope and Objective

4.1 Pursuant to Section 32(14) of the Aviation Regulation Act 2001, as amended by the State Airports Act, 2004, the Commission may carry out an interim review of the prevailing determination if it considers that there are substantial grounds for doing so.[11] If it sees fit, it may amend the determination.

4.2 The Commission has previously used the following test to establish whether substantial grounds exist for conducting an interim review:[12]

- Are the circumstances exceptional?
- Are the circumstances generally outside the control of the regulated company?
- Are the effects of those circumstances liable to be significant enough to compromise the objectives of the original decision without a review (taking into account the incentive and any other detriments that would in general also arise from a review)?

4.3 Establishing substantial grounds should be done in a manner consistent with the statutory objectives of the Commission, as should any decision to amend the determination. Section 33 of the 2001 Act sets out our objectives. The core objectives, which must be read together and in light of each other when considering the merits of potential amendments, are:

- To facilitate the efficient and economic development and operation of Dublin Airport which meet the requirements of current and prospective users of Dublin Airport.
- To protect the reasonable interests of current and prospective users of Dublin Airport in relation to Dublin Airport.
- To enable daa to operate and develop Dublin Airport in a sustainable and financially viable manner.

4.4 As was established in the Interim Review covering 2020 and 2021, the Commission considers that the impact of the COVID-19 pandemic clearly constitutes substantial grounds to review the 2019 Determination. The likelihood of this impact continuing into 2022 similarly provides such grounds to review the 2019 Determination in relation to 2022. The circumstances arising from the COVID-19 pandemic are exceptional by any reasonable metric, and outside the control of Dublin Airport. Certain aspects of these regulatory settlements are no longer fit-for-purpose and, if not adjusted, are now likely to run contrary to our statutory objectives, thereby compromising the objectives of the original decision.

4.5 Thus, the objective of this review is to consider how the 2019 Determination should best be adjusted at this time, to fit the changed circumstances prevailing in 2022. It is intended that the scope of this interim review will remain relatively similar to the review that was carried out for 2021 and in line with this, the scope of this review does not encompass changes to the regulatory building blocks. The rationale for this is set out in Section 5.

[11] This section was amended by the State Airports Act 2004, removing the 2-year time limit and now an interim review can be conducted at any time.
[12] https://www.aviationreg.ie/_fileupload/Image/PR_AC2_PUB8_CP6_2006.pdf

5. Proposed Regulatory Settlement in relation to 2022

5.1 This section sets out our Draft Decision in relation to 2022, following on from our consultation proposal from March and considering the responses we received to that consultation.

Consultation Proposal

5.2 In March 2021, we published a consultation paper examining the options for a second interim review of the 2019 airport charges determination. The purpose of the paper was to initiate discussions with stakeholders on the best approach to altering the 2019 Determination for 2022 and beyond, in light of the impact of COVID-19. The consultation was motivated by several key questions, including: what time period should an interim review of the varied 2019 Determination cover, and whether any such review should be limited or wide ranging. The consultation proposed three options:

1. No Review: The first option was to make no further amendments to the 2019 Determination. This approach may lead to consequences which were unintended in 2019 in the case of certain mechanisms and incentives.
2. Limited Interim Review: This option would be largely similar to the approach taken in the first interim review in December 2020. We would focus on which mechanisms and adjustments should be changed or removed from the price cap. Such a review could cover 2022 only or multiple years, potentially until the end of the regulatory period.
3. Full Review: We could conduct a full review of the varied 2019 Determination. We noted that this approach would present difficulties due to the level of uncertainty. It would be challenging to produce reasonably accurate forecasts and fully assess the building blocks this year.

5.3 We noted that our preferred approach was Option 2, a limited scope review to address at least 2022, and potentially 2023 also.

Responses to Consultation

5.4 Aer Lingus states that there are substantial grounds for conducting a second interim review, as traffic levels at Dublin Airport continue to diverge radically from those forecast in the 2019 Determination and because there is ongoing uncertainty as to when traffic restrictions will be eased. Aer Lingus believes that a true picture of underlying demand for flying will not emerge before 2023 and therefore considers that a narrow review is currently most appropriate. It believes that the items reviewed in the first interim review were appropriate and would support a similar set of items being reviewed by the CAR in any second narrow-focus review. Aer Lingus does not consider it appropriate to conduct a full building blocks review before 2023 at the earliest, such that it would apply from 2024.

5.5 Ryanair prefers the 'no review' option. It is opposed to any interim review, especially one which would allow Dublin Airport to keep overcollected per-passenger revenue and to keep unspent capex in the RAB. It considers that carrying out a limited interim review which seeks to transfer volume risk to airlines will further distort competition and market power in favour of Dublin Airport, serving to protect daa and its shareholder from the economic effects of the pandemic at the expense of users. Ryanair does not support a full review, which it states would currently be '*absurd'*, as the industry needs to settle down from its current state of crisis before a full review would be appropriate.

5.6 IATA is not convinced that a second interim review is currently necessary. While the differences between the 2020 and 2021 actual and forecast traffic levels necessitated the first interim review, it considers that the case is less strong for 2022, as all forecasts show a significant level of traffic recovery. It argues that should the Commission decide to carry out a review, it should be focused on a few specific elements, such as the Opex passthrough mechanism, the reprofiling triggers and the commercial revenue rolling scheme mechanism. It does not see any merit in continuing to suspend clawbacks for unspent capex. IATA states that any review should also be initially limited to 2022 and a decision on the need for further reviews should be made later in 2022. IATA does not believe that a full review is merited, however, if one is deemed necessary, then all elements of the building blocks should be reassessed.

5.7 British Airways considers that there are substantial grounds for a second interim review of the 2019 Determination, with a narrow focus review for both 2022 and 2023 being most appropriate at this time. British Airways argues that a wide-ranging review of the price cap building blocks will be necessary at some point, but that it is unlikely to be feasible before 2023. It also notes the benefit of shortening the current regulatory period, to allow any wide-ranging review conducted in 2023 to inform a full regulatory period.

5.8 Dublin Airport considers that many aspects of the 2019 Determination are no longer valid given the impact of the COVID-19 pandemic on the aviation sector, and that the assumptions underpinning each building block have been fundamentally undermined. It believes that a second interim review is needed in 2021 to amend the underlying regulatory assumptions and to provide increased certainty in an effort to aid recovery in the market at Dublin Airport.

5.9 Dublin Airport states that it does not accept the validity of the 'do nothing' option, as this would ignore the impact of the COVID-19 crisis. It argues that there are immediate issues concerning the 2022-2024 price caps that need to be addressed. The retention of the 2019 Determination for 2022-2024 would allow for a series of price caps based on '*incorrect*' assumptions and would result in the application of inappropriate capital expenditure reprofiling triggers in the 2022-2024 price caps. It would also allow for the reinstatement of the reporting and monitoring of a number of service quality metrics currently suspended due to the impact of COVID-19. Dublin Airport states that it would have difficulty accurately measuring these quality of service metrics while social distancing guidelines remain in place.

5.10 While Dublin Airport welcomes the Commission's proposal under 'option 2' to address the immediate impacts of the COVID-19 for 2022, it argues that given the high level of uncertainty facing the aviation industry there is a necessity for a broader review of the 2019 Determination to reassess the regulatory building block assumptions and to re-examine the structure of the current regulatory model and its risk allocation. If the Commission were to proceed with a limited review, Dublin Airport states that it would be concerned that the outcome of this review could be open to appeal, and that it would not address the '*misalignment in the regulatory assumptions underpinning the 2022 price cap'*.

5.11 Regarding 'option 3', Dublin Airport considers that a full review of the 2019 Determination is likely to be necessary going forward but is concerned that this is likely to be a lengthy and costly exercise, which would be difficult to undertake at this time due to the uncertain circumstances currently facing the aviation industry.

5.12 Dublin Airport proposes that the 2021 Interim Review would seek to realign the 2022 price cap using a top-down approach, which would take account of the impact of COVID-19 on the various regulatory building blocks underpinning the 2022 price cap. It considers that a high-level review of the regulatory building blocks would allow for the required temporary adjustments to the price cap to be made, while still ensuring that further adjustments can be made at a later stage (e.g. for recovery of lost revenue arising from the impact of COVID-19). A similar approach could then be followed for the 2023 and 2024 price caps in subsequent years, subject to regulatory consultation and endorsement. Alternatively, if the industry were to significantly recover in the immediate future, a new Determination could be undertaken in 2022 to take effect from 2023 for the following 6-7 years.

5.13 Dublin Airport has also made numerous recommendations for changes to how future price caps should be determined, and how the regulatory building blocks should be assessed.

Draft Decision on 2022

5.14 Since the consultation responses were received, the appeals process in relation to the first interim review has been completed. We considered that the findings of the Appeals Panel would be relevant for the second review, given that our preferred approach for 2022 was to take a similar approach to that adopted for 2021. Had this approach been varied pursuant to an appeals panel referral, this would have had implications for our proposed approach. We have then engaged further with stakeholders over July to September in relation to the appropriate next steps.

5.15 There are varied views on the need for and appropriate timing of a building blocks review. Aer Lingus and British Airways agree that there is a need to carry out a full review, but consider that the profile of recovery will not become clear until 2023. Forecasting, and planning timelines for the delivery of Capex, will remain challenging until that time. On that basis, their view is that the review should be carried out in 2023, to take effect from 2024. Ryanair and IATA are not convinced that a full review will be required at all. By contrast, Dublin Airport considers that we should carry out a 'high level' building block review such that it would be completed in time to take effect from 2022.

5.16 We have concluded that a full and thorough review of the regulatory settlements, which will re-consider all building blocks and realign them with the post- COVID-19 situation, is required. Compared to last year and the first half of this year, there is still uncertainty, but to a lesser extent. We agree with Dublin Airport that longer term certainty is now required. This review will commence now and will provide for revised regulatory settlements from 2023, which will realign required aeronautical revenues with efficient allowed capital and operating costs. Further detail on the timeline for the full review is set out in Section 7.

5.17 That leaves the question of the 2022 regulatory settlement. As outlined above, we implemented an approach for 2021 whereby all adjustments were removed, leaving a fixed ex-ante price cap of €7.50. For 2022, we propose a similar approach, with two variations:

- The inflation adjustment will be reinstated, to convert the base price cap from February 2019 prices, used for the 2019 Determination, to forecast 2022 prices. The inflation adjustment is based on the CPI for October in the preceding year. The CPI for October 2021 is expected to be published in November.

- A reduced scope, reduced penalties version of the Quality of Service (QoS) scheme will be retained. This proposal is laid out in Section 6.

5.18 In real terms, the base price cap is set to increase from €7.50 in 2021 to €7.75 in 2022 (reduced from the original €7.88 pursuant to the Appeals Panel referral of a point of appeal brought by Ryanair). With increased inflation observed in 2021 year-to-date, presuming this is also reflected in the October CPI, we anticipate an ex-ante price cap in the region of €8 for 2022. This would be a year-on-year increase of approximately 7% from 2021 to 2022.

5.19 The purpose of the QoS scheme is to incentivise Dublin Airport to provide an appropriate quality of service to airport users. As set out in Section 6, financial adjustments will be capped at €0.11, and revenue reductions (if any) will likely be offset by the reintroduction of the inflation adjustment.

5.20 The 2020 Interim Review process outlined the rationale for removing the other triggers and adjustments.[13] We consider that these reasons remain valid for 2022:

- The Opex passthrough mechanism could potentially lead to a much higher degree of volatility in the price cap than was anticipated, due to both reduced passenger numbers and cost variability (noting for example that the rates waiver in late 2020 would have reduced the 2021 price cap by approximately €0.75.)

- The Terminal 2 Box 2 issue has been dealt with, on the basis that the Box 2 remuneration should not be delayed further as a result of the impact of the pandemic.

- The reprofiling triggers were introduced based on the planned delivery of major capital projects, as set out before the impact of the pandemic. In the context of the pandemic, deferral of these projects remains a valid and generally desirable response by Dublin Airport. Maintaining the incentive to deliver these projects might lead to a mismatch between demand and capacity and consequently inefficiently high levels of future charges.

5.21 As outlined above, these 2021 adjustments were challenged through the Appeals Panel process, but the Appeals Panel did not refer any of them, nor any of the other appeal points, back to the Commission for further review.

Statutory Objectives and Risk Allocation

5.22 The Commission is guided in its decision making by seeking to strike a balance between its statutory objectives. These are:

- To facilitate the efficient and economic development and operation of Dublin Airport which meet the requirements of current and prospective users of Dublin Airport.

- To protect the reasonable interests of current and prospective users of Dublin Airport in relation to Dublin Airport.

- To enable daa to operate and develop Dublin Airport in a sustainable and financially viable manner.

5.23 As set out in Section 3, in making the 2019 Determination, the base price caps for 2020-2024 were established in line with our Statutory Objectives. The base price cap for 2022 was set at €7.75, subject to potential adjustments for issues such as failure to deliver the allowed investment programme or provide an appropriate quality of service to airport users.

5.24 The assignment of risk set out in the 2019 Determination is a key element of the regulatory model, which has been in place since 2001. Within a determination period, Dublin Airport holds most of the risk of building block outturns deviating from forecasts; when a full building block review is carried out, there is a re-set of the building blocks. This means that the result of materialised risk across the building blocks is broadly transferred to airport users. Dublin

[13] Draft Decision:
https://www.aviationreg.ie/_fileupload/2019%20Determination/2020%20Interim%20Review/Draft%20Decision%20_Interim%20Review.pdf
Final Decision:
https://www.aviationreg.ie/_fileupload/2019%20Determination/2020%20Interim%20Review/Final%20Decision.pdf

Airport is compensated for holding this within-period risk in the allowed WACC.

5.25 For the first Interim Review, drawing on our statutory objectives and the key elements of the 2019 Determination, we established a principle whereby we would address '*unintended pricing consequences, arising from the pandemic in 2020 and/or 2021, in a balanced way*.' We further noted that '*disproportionate or unjustified transfer of financial impact, generated by circumstances arising from the pandemic, between Dublin Airport and airport users*' should be avoided.

5.26 We accepted the arguments from certain airlines that our approach involved an element of within-period risk reassignment. Given the scale of the downside risk which had materialised, we considered it reasonable to provide an element of regulatory relief to Dublin Airport, where we considered this to be proportionate relative to any impact on airport users. We also considered that certain triggers and adjustments, if left in place, may have had unintended consequences which would not be in the interests of either airport users or Dublin Airport. The reassignment of risk inherent in removing those adjustments was thus not in itself the main objective, but rather resulted from the goal to remove unintended consequences or undesirable incentives.

5.27 However, this did not involve the wholesale transfer of financial damage suffered by Dublin Airport to the airport users, to compound the damage the users themselves were suffering. Nor, as was also requested by a number of airport users, did we implement short term reductions to charges, which would have had the effect of compounding the damage being suffered by Dublin Airport. This principle was accepted by a number of stakeholders; for example, Dublin Airport stating in response to the Draft Decision that *'transferring further financial damage from one affected stakeholder should be avoided, as it simply moves the problem around'*.

Proposal for a 'high level' full building block review

5.28 Thus, we are not convinced of either the merit or practicality of carrying out the type of 'high level' building block review now suggested by Dublin Airport, to be implemented for 2022 and 2023. Dublin Airport anticipates that this approach would lead to a larger price increase relative to that which we propose above.

5.29 This approach would involve a more extensive reassignment of within-period risk, without the level of detailed analysis which has underpinned previous building block forecasts. Most notably, as suggested by the airlines, it is not feasible for airlines to engage in immediate meaningful consultation on their requirements from Dublin Airport for 2022, 2023, and beyond, to feed into the revised allowed costs.

5.30 We have since held a number of meetings with Dublin Airport where we have considered and discussed this proposed approach. In broad terms, Dublin Airport is requesting us to reassess a number of elements of the building blocks in detail, particularly the Weighted Average Cost of Capital (with a focus on the asset beta), as well as a reassessment of financial viability. Other building blocks such as Opex and Commercial Revenues would not be reassessed in detail, but the 2019 Determination models would just be updated for new passenger forecasts. The passenger forecasts would be based on forecasts produced by bodies such as EUROCONTROL, IATA, or ACI. The original Capex programme would be maintained, with the timeline for capacity projects pushed out, though with expenditure on design and enabling works progressing from 2022.

5.31 We consider that other stakeholders would have different priorities from such a review and risk reset. For example:

- ensuring that Capex (and commitments to Capex) is minimised pending consultation on the revised capacity requirements over the next number of years and beyond.

- ensuring that challenging Opex targets are set which take account of the restructuring and productivity enhancements achieved by the organisation in 2020, the continuation of government financial support such as the EWSS into 2022, or the impact of the rates waiver on the Opex passthrough mechanism. These changes were not anticipated or taken into account in the 2019 Opex modelling.

- assessing the appropriate treatment of the return on equity and the aiming up of the WACC, in the context of the impact of the pandemic on the aviation industry, as well as the impact of the regulatory intervention itself (and that of 2020), and government supports, on Dublin Airport's risk profile.

5.32 It is clear that, if a decision were proposed on a particular topic based on such high level analysis, Dublin Airport and/or other stakeholders will challenge it, depending on their own desired short and long term outcomes, leading to a requirement for the Commission to engage in more detailed analysis to fulfil its obligations and discharge its statutory objectives. This is reflected in Dublin Airport's own response to our June 2020 consultation when it stated that:

- Its Business Risk Profile would need to be '*greater level of assessment than the previous* [2019] *review'*.

- We should carry out a bottom-up assessment of operating costs when setting the revised targets to ensure a greater degree of accuracy, as it will better capture the various changes within the various different cost line items.

- A *'complete reappraisal'* of the commercial revenue targets for the remainder of the regulatory determination period would be required.

5.33 It is also unrealistic for stakeholders to meaningfully engage on re-timing the capacity Capex programme in time for this to feed into a price control to take effect from 2022, so soon after the effective reopening of the industry. Such engagement would likely be required for us to retain allowances in the revised regulatory settlements for 2022 and 2023. It is not clear why, in the absence of a broadly agreed revised timeline, the capacity Capex allowed for in 2019 would remain within the core regulatory settlements, rather than being removed pending consultation on these projects as part of a detailed review of the building blocks.

5.34 It is not clear, either, what the pricing outcome would be and whether it would align with Dublin Airport's expectation of a higher price cap, particularly given that the Employee Wage Subsidy Scheme (EWSS) will now extend into 2022. As outlined above, the outcome would depend on a range of decisions taken in relation to the building blocks, which would need to take into account the views and priorities of other stakeholders, as well as Dublin Airport, in a balanced way.

5.35 Thus, in advance of a more detailed, balanced review which takes into account the priorities of all stakeholders and involves meaningful consultation on issues such as the timing of Capex, a full but high level risk reassignment would not, in our view, be appropriate. However, we do agree that such a detailed review needs to be carried out, and we will commence this process now, together with stakeholders, as described in Section 7.

Outlook for H2 2021, and 2022

5.36 We have considered the outlook for Dublin Airport as it recovers from the pandemic, in advance of an implementation of fully revised regulatory settlements from 2023.

5.37 As was the case with the previous review, neither the Commission nor Dublin Airport has identified any near-term liquidity concern. Furthermore, we expect that Dublin Airport's financial performance will improve significantly from the second half of 2021. Passenger numbers have increased since travel restrictions eased in mid-July, trending above Dublin Airport's updated budget forecasts. Most recently, passenger numbers in September recovered to 45% of 2019 levels. We expect that Dublin Airport will continue to achieve Opex for 2021 which is far lower than the pre-pandemic level, which was already reduced by 38% in 2020 relative to 2019 (from €288m to €180m). This is due to the full year impact of the government financial supports in 2021, in tandem with full year impact of the restructuring and "right-sizing" of the business which Dublin Airport has carried out in 2020.

5.38 In 2022, we expect this improvement in overall performance to continue on a full year basis, although Dublin Airport's return on capital is likely to remain below the allowed regulatory WACC. Performance will be assisted by the recent announcement of the extension of the EWSS to the end of April 2022. There remains considerable uncertainty in relation to the building blocks for 2022, particularly over passenger numbers, with recent Dublin Airport forecasts suggesting 21m annual passengers. This equates to a recovery to 64% of 2019 levels, which is conservative relative to the most recent EUROCONTROL Terminal Service Unit forecast, which lays out a centreline prediction of 88% of the 2019 level of movements at Ireland's State airports.[14] Nonetheless, to take a high level example of 2022 performance, if Opex per passenger (net of the ongoing financial supports) were €9, with Commercial Revenues of €8 per passenger, and a price cap of €8, with 21m passengers Dublin Airport's EBITDA would still be in the region of €150m. Accounting for depreciation, interest, and tax at approximately €125m, this scenario would see a return to profitability in the region of €25m for 2022.

5.39 We also expect that Capex could be reduced for 2022, until a new investment programme is agreed as part of the full review. Capex has been maintained at a higher level than it might otherwise have been in 2020/2021 due to the committed North Runway expenditure and Hold Baggage Screening Standard 3 projects.

Regulatory Mechanisms

5.40 We consider that the adjustments to the regulatory mechanisms we put in place for 2021 remain appropriate for 2022:

- The Commercial Revenues rolling schemes should remain suspended, given the potential for unanticipated volatility in performance.

- The requirement to consult on the progression of further CIP2020-2024 projects (or components of projects) with an expected final cost of more than €4m should remain in place, until the Final Decision on the revised regulatory settlements from 2023 onwards has been published. As set out in the first Interim Review, this means that Dublin Airport must either demonstrate the safety/compliance criticality of the project, or obtain support from users representing 50% of passenger traffic, in order to retain certainty of ongoing remuneration of the investment. This will incentivise Dublin Airport to only progress Capex in 2022 which is either essential, or supported by airport users for immediate progression.

[14] Assuming the Service Units per movement is consistent with 2019. Terminal Service Units for 2022 are now forecast at 88% of 2019 levels.
https://www.eurocontrol.int/forecasting

5.41 We also consider that the suspension of the clawback of allowed capital costs associated with unspent Capex should continue for 2022, with a revised Capex programme expected to be in place from 2023. As per the decision in relation to 2021, there are two reasons for this:

- The removal of an undesirable incentive to progress and deliver a higher level of Capex, notwithstanding the impact of the pandemic. This overprovision of Capex may have negative implications for both airport users, in the form of higher future charges, and also weaken the cash position of Dublin Airport.

- The fact that, although a recovery is anticipated for next year, we still expect Dublin Airport to under-collect allowed capital costs, even before any clawback of unspent CIP2020-2024 Capex is implemented.

5.42 The impact of not clawing back capital costs for 2022 is cumulative across 2020 to 2022. In Section 3, we estimated the value of the clawback suspension for 2020 and 2021. If Dublin Airport spends a further €100m in 2022 against the CIP2020-2024 allowance of €423m, we estimate that the further quantum of allowed remuneration not subject to clawback, as a result of extending this approach into 2022, to be c€77m. If, instead, Dublin Airport were to spend €150m on CIP2020-2024, the relevant amount would be c€66m. As was the case for 2020 and 2021, this applies to the capital allowances in 2022 only. We are not proposing to add unspent Capex to the RAB for future remuneration in 2023 and beyond.

5.43 Unlike 2020/2021, some of this remuneration may now be collected in 2022, given the forecast recovery in passenger numbers. However, we consider that this remains a proportionate outcome, given the extent of the downside risk which has materialised in the period. The materialisation of downside risk also applies to new Capex that Dublin Airport does actually spend. For example, if Dublin Airport spends 50% of the forecast Capex allowances (including on the North Runway and PACE projects) across 2020/2021/2022 and there is a recovery to 21m passengers in 2022 such that 34% of the forecast passenger traffic materialises over those years, it is unlikely that Dublin Airport would recover the full capital costs in 2022 even on the projects it has progressed. This would be before clawing back the unspent remainder of the CIP2020-2024 allowance, which it would not have recovered at all, is considered.

Draft Decision Summary

5.44 We have considered the views expressed by stakeholders, as well as the approach which our statutory objectives require us to take in relation to balancing the interests of Dublin Airport and of airport users.

5.45 We have also considered the merits and practicality of Dublin Airport's proposed approach for 2022, and whether it would be likely to better align with our statutory objectives, relative to the preferred approach we set out in our March consultation. We do not consider that there is sufficient evidence to suggest that it would so align, or that such a review would necessarily work to the benefit of Dublin Airport either in the immediate or longer term, for the reasons set out above.

5.46 We have considered the outlook for Dublin Airport between now and 2023, when a revised regulatory settlement which will realign revenues and costs is expected to be in place. Notwithstanding the ongoing reduced passenger numbers relative to forecasts, we expect significantly improved financial performance from the second half of 2021. We have not identified any near-term liquidity concern. Dublin Airport has not provided evidence which would suggest that, despite taking all reasonable steps to reduce costs and source funding other than from airport charges in 2022, the price cap we propose above would not enable the financial viability of Dublin Airport.

5.47 The proposed regulatory settlement for 2022, relative to leaving it unchanged from the Varied 2019 Determination, would now provide for a price cap which is in the region of €1.55 higher (from €6.45 to €8). With 21m passengers, this would provide aeronautical revenues of €168m in 2022, an increase of €33m compared to no intervention. We also estimate that the continued suspension of the Capex clawback mechanism will have an impact of €65m to €80m at the next determination/reset, through the waiving of what would ordinarily be a requirement to repay this sum to airport users. Thus, the value of the 2022 regulatory settlement would now be approximately €100m to €115m higher for Dublin Airport.

5.48 This brings the total sum of the value of our COVID-19 related regulatory interventions for Dublin Airport, based on our best current estimates, to approximately €200m to €220m over the period 2020-2022.

5.49 We have considered the established regulatory model as implemented in the 2019 Determination, particularly the risk allocation as between Dublin Airport and airport users. We consider that it is not appropriate for us to actively transfer economic damage arising from the pandemic from one set of stakeholders to another, through the wholesale reassignment of risk with short term increases or decreases to the base price caps. As defined by the regulatory model, the extent of the risk faced by Dublin Airport is always limited to the next building blocks review. A building blocks review, however, should be based on a detailed, consultative, and forward looking business and investment planning exercise.

5.50 Thus, we conclude that it is appropriate to carry out a further narrow scope review for 2022, to address immediate unanticipated pricing consequences arising from the pandemic, but have also taken the decision to commence a full building blocks review now to take effect from 2023. We consider that this is necessary to appropriately discharge our statutory objectives. We will derive new regulatory settlements which are designed to strike an optimal balance between our objectives and the different interests they represent.

5.51 Separately, we note the decision of Government to provide €90m funding for route incentives and rebates to drive recovery at the three State Airports.[15] In the case of Dublin Airport, we will work with the Department of Transport and Dublin Airport as required to facilitate this through the price cap regulatory model.

5.52 Finally, as the North Runway will not be operational before the end of this year, the M2 trigger will not activate for 2022. Consequently, though immaterial, we intend to not reinstate it for 2022.

[15] https://www.gov.ie/en/press-release/31570-2022-budget-to-help-transform-how-we-travel/

6. Service Quality metrics for 2022

6.1 In the consultation on a Second Interim Review, we expressed the view that we should explore options for reimplementing a quality of service price cap adjustment system. The suspension was originally implemented to allow Dublin Airport some flexibility given the introduction of social distancing measures and unpredictable changes in passenger behaviour.

6.2 While it is understandable that the changes in passenger behaviour and short term demand have made tasks such as queue management and resourcing more challenging, we consider that it is reasonable and proportionate to reintroduce an element of financial incentivisation for Dublin Airport. This serves to protect the interests of airport users.

6.3 We propose to reintroduce a limited scope financial penalties system, focusing on metrics on a priority basis, ahead of a full review to take effect from 2023. In considering how to prioritise them, we have considered relative importance of the metric to the quality of service for airport users, the recent performance of Dublin Airport relative to the targets, and the practical ability to measure the performance.

6.4 For 2022, the only measures for which we propose to reintroduce an element of aeronautical revenue adjustment are:

- Security queue times
- Wait times for Passengers with Reduced Mobility (PRMs)

6.5 For other targets, we intend to monitor and report performance, provided that data can be collected. We propose to introduce 'Sense of safety for my health' as a COVID-19 specific survey metric appropriate for 2022, and make some other adjustments to the survey based metrics, as described below.

6.6 Should Dublin Airport be unable to collect the data in a suitable format, we may waive the affected targets or substitute in an alternative means for measuring the target. As was set out in the 2019 Determination, there is also the possibility to waive individual revenue adjustments, in the event of a force majeure occurrence or a measurement issue or irregularity.

Security Queue Times

6.7 The search unit at Dublin Airport has undertaken a significant process of change since the beginning of Covid-19. The airport has used this time to implement new ways of working. A new roster model has been introduced with a focus on data driven planning, that allows for increased flexibility to meet fluctuating demand.

6.8 As part of the 'right-sizing' of the business, there has been a significant headcount reduction in the search unit, however an element of further attrition has led to staffing levels lower than anticipated. Furthermore, the passenger profiles and show-ups have changed, and been less predictable. With the increase in traffic since July, the airport has therefore struggled to meet the security queue time targets. There is a recruitment process underway, and we expect that this issue can be addressed by 2022.

6.9 If the price cap adjustment system had been in place in 2021, the number of queue breaches alone would have resulted in a €0.21 reduction in the price cap, which is the maximum price cap at risk for the combined security queue, wait times for passengers with reduced mobility penalties, baggage and self-service kiosks. Without the limit on the price cap at risk, the actual reduction would have amounted to €0.40 so far this year (to end September). If we consider only the period in which the air travel restrictions were lifted, since July, the number of breaches would have amounted to penalties of €0.36.

6.10 We propose to reinstate the security queue targets as they were defined in the 2019 Determination. However, given that it is now significantly more challenging for Dublin Airport to provide this level of service, relative to 2019 forecasts, it is appropriate to reduce the revenue at risk.

6.11 We therefore propose to halve the revenue adjustment per incident, and to halve the cap of €0.21 on the subset of metrics including security queue times and passengers with reduced mobility related measurements. We therefore propose that the maximum total price cap at risk for service quality in 2022 is €0.11.

Table 6.1: Proposed Security Queue Time Targets and Revenue Adjustments

Target	Price Cap at Risk
Breach if the security queue is:	**Daily:**
less than 20 minutes for less than 70% of the time but less than 30 minutes 100% of the time	-€0.0025
equal to or greater than 30 minutes but less than 45 minutes, at any time	-€0.005
equal to or greater than 45 minutes, at any time	-€0.01

Source: 2019 Determination, CAR Calculations

Wait Times for Passengers Requiring Additional Assistance

6.12 Consistent with the approach to security queue times, we consider that it is appropriate to retain a revenue adjustment for the wait times for passengers requiring additional assistance.

6.13 In the 2019 Determination, we defined targets both for pre-advised and non pre-advised departing and arriving passengers, based on the Service Level Agreement (SLA) in place with the service provider at that time. During the appeal of the 2019 Determination, it came to our attention that different targets had subsequently been agreed in a revised SLA. As such, we propose to align the targets with the ones defined in the revised SLA. These targets are outlined in the table below.

Table 6.2: Proposed maximum wait time for assistance – departing and arriving passengers

<table>
<tr><th>Target</th><th>Pre-advised</th><th>Non pre-advised</th><th>Price Cap at Risk</th></tr>
<tr><td>Breach if the percentage of passengers in a day that are assisted from the terminal reception point is lower than the targets</td><td>95% within 15 minutes
98% within 20 minutes</td><td>95% within 20 minutes
98% within 30 minutes</td><td rowspan="2">Annually

-€0.01</td></tr>
<tr><td>Breach if the percentage of passengers in a day that are assisted from aircraft to terminal holding point onwards is lower than the targets</td><td>93% within 10 minutes
98% within 15 minutes</td><td>93% within 15 minutes
98% within 20 minutes</td></tr>
</table>

Source: CAR 2019 Determination, Dublin Airport and OCS Service Level Agreement

6.14 We propose to retain the price cap adjustment associated with the targets for wait times for passengers requiring additional assistance as defined in the 2019 Determination. As discussed above, we also propose to lower the €0.21 maximum price cap at risk for this metric and the security queue time measures, combined, to €0.11. Based on the performance in 2021 to date, Dublin Airport would currently face a reduction of €0.01 to the price cap as the targets in the current SLA have not been reached for the targets relating to arriving passengers.

Baggage Handling Belt and IT Systems

6.15 Dublin Airport has met all targets for the availability of baggage handling and IT systems since the temporary exemption from penalties was implemented in 2020. We propose not to reimplement this target, given the performance to date. It is our view that it is appropriate to phase back in the service quality measurements on a priority basis, limiting the revenue at risk.

Availability of Airport Assets

6.16 There were a number of new targets implemented in the 2019 Determination to measure the availability of airport assets. The measures for Fixed Electric Ground Power, Advanced Docking Guidance System, and Passenger-facing escalators, travellators and lifts in T2 have not yet been fully implemented in Dublin Airport. It is currently expected that system to measure the availability of Fixed Electric Ground Power and Advanced Docking Guidance Systems will be in place by Summer 2022. The measurement of the availability of Passenger-facing escalators, travellators and lifts in T2 has begun this October and will be monitored and reported going forward. The self-service check in kiosks and bag drop machines measures have achieved the targets as set out in the 2019 Determination thus far. We propose not to reimplement the penalties associated with these targets at present but to continue monitoring and reporting performance in this area.

Passenger Satisfaction Measures

6.17 Currently the full face-to-face surveys are not operational due to COVID-19. In December 2020, Dublin Airport completed a reduced-form survey to assess the experiences of departing passengers, which yielded positive scores. Dublin Airport is carrying out a number of face to face and online surveys as well as accompanied journeys for passengers with reduced mobility.

6.18 We have engaged with Dublin Airport in relation to appropriate targets for monitoring for 2022. Currently, Dublin Airport plans to reinstate a more regular service quality monitoring regime in 2022. This will include many of the measures that were previously included in the 2019 Determination, with a few changes. Dublin Airport has noted that it will be unable to begin the study to measure information on ground transportation on arrival in time for 2022. There has also been a change to the measures of finding your way around and walking distance. These measures have now been combined into one measure that assesses ease of movement. Dublin Airport have also suggested the introduction of a new metric which will measure the *'sense of safety for my health'*.

6.19 We are of the view that the adjustments to the suite of passenger satisfaction measures suggested by Dublin Airport for 2022 are reasonable and will capture the most important elements of the passenger experience in the airport for 2022. As such, we propose to monitor and report Dublin Airport's performance in this area for 2022. We will report the performance of Dublin Airport in these areas against the original targets laid out in the 2019 Determination, with the two new measures set a target of 8. The full details of the measures and targets for passenger satisfaction are outlined in the table below.

Table 6.3: Passenger Satisfaction Measures

Passenger Care	Departing	Departing with Assistance	Arriving	Transfer	Target
9. Additional assistance		✓			9.0
10. Helpfulness of security staff	✓	✓			8.5
11. Helpfulness of airport staff	✓	✓			8.5
12. Cleanliness of terminal	✓	✓	✓		8.5
13. Overall satisfaction	✓	✓	✓	✓	8.5
14. Cleanliness of toilets	✓	✓	✓		8.0
15. Departure gates	✓	✓			8.0
16 & 17. Ease of movement	✓	✓	✓	✓	8.0
Passenger Information					
18. Flight information screens	✓	✓		✓	8.5
Passenger Facilities and Services					
20. Facilities for passengers that require additional assistance		✓			9.0
21. Availability of trolleys	✓	✓	✓		8.5
22. Satisfaction with WI-FI	✓	✓	✓		8.5
23. Sense of safety for my health	✓	✓	✓		8.0

Source: 2019 Determination, Dublin Airport

7. Future Review

7.1 In this section, we outline our plans for the next review of the 2019 Determination.

Scope of a wide-ranging review

7.2 Both in CP3/2020 and in consultation on a second interim review of the 2019 Determination, we set out ways that the 2019 Determination could be adjusted to take account of the changes resulting from the pandemic, including on a building block level. We note the various responses from stakeholders on these topics and will consider these points as part of any wide-ranging review.

7.3 We currently expect that the wide-ranging review will consider issues such as:

- Whether we should make any broad adjustments to the regulatory model.
- Setting revised passenger number targets.
- Setting revised commercial revenue targets.
- Developing revised Opex targets.
- Considering adjustments to the allowed cost of capital.
- Reconsidering a revised Capital Investment Plan, and the appropriate associated regulatory mechanisms. This is likely to draw on elements of the 2019 CIP and the assessment of those projects.
- Considering adjustments to the Quality of Service regime to ensure it remains fit-for-purpose, in focusing on issues which are important to passengers while setting realistic targets.

Full Review

7.4 The impact of the Covid-19 pandemic on Dublin Airport and the aviation industry means that the pre-existing business plans and investment programme no longer fit the current circumstances. We have therefore concluded that a full building blocks review of airport charges is required. It is necessary to commence this process now in order to complete it in time for 2023. The landscape has changed significantly since when we conducted the first interim review of the 2019 Determination in 2020; the economic and aviation recovery has begun, vaccine rollout is almost complete in Ireland, and there is now some alignment between different industry forecasts, although a lot of uncertainty remains.

7.5 We are proposing that this revised determination would cover the period 2023-2026 and would be published and consulted on in 2022. We intend for this to be a comprehensive review which addresses and aims to meet the objectives of all stakeholders and is robust to challenge. One of our key objectives is to enable Dublin Airport's continued ability to invest to meet the needs of current and future users.

7.6 We are in the process of assessing the best mechanism for extending the regulatory period beyond 2024. While our initial thinking is that an extension to 2026 provides for a good balance between medium term visibility over the pricing trajectory, and uncertainty over passenger traffic, we would welcome views from stakeholders on this point.

7.7 We intent to commence this work in 2021. A consultation on a draft Capex plan would likely be required before the end of the year and the provision of a final plan would be required by February. We believe it is feasible for key stakeholders to agree on the Capital Investment Plan and a timeline for its delivery. We have previously stated that, if stakeholders agree on a building block or a particular aspect of it, we would expect to reflect this outcome in the determination. In that context, pre-consultation and constructive engagement should commence immediately.

7.8 Our proposed timeline is as follows:

- Q4 2021: Engagement with stakeholders.
- January 2022: Publication of an issues paper.
- February 2022: Provision of revised Capital Investment Programme for 2023-2026 to CAR.
- March 2022: Provision of regulatory proposal from Dublin Airport.
- June 2022: Draft decision.
- November 2022: final decision.

7.9 In making the revised determination, we will also carry out a financeability assessment. This will involve enabling the financial viability of Dublin Airport, through assessing whether its revenue stream would be sufficient to deliver the regulatory settlement, including all required investment. Whether this will include a 'lookback', to allow further recovery of the losses accrued between 2020 and 2021 and/or the costs of restructuring, or a 'look forward', where the focus is on the required level of revenues going forward, is to be determined during consultation phase.

7.10 A new statutory objective to take account of government policies on aviation, climate change and sustainable development will require us to make these policies central to the decisions we make underpinning the revised determination. Dublin Airport will thus need to demonstrate how it has taken these policies into account in developing all of its investment and business planning, striking an appropriate balance between these policies where there are potential trade-offs.

7.11 We consider that this timeline may be challenging for stakeholders. However, we consider it important, now that the worst of the crisis for the industry is hopefully in the past, to provide for longer term stability and to put in place a revised allowed investment programme, beyond that which would be provided through continuing a narrow review approach into 2023.

7.12 As part of this consultation, we request the views of stakeholders in relation to the timeline for the full review, as proposed above.

8. How to Respond to this Draft Decision

8.1 The deadline for responses to this paper is **5:00 PM, 23 November 2021**.

8.2 Responses should be titled "Response to Draft Decision on Interim Review of the 2019 Determination" and sent:

- - By email to: Info@aviationreg.ie (preferable); or
- - By post to: 3rd Floor, Alexandra House, Earlsfort Terrace, Dublin 2, D02 W773

8.3 We may correspond with interested parties who make submissions, seeking clarification or explanation of their submissions.

8.4 Respondents should be aware that we are subject to the provisions of the Freedom of Information legislation. Ordinarily we place all submissions received on our website.[16] We may include the information contained in submissions in reports and elsewhere as required. If a submission contains confidential material, it should be clearly marked as confidential and a redacted version suitable for publication should also be provided.

8.5 We do not ordinarily edit submissions. Any party making a submission has sole responsibility for its contents and indemnifies us in relation to any loss or damage of whatever nature and howsoever arising suffered by us as a result of publishing or disseminating the information contained within the submission.

[16] While we endeavour to ensure that information on our website is up to date and accurate, we accept no responsibility in relation to the accuracy or completeness of our website and expressly exclude any warranty or representations as to its accuracy or completeness.