Decision

on Summer 2023 Coordination Parameters

at Dublin Airport

Commission Paper 5/2022

30 September 2022

Commission for Aviation Regulation

3rd Floor,

6 Earlsfort Terrace

Dublin 2

Ireland

Tel: +353 1 6611700

E-mail: info@aviationreg.ie

Table of Contents

1. Executive Summary

1.1 The Commission for Aviation Regulation is the authority charged with declaring coordination parameters at coordinated Irish Airports.[1] This paper sets out our Decision on the Dublin Airport parameters for the Summer 2023 ('S23') season, which runs from 26 March to 29 October, 2023.[2] This declaration of the parameters for S23 is made in line with the IATA worldwide slot calendar.[3] The coordination parameters are set out in the Appendix and have been provided to the Coordinator.

1.2 Our Decision on the Summer 2023 parameters is to make the following changes relative the Summer 2022 ('S22') parameters:

- Implement 'Wishlist 2' hourly runway capacity ('R60') limits, which involves a range of increases in the declared runway limits in the day hours due primarily to the new capacity provided by the North Runway.
- Update the within-hour 10 minute ('R10') runway limits to reflect dual parallel runway operations.
- Stand counts are updated to reflect expected changes by apron area relative to Summer 2022. Otherwise, the form of this parameter is unchanged from S22.
- Terminal 2 rolling hourly parameter for departures is reduced to 3,600 passengers, with an offsetting reduced load factor assumption of 85% rather than 95%.
- Maintain the referral parameters on Terminal 2 Check-in desks and US Preclearance.

1.3 This Decision is in line with our Draft Decision. In arriving at our Decision, we have examined and relied on a large body of evidence. We commissioned fast time simulation modelling of the airfield to assess a range of scenarios relating to potential increases in the runway limits. This work was carried out by Egis. The assessment of these scenarios takes the form of a comparison of a range of airfield metrics. The results from this assessment were shared with the Coordination Committee, and the final report is published alongside this document.

1.4 We currently make no changes to the R60 runway parameters in the night hours, meaning that no more night flights (between 2200z and 0600z) would be possible on the pre-existing Southern Runway than was possible before the Northern Runway was complete. We also assume that the North Runway is itself unavailable during this period, and the single runway capacity is available only. These issues and our overview of potential Operating Restrictions to take account of is in Section 3.

1.5 We have considered other evidence with which we have been presented, or which we sought. This evidence includes modelling work conducted by Dublin Airport, and its consultants.

1.6 Our Decision follows the advice received from the Coordination Committee, when voting

[1] See Aviation Regulation Act, 2001 and the Slot Allocation Regulations – Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports as amended by Regulation (EC) No 793/2004.
[2] As per the worldwide slot calendar: https://www.iata.org/contentassets/4ede2aabfcc14a55919e468054d714fe/calendar-coordination-activities.pdf
[3] See also the Worldwide Airport Slot Guidelines - https://www.iata.org/en/policy/slots/slot-guidelines/

rights are assigned in line with the Coordination Committee constitution. The Coordination Committee comprises Dublin Airport, the Air Navigation Service Provider (the IAA), and is open to all airlines operating at Dublin Airport.

1.7 We received 12 responses to our Draft Decision, from Aer Lingus, DHL, Dublin Airport, FEDEX, FTAI, Liam O' Gradaigh, Michael O' Rourke, Dr. Niamh Maher, Pearse Sutton, Ryanair, Stephen Smyth, and UPS. These responses are published alongside this document and were considered in reaching this decision.

2. Background

Legislation

2.1 Section 8(1) of the Aviation Regulation Act, 2001, states that the Commission for Aviation Regulation (CAR) is the competent authority in Ireland for the purposes of Council Regulation (EEC) No. 95/93, as amended ("the Slot Regulation"). The Commission is therefore responsible for:

- The designation of the Coordination status of Irish airports.
- Appointing a qualified schedules facilitator or coordinator, as appropriate, at airports which have been designated as Schedules Facilitated or Coordinated.
- The determination of coordination parameters at Coordinated airports in line with Article 6 of the Slot Regulation, taking account of relevant technical, operational and environmental constraints as well as any changes thereto.
- Deciding whether to approve Local Guidelines proposed by the Coordination Committee.

2.2 Dublin Airport is designated as Coordinated by the Commission. Airport Coordination Limited (ACL) is the appointed coordinator. No other airport in Ireland has been designated as either Schedules Facilitated or Coordinated.

2.3 Slot allocation is an administrative process by which a scarce resource, namely slots, are allocated according to an independently coordinated process, amongst those air carriers who would like to operate at a Coordinated airport such as Dublin Airport. Slots are allocated to air carriers for flight planning purposes.

2.4 A slot means the permission given by a coordinator in accordance with the Slot Regulation to use the full range of airport infrastructure necessary to operate a particular air service at a Coordinated airport on a specific date and time. Air carriers must apply to the coordinator for slots and may be sanctioned where, for example, they operate without an appropriate slot, or operate repeatedly at a time different to the allocated slot. The number of slots available to be allocated is determined by the coordination parameters in place. The coordination parameters are defined as the expression in operational terms of all the capacity available for slot allocation at an airport during each coordination period, reflecting technical, operational and environmental factors that affect the performance of the airport infrastructure and its different sub systems.

2.5 Where an air carrier is allocated a series of slots and fulfils certain criteria in relation to the use of that series, it is entitled under the Slot Regulation to retain the series in the next scheduling season (termed a 'historic' slot entitlement). Slots may be traded between carriers, including for monetary consideration.

2.6 Under Article 5 of the Slot Regulation, one of the roles of the Coordination Committee is to advise the Commission on the coordination parameters to be determined in accordance with Article 6. As per Article 5(3), the Commission is invited to attend Coordination Committee meetings as an observer.

2.7 Article 6(1) states that the determination of the parameters '*shall be based on an objective*

analysis of the possibilities of accommodating the air traffic, taking into account the different types of traffic at the airport, the airspace congestion likely to occur during the coordination period and the capacity situation'. Thus, the determination of the parameters is a forward-looking projection in which we must take account of expected demand, capacity (including airspace capacity), and relevant constraining factors, during S23, in an objective manner. This is primarily assessed through simulations of the operation of the forecast S23 flight schedule at the airport, under different permutations of potential capacity parameters which are being considered within the Coordination Committee.

2.8 The coordination parameters establish the scheduling limits that can be coordinated to, over a specified period of time. They are reviewed twice a year. The ethos underpinning the establishment of coordination parameters is set out in article 6(3) of the Slot Regulation which details the required interaction between the Commission and the Coordination Committee:

"*The determination of the parameters and the methodology used as well as any changes thereto shall be discussed in detail within the coordination committee with a view to increasing the capacity and number of slots available for allocation, before a final decision on the parameters for slot allocation is taken. All relevant documents shall be made available on request to interested parties."*

2.9 In that regard, we consider that in taking account of relevant constraints when drawing up a capacity declaration, we ought to tend towards a maximal rather than minimal approach as regards declaring the airport capacity parameters. This is because of the requirement that discussion within the coordination committee is "*with a view to increasing the capacity and number of slots available for allocation*." This framing of the determination of the parameters should be given further weight where a parameter is expected to have a constraining effect on demand, given that Article 6(1) requires the determination to be based on the '*possibilities of accommodating the air traffic'.*

2.10 Thus, one considers the parameters from the perspective of increasing capacity at first instance. The coordination parameters represent the maximum capacity available for allocation considering the functional limitations at the airport such as runway, apron, terminal, airspace and environmental restrictions. The determination of parameters considers each sub-system from the perspective of its maximum capacity at a given level of service. Certain sub-components of the infrastructure will generally have more capacity than others in a given season. A capacity reduction that occurs may be planned for within the normal seasonal flight planning timelines or as the need arises. Establishing the parameters is a step prior to the initial application by air carrier for the allocation of slots.

2.11 Subsequent sections of this paper detail how these requirements were met by the Commission.

Coordination Committee Engagement Process

2.12 To help inform the Coordination Committee and, ultimately, the Commission's decision on the parameters, we engaged Egis to carry out simulations of the expected flight schedule for S23, using the Fast Time Simulation model of the apron, airfield, and airspace in the Dublin Airport TMA (Terminal Manoeuvring Area). This model was originally developed by Egis for the Commission in 2017 and has been used for various simulation exercises since, both in relation to the determination of coordination parameters and also to assess the likely impact of airfield projects proposed by Dublin Airport as part of the Airport Charges determination process.

2.13 Prior to running the simulations, Egis re-validated the model. This involves simulating the flight schedule on a recent day of operations, and comparing the simulated airfield metrics (such as taxi time durations and runway throughput) with actual observed metrics on the same day. If necessary, adjustments are made to the model and the process is repeated until a satisfactory result is obtained whereby the model is replicating the actual operation with a sufficient degree of accuracy.

2.14 Airlines were asked to submit growth plans for Summer 2023 to ACL. Analysis carried out by ACL indicated that significant increases in the runway limits would be required to ensure that these plans could be fully facilitated.

2.15 Dublin Airport proposed a number of changes to the hourly runway limits relative to S22, informed by the analysis carried out by ACL, but reduced in scope.[4] This set of changes, summarised in Table 2.1, is termed Summer 2023 Wishlist 1, to distinguish it from variations subsequently proposed by other Coordination Committee members. There was no proposal for any changes in runway capacity in the hours not listed in Table 2.1.

2.16 Dublin Airport noted the following in relation to its proposal:

- With the North Runway available, the primary capacity constraint shifts from runway to stands/gates. Proposed additional aircraft movements must fit on available stands, which is also necessary to enable modelling of the flight schedule through the full airfield and thus properly test the impact of potential runway limits.

- For the first season capacity release of the North Runway, it is prudent not to increase capacity by more than c10% in the busiest hours.

Table 2.1: Dublin Airport's Proposal for Summer 2023: Wishlist 1

UTC Hour*	Departures	Arrivals	Totals
0600	+4		+2
0900			+4
1000			+3
1100		+2	+3
1200		+1	+3
1300	+2		+4
1600		+2	+4
1700			+2
1800			+3
2100			+6
Total	**+6**	**+5**	**+34**

Source: Coordination Committee
**During the Summer season, Local time is UTC + 1 hour*

[4] All references to times or hours are in UTC 24 hour format, unless stated otherwise. Where a reference is made to a particular hour, such as the 0500z hour, this refers to the time period one hour in length commencing from the stated time. To give an example, the 0500z hour spans from 5 am to 6 am UTC.
In each hour, a requested departure slot must not bust the hourly Departures limit or the hourly Totals limit, while a requested arrival slot must not bust the hourly Arrivals limit or the hourly Totals limit.

2.17 Information provided by airlines was used to construct an anticipated flight schedule on a busy day in Summer 2023, 'the S23 Schedule'. The S23 Schedule was based on the flight schedule on 29 July 2022, with the expected growth for Summer 2023 added in.

2.18 The operation of the S23 Schedule was simulated by Egis. To isolate the effect of a potential decision to adjust the parameters from those currently in effect to those proposed under Wishlist 1, the Commission asked Egis to coordinate the S23 Schedule according to both the proposed Summer 2023 Wishlist 1 limits, and alternatively the current Summer 2022 runway limits. Comparisons were provided between simulated taxi times, ground delay and runway holding delay. Further detail and results of this analysis is set out in Section 3.

2.19 Dublin Airport proposed a reduction in the limit on Terminal 2 departures based on updated security processor capacity analysis. A reduction in the Terminal 2 load factor from 95% to 85% was also proposed by Dublin Airport to reflect that, with the 2019 traffic profile, c15% of T2 passengers were transfer and thus do not pass through the security processor. It was noted that these adjustments would offset in relation to the 'at-the-gate' capacity, such that overall, it would reduce by 2.5%. No other changes were proposed relative to the Summer 2022 limits on terminals or referral limits (except updating the stand count to reflect expected changes in the count since Summer 2022).

2.20 The pre-meeting of the Coordination Committee took place on 9 August 2022. Ahead of the initial meeting, Egis circulated the simulation modelling results. Dublin Airport also circulated various pieces of analysis and modelling results to Committee members ahead of the initial meeting, namely:

- Simulation modelling carried out for Dublin Airport by ARUP.
- An update on actual airfield performance during Summer 2022, prospective projects expected to be delivered for Summer 2023, projects that are expected to be under construction in Summer 2023, and potential operational changes which may be in place for Summer 2023.
- An update on the North Runway, the planned CONOPS (concept of operations) and the Air Traffic Control transition plan.
- An update from ACL containing an overview of Summer 2022 to date and details of the full collated wishlist demand for Summer 2023.
- Proposed coordination parameters for Summer 2023.

2.21 The Coordination Committee met again on 26 August to finalise its advice for the Commission.

2.22 The simulations were updated to reflect a revised proposal for the R10 limits developed between Dublin Airport and the Irish Aviation Authority Air Navigation Services Provider (IAA ANSP). Two additional scenarios were also simulated, Wishlist 2 and Wishlist 3, based on requests from Coordination Committee members. These were both variations of the original Wishlist 1 proposal:

- Wishlist 2 included additional capacity of 2 departures and 2 totals in the 0600z hour, and 2 totals in the 1400z hour.
- Conversely, Wishlist 3 excluded any capacity increases in 0600z.

Table 2.2: Summer 2023 Wishlist 2 & 3

	Wishlist 2			Wishlist 3*		
UTC Hour	Departures	Arrivals	Totals	Departures	Arrivals	Totals
0600	+6		+4			
0900			+4			+4
1000			+3			+3
1100		+2	+3		+2	+3
1200		+1	+3		+1	+3
1300	+2		+4	+2		+4
1400			+2			+2
1600		+2	+4		+2	+4
1700			+2			+2
1800			+3			+3
2100			+6			+6
Total	**8**	**5**	**38**	**2**	**5**	**34**

*Source: Coordination Committee. *Wishlist 3 was modelled by Egis without the additions to 1400z, as we understood the request from the relevant CC member. The difference, in any case, primarily relates to the earlier 0600z hour.*

2.23 The final results of the Egis simulations were published alongside the Draft Decision.

Coordination Committee Vote

2.24 Following the presentation of all materials circulated by the respective parties, Coordination Committee members voted on the parameter options. Voting rights for Committee members are set out in the Coordination Committee constitution. A set number of votes are allocated to Dublin Airport and the IAA ANSP, with the rest allocated to airlines based on the number of movements flown at Dublin in the preceding year. Only those present can vote. A letter from the Committee to CAR is published alongside this paper.

2.25 There was some disagreement among the Coordination Committee on the appropriate allocation of votes, with some favouring the use of 2019 actual movements or the slot historics list for 2021, rather than 2021 actual movements. This was on the basis that 2021 was an abnormal year, and exceptional rules for Justified non-use of Slots were in place during 2021 as a result of Covid-19. The Committee, in its published advice, has provided the results on the basis of all three of these scenarios.

2.26 There were also mixed views on the appropriate runway parameters with Dublin Airport, Delta, Ryanair, and the IAA ANSP supporting Wishlist 2 in full, while other airlines generally supported various hourly mixes of retaining S22 capacity, Wishlist 1, and Wishlist 3.

2.27 In most hours, the voting outcome is insensitive to which permutation of voting rights is used, the exceptions being the 0600z and 2100z hours. In the 0600z hour, the use of the 2019 voting rights results in the S22 option being the most popular, while using the 2021 actual movements or the 2021 slot historics list results in a majority for Wishlist 2. For the 2100 hour, the use of the 2019 voting rights results in a majority for Wishlist 1, and the use of the 2021 actual movements or the 2021 slot historics list results in a majority for Wishlist 2. There are no other differences in the voting outcomes for other hours.

2.28 No changes were proposed within the Committee in relation to any hour other than those listed below in Table 2.3.

2.29 While we understand the rationale for not solely relying on actual movements for 2021, the Coordination Committee constitution is clear that the votes should be allocated based on the flights flown in the previous year. Therefore, in the absence of unanimous agreement among the Coordination Committee for an alternative allocation of voting rights, we consider it appropriate to look at the 2021 voting rights as the primary reference point. The votes are laid out in Table 2.3 based on these voting rights. This shows that, for each hour, Wishlist 2 has received the most votes.

2.30 It is important to note that we consider the voting process to be an indicative part of the Coordination Committee's advice to CAR, rather than corresponding to a direct "election" of the parameters. As part of the process, we have sought to take into account all positions set out by Coordination Committee members as well as any associated comments or evidence relevant to the parameter determination.

Table 2.3: Coordination Committee votes on proposed changes to hourly runway limits

Member	Votes	0600	0900	1000	1100	1200	1300	1400	1600	1700	1800	2100
Aer Lingus	255	S22	WL1	WL1	WL1	WL1	WL1	S22	WL1	WL1	WL1	WL1
Air Canada	3	X	X	X	X	X	X	X	X	X	X	X
Air France	19	X	X	X	X	X	X	X	X	X	X	X
IAA ANSP	20	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2
British Airways	30	S22	S22	S22	S22	WL1	WL1	S22	WL1	WL1	WL1	WL1
CityJet	2	S22	WL1	WL1	WL1	WL1	WL1	S22	WL1	WL1	WL1	WL1
Daa	40	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2
Delta	14	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2
DHL	4	S22	S22	S22	S22	S22	S22	S22	S22	S22	S22	WL1
Emerald	0	WL2	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1
FedEx	7	WL2	X	X	X	X	X	X	X	X	X	WL1
KLM	27	X	X	X	X	X	X	X	X	X	X	X
Lufthansa	28	WL3	WL3	WL3	WL3	WL3	WL3	WL3	WL3	WL3	WL3	WL3
Ryanair	502	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2	WL2
Swiss	9	S22	WL3	WL3	WL3	WL3	WL3	S22	WL3	WL3	WL3	S22
TUI	3	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1	WL1
UPS	37	S22	S22	S22	S22	WL3	WL3	WL3	WL3	WL3	WL3	WL3
WL1		**3**	**260**	**260**	**260**	**290**	**290**	**3**	**290**	**290**	**290**	**301**
WL2		**583**	**576**	**576**	**576**	**576**	**576**	**576**	**576**	**576**	**576**	**576**
WL3		**28**	**37**	**37**	**37**	**74**	**74**	**65**	**74**	**74**	**74**	**65**
S22		**337**	**71**	**71**	**71**	**4**	**4**	**300**	**4**	**4**	**4**	**9**
Abstain		**49**	**56**	**56**	**56**	**56**	**56**	**56**	**56**	**56**	**56**	**49**

Source: Coordination Committee. Totals may not tally exactly due to rounding of voting rights. 'X' is abstention. Voting rights based on 2021 actual movements.

2.31 The Committee then voted on Dublin Airport's proposal to adjust the limits for Terminal 2. No other proposal was made in relation to other changes to the terminal building parameters.

Table 2.4: Coordination Committee votes on proposed Terminal limits

Member	Votes	Yes	No	Abstain
Aer Lingus	255	Y		
Air Canada	3			Y
Air France	19			Y
IAA ANSP	20			Y
British Airways	30			Y
CityJet	2	Y		
Daa	40	Y		
Delta	14	Y		
DHL	4			Y
Emerald	0	Y		
FedEx	7			Y
Lufthansa	28			Y
KLM	27			Y
Ryanair	502			Y
Swiss	9			Y
TUI	3	Y		
UPS	37			Y
Total		**314**	**0**	**686**

Source: Coordination Committee

2.32 The advice from the Coordination Committee is therefore to implement the Terminal 2 proposal by Dublin Airport, with no opposition to this proposal.

3. Airfield Coordination Parameters

3.1 This section addresses, in turn:

- Runway parameters during the day time hours.
- Runway parameters during the night time hours.
- Stand parameters.

3.2 In line with the majority advice from the Coordination Committee and the Draft Decision, we have decided to implement the Wishlist 2 adjustments to the S22 hourly runway limits ('R60'), as set out in Table 3.1.

Table 3.1: Changes to runway limits from Summer 2022

UTC Hour	Departures	Arrivals	Totals
0600	+6		+4
0900			+4
1000			+3
1100		+2	+3
1200		+1	+3
1300	+2		+4
1400			+2
1600		+2	+4
1700			+2
1800			+3
2100			+6
Total	**+8**	**+5**	**+38**

Source: CAR

3.3 We have also adjusted the 10 minute runway limits ('R10') in line with the proposal of Dublin Airport and IAA ANSP, to which there were no objections.

3.4 We retain the stand parameter as a hard constraint. Where demand for stands exceeds supply as per the count in the appendix, movements are referred to Dublin Airport for detailed assessment. If the issue cannot be resolved, a slot will not be allocated.

Runway Capacity in Day Hours

3.5 In this subsection, we address runway capacity in the hours 0600z to 2200z or 7am to 11pm local time.

Egis Airfield Modelling

3.6 As described above, Egis first validated the airfield model and then simulated the S23 flight schedule under the various sets of options for the hourly runway limits being considered by the Coordination Committee, namely:

- Rolling forward the S22 limits, i.e. making no changes to the limits compared to those in place for S22.
- Implementing the Wishlist 1 adjustments to the S22 limits.
- Implementing the Wishlist 2 adjustments to the S22 limits.
- Implementing the Wishlist 3 adjustments to the S22 limits.

3.7 The model validation process was based on 18 April 2022. On this day 100% of operations used Runway 28L.

3.8 The simulated metrics (taxi out times, runway throughput, counts of aircraft coming on block, off block, lifting off and touching down) show a close match with the actual data both in magnitude and daily profile. Across the day, the difference between the average simulated and average real taxi out time is 32 seconds, with the simulation generating slightly higher taxi times than were observed in reality. This again demonstrated the ability of the model to accurately replicate the real operation of a given flight schedule.

3.9 Efficient towing of aircraft occurs in the model. Taxiway, towing, runway, and runway exit usage restrictions and patterns have been implemented in the model. Given the close match in the model validation outputs, it is our view that no significant airfield capacity affecting element has been omitted from the model.

3.10 Taxi out time measures the time elapsed from the aircraft coming off blocks until it crosses the runway stopbar to begin its take-off roll. Departure ground delay is the accumulation of all delay experienced in the same period, i.e. all components of taxi-out time other than unimpeded taxi-time. The estimated effect of proposed airfield capacity increases on these two closely related metrics is, in our view, the best way to assess the physical and operational ability of the airfield to deliver a flight schedule.

3.11 Egis first modelled two scenarios to compare the impact of declaring increased capacity in line with the Wishlist 1 proposal, relative to maintaining S22 capacity limits. In both cases it is assumed that the increased demand will materialise for S23. Both scenarios are based on the flight schedule on 29 July 2022, which was an already busy day prior to the addition of any new services planned by the carriers for S23.

3.12 There are over 100 new movements in the S23 Schedule. Most of these movements could be accommodated at the times requested without any changes to the runway limits. To isolate the effect of a decision to implement the various wishlists relative to maintaining the Summer 2022 limits, we asked Egis to simulate the S22 Schedule coordinated according to the wishlist scenarios and separately according to a baseline scenario in which no changes are made to the limits. This process isolates the effect of a decision to increase the parameters.

3.13 We have previously observed a general pattern whereby airlines may accept sub-optimal slots (whether in relation to timing, series fragmentation, or both) in order to meet demand for an operation. In order to capture this trend, our baseline scenario assumes that this redistribution effect occurs, with these new services operating at the nearest available time in the simulation.

3.14 Table 3.2 summarises the final results of the Wishlist 1 and S22 limits scenario simulations, overall and in terms of local averages across various parts of the day, as provided to the Coordination Committee ahead of the final meeting. Further details are set out in the Egis

simulations published alongside. For all of the final simulation scenarios, the updated R10 limits are included as proposed by Dublin Airport and IAA ANSP. These limits have the effect of preventing within-hour bunching.

Table 3.2: Departure Taxi Out Time

Time (UTC)	S23 Wishlist 1 scenario	S22 limits scenario	Difference
Average (0500-0700)	00:16:20	00:15:58	+ 00:00:22
Average (0700-1400)	00:14:46	00:14:52	- 00:00:06
Average (1400-1800)	00:14:20	00:14:58	- 00:00:38
Average (1800-2300)	00:13:02	00:13:13	-00:00:11
Daily average	00:14:13	00:14:29	- 00:00:16
Peak	00:18:19	00:17:41	+ 00:00:38

Source: Egis, Slide 21. Taxi times in minutes and seconds.

Average times are based on a rolling 10 minute window. Peak times refer to the window with the highest average value. Values are in hours, minutes and seconds.

3.15 In summary, relative to maintaining the Summer 2022 limits unchanged, S23 Wishlist 1 is expected to lead to:

- No material impact on taxi-out times on average across the day.
- An increase in average taxi out time of just 22 seconds between 0500z to 0700z; within this period, an increase in the peak taxi time of approximately 40 seconds. On the other hand, retaining the S22 limits is likely to lead to a flatter first wave with an extended duration into the shoulder hours, particularly the 0400z hour.
- Better preservation of schedule firebreaks, specifically, in the 0700z, 0800z, 1500z, and 2000z hours.
- Slightly lower average taxi out times between 1400z to 1800z, likely linked to the preservation of the firebreak in the 1500z hour.
- No material impact on taxi-in times.

3.16 Egis simulated two additional scenarios based on requests from coordination committee members. These were also presented at the Meeting on 26 August. The variations relative to Wishlist 1 were as follows:

- Wishlist 2 included additional capacity of +2 departures and +2 totals in the 0600z hour, and +2 totals in the 1400z hour.
- Conversely, Wishlist 3 excluded any capacity increases in 0600z.

3.17 Thus, the primary difference relates to the 0600z hour. The results for the broader morning departures wave (0400z to 0700z hours) are set out in Table 3.3.

Table 3.3: Departure Taxi out Time

Time (UTC)	S23 Wishlist 2	Difference to S22 Scenario	S23 Wishlist 3	Difference to S22 Scenario
Morning wave peak	00:18:51	+00:01:10	00:16:23	-00:01:18
Morning wave average	00:14:47	-00:00:17	00:14:36	-00:00:28

Source: Egis.

Average times are based on a rolling 10 minute window. Peak times refer to the window with the highest average value. Values are in hours, minutes and seconds.

3.18 Thus, on average across the morning departures wave, departure taxi out time seems to be insensitive to either adding the additional movements, or not declaring additional capacity in 0600z. That is, the timing of movements impacts the peakiness within the period, but this does not have a cumulative effect in terms of increasing or decreasing overall delay, because it is offset by the duration of the wave.

3.19 More movements within 0600z increase the absolute peak by 1 minute 10 seconds compared to the S22 scenario baseline, while fewer movements within 0600z decrease this peak by 1 minute 18 seconds.

Other Modelling

3.20 Dublin Airport commissioned ARUP to carry out simulation modelling on its behalf, which was also presented to the Coordination Committee. Like the Egis modelling, the ARUP modelling includes the runway, taxiways and apron. The ARUP models display similar results to Egis for the scenarios they modelled, which included all three wishlists. ARUP produced its simulations using CAST software.

3.21 We consider that this provides a useful cross-check and cross-validation of both Egis' and ARUP simulation modelling.

Taxi Out times and On Time Performance (OTP) in Summer 2022

3.22 At the Coordination Committee pre-meet, Dublin Airport provided an update on outturn 2022 operational performance (up to July inclusive) relative to 2019 performance.

3.23 On Time Performance (OTP)[5] is worse than Summer 2019, with arrival OTP down 14% and departure OTP down 15%.

3.24 Average taxi-out times have improved over the full day relative to Summer 2019, but the first wave average increased by one minute. Overall, the taxi-out times are in line with the performance seen in Summer 2019. Overall taxi-in times did not change significantly compared to Summer 2019, with an increase of 15 seconds for the average taxi-in for a full day, but showed a decrease of 3 minutes for the first wave average taxi-in time.

3.25 When previously considering proposed capacity increases for the forthcoming season, we considered the trends in outturn performance relative to previous years, to get sense of how the airfield is performing under the prevailing limits. However, with the impact of COVID-19

[5] An air service is defined as on-time for the purposes of OTP when it arrives within 15 minutes of the scheduled arrival time or departs within 15 minutes of the scheduled departure time.

on the performance for S20, S21, and S22, this is less relevant than for previous capacity declarations.

3.26 S20 and S21 saw traffic levels far below what we can expect for S23. S22, meanwhile, has been heavily impacted by the challenges faced by operational stakeholders in ramping up the industry following the two-year period impacted by COVID-19. This has led to poor OTP due to factors such as En Route ATFM delay and aircraft rotational delay. We expect that the situation will stabilise by S23 as issues causing the current poor performance are addressed.

3.27 Additionally, the North Runway is a major infrastructural change at the airport which will change operations significantly. It is unlikely that the performance trends of S22, before the North Runway was operational, are indicative of what to expect in S23.

Infrastructural developments

3.28 There are a number of infrastructural developments which are already completed or expected to be completed ahead of Summer 2023, specifically:

- North Runway.
- Realignment of MRO Stands.
- West Apron redesign to provide additional stands.
- Redevelopment of the Hangar 1/Hangar 2 stands.
- Gate Post 9.
- Widening of the Pier 2 and Pier 3 underpasses.
- Critical Taxiway North (expected completion in Q2 2023).
- Runway 16/34 LVP lighting.
- Terminal 1 and 2 Hold Baggage Screening.

3.29 Furthermore, there are a number of projects which are expected to be ongoing during S23 which will require operational changes. Where relevant (i.e. where they relate to aircraft traffic as opposed to vehicle traffic), these changes have been implemented in the Egis simulations. This includes:

- For construction of Apron 5H, Light Aircraft Parking B is closed and GA parking is moved to the northern section of the West Apron.
- For the critical taxiway project, taxiways F-Outer and P1 are closed.
- Widening of taxiways Z/B1 to facilitate dual code E operations, which requires the closure of B1.

Operational Developments

3.30 Minimum aircraft separations are generally assumed to be in line with previous simulations. Departure-departure separation has been kept at a minimum of 84 seconds for Runway 28L

departures. Arrival-arrival separation is at a minimum of 3.5 Nautical Miles. Arrival-departure-arrival separation is kept at a minimum of 5.5 Nautical Miles.

3.31 The North Runway is assumed to be operational in line with the planned Concept of Operations (CONOPS) for S23, which in turn is significantly driven by condition 3 of its Planning Permission. As in previous seasons, the capacity is declared based on westerly operations. Thus, our modelling assumes the following:

- Segregated dual runway operations during the day, with Runway 28R for departures and Runway 28L for arrivals.

- Single runway operations on Runway 28L for all aircraft movements during the night period (which is discussed separately below). That is, the North Runway is in use only between 0600z to 2200z (7am to 11pm local).

3.32 In line with Condition 4 of the North Runway planning permission, which limits the use of the crosswind runway to *'essential occasional use'*, our modelling assumes no use of the crosswind runway 16/34 as an active runway.

CAR Draft Decision

3.33 In the Draft Decision, we noted that we are required to review the parameters with a view to increasing the capacity and number of slots available for allocation, based on an objective analysis of the possibilities of accommodating the air traffic. On that basis, the Commission's draft decision was to amend the hourly runway limits in accordance with Wishlist 2. The reasons we provided were as follows:

- It is clear from the Egis simulations that the additional capacity proposed under Wishlist 2 can be accommodated by the parallel runway system without any material causative impact on delay.

- Based on the Coordination Committee constitution, the advice of the Committee to CAR is to declare runway limits in line with Wishlist 2.

- With the non-availability of the North Runway during the peak departure hour at 0500z, that hour will remain constrained. Capacity in the 0600z hour will relieve that constraint, and also likely reduce the number of night operations in the 0400z hour.

- Concerns raised by certain committee members, particularly in relation to the release of capacity at 0600z, in our view relate primarily to matters other than appropriate runway limits for S23.

3.34 In the Draft Decision, we noted that the simulation results suggest that additional capacity in excess of Wishlist 2 could be handled by the runways/taxiways. Nonetheless, we agreed with Dublin Airport that it is prudent to limit the initial North Runway capacity release to preclude potentially excessive bunching of the schedule, as the relevant operational stakeholders become acclimatised to the changed operation. We also noted that further additional capacity is not likely required to accommodate the air traffic.

3.35 Based on observations of the model, dual runway operations will work much better than single runway, with improved traffic flows. The simulation results show that average delay/taxi out times are insensitive to incremental movements as per the various wishlists.

Taxi times vary depending on the timing of movements, but this does not significantly accumulate delay. That result is materially different to when we last carried out simulations, ahead of the S20 season, when the single runway operation was subject to a high level of runway capacity constraints and average taxi times were sensitive to incremental movements. Ultimately, for S20, the runway limits were set on the basis of a modelled peak taxi out time of over 26 minutes at 0630z. The equivalent figure under Wishlist 2 for S23 is 19 minutes.

3.36 We stated that the primary reference point for the Coordination Committee voting rights should be as specified in the constitution. On that basis, the advice to CAR is to implement Wishlist 2. Wishlist 2 was supported in full by both the airport operator and the Air Navigation Services Provider, as well as by Ryanair and Delta.

3.37 We note the opposition among some airlines, who supported various hourly mixes of retaining the S22 limits, Wishlist 1 and Wishlist 3. Based on the comments made, which are summarised in the appendix of the letter from the Committee, the primary concern relates to stand capacity, particularly in the 0600z hour and in the context of poor OTP in S22. However, we consider that this relates primarily to the stand parameter, which is discussed below, rather than being a reason to limit runway capacity. The purpose of setting limits on specific parameters is to capture the capacity limits of different processors separately, rather than, for example, slots being refused due to R60 where the real constraint is stands elsewhere on the apron.

3.38 There was also a concern raised as to whether the security processor will be sufficiently staffed in time for S23. We stated that this relates to the passenger terminal capacity limits, which are discussed in Section 4, rather than the runway limits.

3.39 Finally, as noted above, we stated that we do not believe that the Wishlist 2 adjustments to the runway limits are likely to significantly impact OTP in S23, or that 2022 OTP is a good guide to likely OTP in 2023.

3.40 On that basis, and given the approach to the determination of parameters required by Article 6, we proposed to implement the Wishlist 2 adjustments to the runway parameters.

Submissions Received on Draft Decision

3.41 Aer Lingus states that it has serious concerns that the release of extra capacity as proposed in the Draft Decision has the potential to significantly undermine hub operations for Aer Lingus and its customers. It lists the following concerns:

- Inadequate stands for more based aircraft.
- The US Preclearance facility being full at certain times of the day.
- The capacity of the central search facility to handle significantly more passengers for first-wave departures.
- Stand Allocation Rules which Aer Lingus consider require revision to support customers making connections at Dublin Airport.

3.42 Aer Lingus states that the new runway will mean the bottleneck at the airport will now become the stand availability. Specifically, it considers that Dublin Airport's own projection of stand demand for S23 presents an '*alarming*' picture for a based operator such as Aer Lingus in a number of distinct areas. It is therefore concerning to Aer Lingus that any new departure

slots in the morning wave would be added without this infrastructural gap being addressed as it is unclear where these aircraft would park.

3.43 Aer Lingus believes that the capacity must be looked at in the round, because an airport slot (as defined in the Slot Regulation) includes "the full range of airport infrastructure necessary to operate an air service at a coordinated airport". Aer Lingus states that, as stand infrastructure will be the '*overwhelming constraint*' at the airport, it is '*odd*' that our primary concern for the S23 declaration is to examine runway capacity.

3.44 Aer Lingus states that the addition of extra departure slots in the early morning wave will result in potentially 1,500 extra passengers being required to go through the central search facilities at terminals 1 and 2 combined. It considers that Dublin Airport has been unable to handle the peak S22 volumes, thus it is an '*act of folly*' to present them with a significantly larger task in S23. Aer Lingus states that it is not alone in its concerns about the release of extra morning slots with two-thirds of the airlines present at the CC meeting voting against the release of capacity.

3.45 Aer Lingus states that stand planning requires Piers 3 and 4 to run at 100% capacity at times. On the other hand, it notes that the capacity at Pier 1 and 2 is in the region of 50%. Aer Lingus believes that it is necessary that the stands at Dublin Airport be optimised and balanced across the campus such that the minimum connection time improves at the airport. Aer Lingus suggests reallocating carriers which do not connect at Dublin nor operate to the United States away from the South Apron, Pier 3 and Pier 4 at peak demand times.

3.46 Aer Lingus states that, as a hub operator at Dublin Airport, it requires that its fleet are parked in close proximity to each other for the hub to function. The resultant minimum connection times (MCTs) enable the hub to function efficiently and drive more traffic through the airport adding value to the economy and stimulating sustainable employment growth. It outlines that MCTs at Dublin Airport exceed those at other airports in Europe.

3.47 Aer Lingus states that, as Dublin Airport demonstrated to the Coordination Committee, the US Preclearance facility is currently full until late morning and it is unclear to Aer Lingus how any extra runway slots, were they to be declared by the Commission, could be allocated to an operation requiring use of the facility before 1300z assuming that all carriers using the facility in the current S22 season retain and re-apply for their historic slot rights.

3.48 Aer Lingus considers that there is a lack of forward planning in relation to the impact that the S23 capacity declaration could have on future seasons. It notes that Dublin Airport has recently submitted an application for planning permission for an underpass from Pier 3 to the West Apron which, if it proceeds in 2024, will require the withdrawal of stands on Pier 3 from service in S24.

3.49 Aer Lingus states that there will be an '*acute deficit'* of nightstands if the extra morning slots are declared in S23 and further untenable pressure on Pier 3 and Pier 4 demand if the stand rules are not revised should extra slots be released after the first wave. Aer Lingus therefore considers it imperative that any release of capacity at Dublin Airport is done in parallel with a requirement for a review of the stand planning assignment priorities at Dublin Airport to further enable and promote hub connectivity.

3.50 Ryanair supports the Draft Decision, which it describes as striking a relatively conservative balance between facilitating growth at Dublin Airport and the sensible operational ramp up of the North Runway. It particularly welcomes additional capacity in the 0600z and 1400z

hours as per Wishlist 2, which will support Ryanair's planned growth at Dublin Airport, as well as enhanced connectivity, economic growth and local jobs.

CAR Final Decision

3.51 We note the support of Ryanair for the Draft Decision as proposed.

3.52 Aer Lingus' views are consistent with those previously expressed within the Coordination Committee. These views were considered within the Coordination Committee and in the Draft Decision as discussed above. While we agree with Aer Lingus that a slot represents permission to use the full range of required airport infrastructure, we disagree with the apparent suggestion that the runway parameters should be used as a proxy to address what Aer Lingus considers to be constraints elsewhere. As noted above, constraining factors are captured individually within the parameters, with the overall slot capacity available generated collectively by the combination of individual parameters.

3.53 We disagree that it is '*odd*' that significant focus would be placed on runway capacity ahead of a season in which there is a fundamental change in runway infrastructure. The Slot Regulation specifically references changes in relevant constraining factors. The stand parameter is unchanged from S22 in the context of little change to stand capacity, other than updates to the relevant counts- the runway capacity is the primary change in constraining factors relative to S22.

3.54 We suggest that, if parties consider that the appropriate capacity of the processors referenced by Aer Lingus is less than currently declared, or the parameter is structured in a way which should be changed, they should make specific proposals for future seasons in relation to these parameters, as set out in the Draft Decision in the relevant subsections.

3.55 As set out in the Draft Decision, if the proposed underpass or other infrastructure development projects warrant adjustments to the capacity parameters in Summer 2024, this properly falls to be considered within the S24 declaration.

Runway Capacity in Night Hours

3.56 As set out in Section 2, when determining coordination parameters as per Article 6 of the Slot Regulation, we are required to take account of relevant technical, operational and environmental constraints as well as any changes thereto. Under Article 5, one of the roles of the Coordination Committee is to advise the Commission on the coordination parameters to be determined in accordance with Article 6.

3.57 The determination of the parameters is a forward-looking projection in which we must take account of expected demand, capacity, and relevant constraining factors, during S23, in an objective manner.

3.58 In the Draft Decision, we considered potentially relevant runway constraints, as well as any changes thereto, in the hours between 2200z and 0600z (or 11pm to 7am local time). This requires us to consider potential Operating Restrictions (as defined by Regulation (EU) No 598/2014) pertaining to the completion of the North Runway.[6] We identified two such potentially relevant constraints contained in the planning permission for the North Runway:

[6] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0598&from=EN

- Condition 3 (d)[7]
- Condition 5

3.59 While we are not responsible for the introduction or enforcement of Operating Restrictions, any limiting effect on the possibilities of accommodating the air traffic in the relevant scheduling season may be a relevant constraint for the purposes of the Slot Regulation, and thus a factor to take account of. This interaction between the determination of airport capacity parameters under the Slot Regulation, and the introduction of Operating Restrictions, is set out in Regulation 598/2014 ('the 2014 Regulation'), in which the introduction of an Operating Restriction is established as an input to the capacity declaration process.

3.60 In the Draft Decision, we provided an overview of these issues as they appeared to us. We asked interested parties to make submissions setting out their positions and providing factual information on the matters raised, in order that CAR might have such facts and matters before it, and might take those into account when declaring the coordination parameters for S23. This followed similar requests which we made as part of the S22 and W22 capacity declarations, relating specifically to Condition 5 at that time. Below we re-state the overview from the Draft Decision and our provisional conclusion, then summarise the submissions we received from interested parties, and then set out our conclusion on this matter for the purposes of the S23 capacity declaration.

Background

3.61 In September 2021, we published a Draft Decision (CN5/2021) and Final Decision (CN6/2021) on the Summer 2022 capacity declaration.[8] As part of that process, we noted the expected completion of the North Runway during August 2022, and the potential for certain associated planning conditions (dating from 2007) to crystallise on foot of that event. In particular, we noted that Condition 5 of the North Runway planning permission ('C5') states as follows:

'On completion of construction of the runway hereby permitted, the average number of night time aircraft movements at the airport shall not exceed 65/night (between 2300 hours and 0700 hours) when measured over the 92 day modelling period as set out in the reply to the further information request received by An Bord Pleanála on the 5th day of March, 2007.'

3.62 The planning condition as written provides for an average limit on aircraft movements at the entire airport which is below the number of movements on the pre-existing runways prior to completion of the North Runway. It also refers only to a specified 92 day modelling period. There are various undefined terms to which different interpretations could potentially be ascribed, such as '*completion of construction'*, and '*aircraft movements'.*

3.63 We reviewed certain available planning documents and materials relevant to the interpretation of C5. We noted that, based on our review of the planning materials, the original intended purpose of Condition 5 was to prevent the North Runway leading to an increase in night flights and consequently an increase in night noise, relative to an estimated counterfactual 'constrained traffic' scenario where the North Runway would not be built.

3.64 Ahead of the S22 declaration, we consulted with and sought the views of relevant parties, including daa and the airlines. We commissioned a report from an aviation noise expert (Egis).

[7] With conditions 3(a) to 3(c), which relate to daytime operations, having already been taken account of as described above.
[8] https://www.aviationreg.ie/_fileupload/DraftDecisionS22.pdf
https://www.aviationreg.ie/_fileupload/FinalDecisionS22.pdf

We then sought views more broadly, through publication of our Draft Decision on the S22 parameters. We concluded that there is uncertainty regarding C5, and how it should be interpreted. In the absence of further clarity in relation to how C5 might be interpreted and applied, we ultimately considered that close alignment with the express wording of the Condition would be an appropriate way to take account of the potential constraining factor represented by C5, for the purpose of declaring scheduling parameters under the Slot Regulation.

3.65 The wording of C5 identifies the constraint as being calculated by way of a single average measurement to be taken in each year over a specified 92 day modelling period, applying prospectively from completion of construction of the runway. This modelling period, which is derived from the noise measurement methodology used in the initial planning process, spans the period from 16 June to 15 September. The terms of C5 do not reference any restriction on the level of night time aircraft movements other than by way of an average to be calculated over this 92 day period.

3.66 We also noted, in particular, that this view is aligned with what had been suggested through the consideration by the Aircraft Noise Competent Authority ("ANCA")[9] of the *Relevant Action* application submitted by daa to replace the condition with an annual noise quota system. It also aligned with the view of Egis.

3.67 As the North Runway would not be completed by 16 June 2022, the first prospective 92 day modelling period over which such a calculation could be made would be in 2023. On that basis, we concluded that, during Summer 2022, Condition 5 would not serve to reduce the capacity of the airport below the 2021 capacity.

3.68 Thus, the declared runway capacity for Summer 2022 was unchanged relative to Summer 2021:

- The runway capacity would remain based on single runway operations for the full season, i.e. it would exclude any potential increases in infrastructural airfield capacity which might be achievable in August-October 2022, once the North Runway is open to traffic.

- Condition 5 would not serve to reduce capacity below the single runway capacity limits already in place prior to completion of the North Runway.

3.69 Similarly, for the Winter 2022 season from October 2022 to March 2022, we noted that no part of the 92 day modelling period is encompassed within a winter season.[10]

Developments since September 2021

3.70 The North Runway has now become operational as of 24 August 2022, in line with the expected timeline outlined above. The Aircraft Noise Competent Authority (ANCA) has consulted on and, on 20 June 2022, made a Regulatory Decision in application of the *Balanced*

[9] https://planning.agileapplications.ie/fingal/application-details/88548
See for example: '*Appendix A ANCA Direction to Tom Phillips'*, in particular request number 38, where the applicant was asked to calculate the impact of C5 on current scheduled demand based on average movements over the 92 day period; 'Noise Problem Advice Report', page 61, which states that the wording of the condition would suggest that the limit applies to the 92 day period and not beyond this period while also identifying uncertainty as to how C5 should be interpreted; 'DAA OP Restriction Report ANCA', page 9, which states that the 65/night limit is based on the average over the 92 day modelling period (16 June to 15 September).
[10] https://www.aviationreg.ie/_fileupload/W22%20Parameters/Final%20Decision%20W22.pdf

Approach to the *Noise Problem* which it identified would arise from the adjustments to Conditions 5 and 3(d) proposed by Dublin Airport.[11]

3.71 ANCA was specifically set up by legislation to regulate noise at Dublin Airport. This process was carried out over 2020-2022, including a public consultation which received over 1000 responses. On 8 August 2022, Fingal CC granted permission for this *Relevant Action*, in doing so adopting the Regulatory Decision made by ANCA. These documents and associated materials include some further references to C5 which are discussed below.

3.72 This Regulatory Decision includes the following:

- Condition 5 is revoked, and replaced by a Noise Quota Count (NQC) scheme. This is an annual night noise 'budget', in which each aircraft movement will use a proportion of the budget based on its noise output.

- Condition 3(d) is amended such that it applies from 0000 to 0559 (local time), rather than 2300 to 0700 as originally specified in 2007.

3.73 ANCA gives the following rationale for the decision in relation to Condition 5:

'Replacing Condition 5 with a Night-Time Noise Quota and associated aircraft type restrictions is a much more cost effective means of managing and limiting aircraft noise impacts in line with the NAO.[12] It allows the airport to meet its movement forecasts whilst guarding against any risk that the Applicant's noise forecasts are optimistic with respect to fleet modernisation. For example, should the aircraft fleet mix not improve as forecast, the Night-Time Noise Quota will limit the number of night flights.'[13]

3.74 FCC's decision has been appealed to An Bórd Pleanála (ABP), by appeal lodged on 24 August 2022.[14] The statutory timeframe within which ABP ought to determine an appeal is 18 weeks; as per the ABP website, the case is currently expected to be decided by 5 January 2023. However, this 18 week period may be extended by ABP if it considers such an extension to be necessary. ABP will also be required to follow the Balanced Approach, and, should ABP be considering an Operating Restriction which was not included in the ANCA consultation, it must engage in further dialogue and consultation requirements.

3.75 For an Operating Restriction in the form of an NQC scheme to be introduced within the meaning of Regulation (EU) No 598/2014, it must follow the introduction process as outlined in that Regulation and also the Aircraft Noise (Dublin Airport) Regulation Act 2019.[15] Article 8 of the Aircraft Noise Regulation obliges competent authorities such as ANCA to give to the Member States, the Commission and the relevant interested parties six months' notice, ending at least two months prior to the determination of the slot coordination parameters for the relevant season in which the Operating Restriction is to be introduced.

3.76 As the NQC Operating Restriction has not yet been notified to relevant parties (and in any case is subject to appeal), it has not been introduced in time for Summer 2023 and is therefore not a relevant constraint for Summer 2023.

[11] https://www.fingal.ie/aircraftnoiseca/documents-f20a0668
[12] Noise Abatement Objective
[13] https://www.fingal.ie/sites/default/files/2022-06/Regulatory%20Decision.pdf , page 9
[14] https://www.pleanala.ie/en-ie/case/314485
[15] https://www.irishstatutebook.ie/eli/2019/act/12/enacted/en/print#sec10

Potential Operating Restrictions for Summer 2023- Draft Decision Overview

3.77 In the Draft Decision, we noted that CAR is not itself responsible for enforcement of or compliance with such planning conditions or Operating Restrictions. We must take account of relevant Operating Restrictions on the basis of evidence or submissions concerning the constraining factor represented by such restrictions from relevant parties, and/or positions that are likely to be adopted by those parties.

3.78 For CAR to be able to make its decision on the parameters, these ought to be clearly stated, as is the case with conditions 3 and 4, such that we could then in good time build the constraining factor into our capacity analysis and/or the coordination parameters for the relevant scheduling season. We built Condition 3(d) as currently stated into our simulations, which prevents the use of the North Runway between 2200z and 0600z, or 11pm to 7am local time. While FCC has decided to shorten this window to 12am to 6am (local), we continued to assume that it is in effect from 11pm to 7am (local) for the S23 capacity declaration. We noted that no party had proposed any alternative approach to taking account of condition 3(d) for S23.

3.79 In relation to C5, it appeared to us that the positions of relevant parties could be summarised as follows:

- There is uncertainty/disagreement over how C5 should be interpreted.
- Certain interested parties appear likely to take the view that C5 may not be capable of being enforced against them for S23.

3.80 We asked interested parties for views of and evidence concerning each of their positions on these points.

Interpretation of C5- Draft Overview

3.81 As set out above, ahead of the S22 declaration, we concluded that there was uncertainty in relation to the interpretation of C5. This followed engagement with daa and airlines, and also a report we commissioned from an aircraft noise expert (Egis), as well as a review of the published materials made available by ANCA relating to the *Relevant Action* application submitted by daa. We then sought views more broadly, through publication of our Draft Decision in September 2021. In the Draft Decision, we stated that we were not aware of any changes in the positions of relevant parties from whom we initially sought views in 2021, including daa and airlines, either as part of, or subsequent to, our capacity parameter consultations in September 2021 and April 2022.

3.82 In the published 'Noise Problem Advice Report' for ANCA, NCL states the following:

'Condition 5 is potentially badly worded as it refers to the '92-day modelling period' which is established through UK aviation noise policy as a period from mid-June to mid-September i.e. the 'average summer period'. The wording of the condition would suggest that the limit applies to this period and not beyond this period.

Regardless of how this condition should be interpreted, it must be considered a noise-related operating restriction in the context of EU598. The reason for the condition also highlights it as means of controlling night time use.'

3.83 In its Regulatory Decision of 20 June 2022, ANCA states that '*Conditions no. 3(d) and 5 have not yet come into effect or operation, as the construction of the North Runway on foot of the North Runway Planning Permission is ongoing*.'[16] C5 is further described as a '*numerical cap on the number of flights permitted between the hours of 23:00 and 07:00 daily'*.

3.84 The FCC decision of August 2022 uses similar language in relation to the R*elevant Action*. Like the ANCA material which we reviewed in 2021, FCC also notes that the effect of the *Relevant Action* would be to '*replace the average 65 aircraft movements/night (averaged over the 92 modelling days) cap'*.[17] The Regulatory Decision Report from ANCA variously describes C5 as an average calculation, but does not state whether this averaging period is viewed as the 92 modelling period specified in C5 or whether C5 should be interpreted to imply an average restriction longer than, or outside, this period.

3.85 Both ANCA and FCC state that the *Relevant Action* would lead to an increase in the number of night flights relative to the counterfactual. NCL identifies C5 as an Operating Restriction, as does ANCA, who links the coming into effect of same to the completion of construction of the North Runway. This suggests that C5 is considered to represent an Operating Restriction of some type which is in effect, and further, that it is constraining on night flights, at some point, relative to forecast demand.

3.86 This presumption that C5 represents some form of restriction leads to the question of the specific scope/interpretation of that restriction and how it might be enforced (or objected to) by the interested parties during S23. In the Draft Decision, we noted the absence of clarity from the above published materials in relation to whether and how it might be enforced, NCL being the only party (to our knowledge) to have addressed the interpretation of C5 directly. Unlike conditions 3 or 4, NCL did not, or was unable to, conclude on how C5 should be interpreted as per the above quotation from the NCL report.

3.87 We noted that no proposal was contained within the Coordination Committee's advice to make any adjustments to the runway parameters within the hours relevant to C5 for S23. Further, as noted below, it appeared that airline members of the Coordination Committee might take the position that C5 could not be enforced on them for S23, rather than considering how it should be interpreted.

3.88 Liam O'Grádaigh, in his response to our Winter 2022 parameters draft decision, stated that it was never the intended purpose that the 65 limit be applied to the 92 day period only.[18]

3.89 Thus, we noted that we had not seen anything to suggest how the uncertainty might be addressed by the respective parties, particularly as to whether and how C5 would be enforced/complied with/challenged/irrelevant for S23. We asked that parties clearly set out their positions on this issue to allow us to consider the implications of any such views for the purposes of finalising the declaration of parameters for S23.

3.90 As we explained previously, based on our own review of the original planning materials from 2007 and earlier, the original intended purpose of C5 was to prevent the North Runway leading to an increase in night flights relative to an estimated counterfactual constrained traffic scenario where the North Runway would not be built. C5 can be traced to 'Information Request 5', issued to Dublin Airport by ABP on 9 January 2007. This required Dublin Airport to quantify '*the potential for increase in night flights on the existing 10R/28L runway which could*

[16] http://documents.fingalcoco.ie/NorthgatePublicDocs/00742818.pdf , page 4
[17] http://documents.fingalcoco.ie/NorthgatePublicDocs/00747949.pdf , 162
[18] https://www.aviationreg.ie/_fileupload/W22%20Parameters/Liam%20O'Grady%20response.pdf

derive from the growth of air traffic at the airport arising from the proposed runway relative to that which would occur without the new runway.'

3.91 As part of its response, Dublin Airport stated that, in a 'constrained' scenario whereby the North Runway would not be built, it estimated that the number of night flights would be constrained to an average of 65 over the 92-day modelling period. On the other hand, should the North Runway be progressed, the average number of flights over the 92 day modelling period would increase to 95. It is apparent, then, that ABP used the 'constrained' estimate to set out a limit of 65 flights, on average, over the 92 day modelling period. Given that Condition 3(d) would already prevent the use of the North Runway for night flights, in practice C5 would solely constrain the use of the pre-existing main runway.

3.92 Thus, ABP believed that, even though the North Runway would not be used during the night period due to condition 3(d), its presence and availability in the day time would cause an increase of almost 50% in the '*potential*' number of night movements on the pre-existing main runway. This belief, in turn, was generated by Dublin Airport's response to Information Request 5, as well as the various forecast scenarios underpinning the 2004 Environmental Impact Statement, which states at paragraph 16.1.5.5 that '*the number of night movements will be restricted if the new runway is not built as the overall use of the airport is constrained*.'[19]

3.93 We noted that the forecast that the 92-day average demand for night movements would not grow beyond 65 if the North Runway were not built has been shown to be inaccurate, given that it had grown to over 100 by 2019 in the absence of the North Runway.[20] Thus, rather than preventing an increase in night movements on the southern runway due to the existence of the North Runway, the condition as worded would appear to require a reduction by over 35% relative to the pre-existing number of night movements.

3.94 The Dublin Airport approach to estimating the 'constrained' scenario appears to have suggested that the available capacity on the pre-existing runway would remain unused in a scenario where, at the same time, the number of flights is supposedly driven by the same runway being "full". Given condition 3(d), we noted that it was more likely that the 'constrained' scenario would continue to broadly track the 'unconstrained' scenario during the night. In both the 'constrained' and 'unconstrained' scenarios, once demand exceeds the operational capacity of the pre-existing main runway (with a given level of service), the operational capacity of the pre-existing runway will be the key driver of the number of night flights.

3.95 If anything, we consider that the reverse is more likely, i.e. the average number of night flights would be somewhat higher in the 'constrained' scenario relative to the 'unconstrained' scenario. This is because capacity constraints during the day would mean that airlines must operate into the adjoining night hours. For example, between 2015 to 2019, when the airport experienced a strong period of growth, we observed significant increases in the number of flights in the 0400z hour, likely linked to the increasing constraints in the preferred hours for the first wave of departures, namely the 0500z and 0600z hours.

3.96 As set out above, the day-time parameters are declared in line with Wishlist 2 due to the capacity provided by the North Runway. The Egis modelling of a busy day in S23 shows that the availability of same from 0600z is likely to lead to a reduction in night movements in the 0400z hour relative to the counterfactual 'constrained' scenario. Comparing slide 19, which is

[19] Dublin Airport Environmental Impact Statement; Northern Parallel Runway; Part 2 – Text. December 2004
[20] Noting that the 2019 level of movements, does not, either, represent the limit of night movements which might occur in the absence of the North Runway.

analogous to the 'constrained' single runway scenario, with slide 30, in which the parameters are based on the North Runway being available from 0600z, we anticipate that approximately 5 additional movements would be pushed into the 0400z hour in the 'constrained' scenario.

Introduction of an Operating Restriction- Draft Overview

3.97 In the Draft Decision, we noted that a number of cargo aircraft operators have stated that C5 must follow the rules for the introduction of new noise-related measures, as set out under the 2014 Regulation. As we understand it, the principal points which might be made by certain aircraft operators in the context of potential action to enforce the provisions of C5 on them, would be that:

- The 2014 Regulation uses the term 'introduction' to mean the putting into effect of the restriction. On that basis, given that C5 was not put into effect before the end of the transition period set out in the 2014 Regulation, C5 would need to follow the process for assessment and notification to the European Commission and other Interested Parties, as set out in the 2014 Regulation, in order to be put into effect.

- Furthermore, C5 was neither introduced, nor notified to the European Commission, in line with the requirements of Directive 2002/30/EC and the associated implementing SI from 2003.

3.98 This, in turn, means that these operators (or other interested parties) argue that they have not at any point had the benefit of a consultation and notification process in relation to the time-specific introduction of a clearly defined Operating Restriction, nor of the application of the Balanced Approach to the development of same.

3.99 We invited aircraft operators to indicate whether they still maintain these possible interpretations and positions on this issue in particular.

3.100 We noted that Directive 2002/30/EC was the precursor to the 2014 Regulation, in establishing rules and procedures for the introduction of noise-related operating restrictions such as C5 at Community airports.[21] It was transposed into Irish law by S.I. No. 645/2003.[22] This SI appointed the Irish Aviation Authority (IAA) as Competent Authority for ensuring compliance with the requirements specified. Specifically, for an Operating Restriction to be introduced, the following was required:

- Adoption of the ICAO Balanced Approach to addressing noise problems at airports. This requires 'careful assessment of all different options to mitigate noise, including reduction of aeroplane noise at source, land-use planning and management measures, noise abatement operational procedures and operating restrictions.'[23] It also required an assessment of the cost effectiveness or cost/benefit analysis of the introduction of specific measures, and that such measures not be more restrictive than necessary in order to achieve the environmental objective established for a specific airport.

- Consultation and notification of interested parties in relation to the introduction

[21] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02002L0030-20081211

[22] https://www.irishstatutebook.ie/eli/2003/si/645/made/en/print

[23] 2002 Directive, Recital 10

of Operating Restrictions, and the application of the Balanced Approach in relation to same.

- A requirement for the IAA to inform the Minister, the European Commission, and other Member States of the European Communities of the introduction or modification of operating restrictions.

3.101 We stated that we were not aware of the specified consultation with interested parties taking place, nor, as far as we are aware, was any such notification made by the IAA to the European Commission and other Member States, nor of any IAA involvement in the process.

3.102 We noted also that CAR has been assigned the role of the Member State for the purposes of the Slot Regulation, and no such notification of the introduction of C5 has been received by CAR.

3.103 We requested any confirmation from interested parties as to their positions on this point. We also requested any further factual information in relation to any introduction or notification process of C5 to the European Commission, and if that did not yet occur, views on what the potential implications of this might be for S23.

3.104 We noted that other aircraft operators have more broadly stated non-acceptance of either the Commission's right to declare a reduced capacity at Dublin Airport on foot of condition 5, or of the Commission's, ACL's, and/or daa's right to withdraw historic slots from carriers on foot of a reduced capacity declaration. This suggests that they might similarly object to any attempt to impose C5 on them in a manner which reduces their operations at Dublin, based on the reason raised by the cargo operators, or otherwise. For example, in its response to our Draft Decision on the S22 parameters, Aer Lingus states:[24]

'Aer Lingus will continue to assess all options to avoid or mitigate the potential impact of Condition 5 on capacity at Dublin Airport and the above is entirely without prejudice to any legal remedies which Aer Lingus may have in this regard.'

Draft Decision Proposal

3.105 In the Draft Decision, we stated that we had a clear view on the appropriate way to take account of condition 3(d). Condition 3(d) states that Runway 10L-28R (North Runway) shall not be used for take-off or landing between 2300 hours and 0700 hours, except in cases of safety, maintenance considerations, exceptional air traffic conditions, adverse weather, technical faults in air traffic control systems or declared emergencies at other airports. This was reflected in our simulation modelling for S23.

3.106 Given the uncertainty in relation to C5, as well as the potentially complex interactions between such positions and the capacity limits in place, we stated that we were not clear on how we should take account of C5, and that we required views from interested parties as to how we should take account of C5.

3.107 Given the facts and matters outlined above, and in the context of no advice from the Coordination Committee to adjust the relevant runway parameters and the general obligation under the Slot Regulation to tend towards a maximal rather than minimal declaration of the

[24] https://www.aviationreg.ie/_fileupload/20210916%20Aer%20Lingus%20response%20to%20CAR%20draft%20Capacity%20Declaration%20at%20Dublin%20Airport%20for%20Summer%202022.pdf

available capacity, we said that our provisional view was to make no adjustments (either decreases or increases) to the R60 limits between 2200z and 0600z.

3.108 On that basis, the previously declared S22 capacity, which was based on single runway operations off Runway 28L, would remain unchanged for S23. Thus, no more night flights on the pre-existing southern runway would be possible in S23 than were already possible before the North Runway was completed (and over the entire S23 season, rather than just the 92 day modelling period within it). We also assume that condition 3(d) is in effect, meaning that the North Runway is itself unavailable between 2200z and 0600z. As per the Egis simulations, we noted that the daytime availability of the North Runway would be likely, if anything, to lead to a marginal reduction in night flights in the 0400z hour relative to the counterfactual 'constrained' scenario whereby the North Runway is not operational in S23.

Responses to Draft Decision

3.109 Aer Lingus supports the proposed approach to the relevant R60 parameters and states that it would be inappropriate and wholly disproportionate for CAR to attempt to pre-emptively implement what Aer Lingus describes as an unclear, fundamentally flawed and apparently ineffective condition as against applying the actual published decision of ANCA, when to do so would have such a profoundly damaging impact to the aviation industry and Irish economy. It notes the distinction between our role to take constraints into account for scheduling purposes, as against any suggestion that it is our responsibility to monitor, enforce and police planning matters. It supports the analysis of the cargo operators, as summarised in paragraphs 3.83 to 3.89 Draft Decision, that it is not certain that C5 was ever validly brought into effect.

3.110 Aer Lingus lays out what it terms the potential '*catastrophic*' impact of C5 on operations at Dublin Airport and states that implementation would seriously risk a permanent loss of connectivity for Ireland. Aer Lingus confirms that it would assess all options to protect its historical slot portfolio in the event of C5 impacting on capacity at Dublin Airport including any legal remedies which it may have in this regard.

3.111 Dublin Airport considers that C5 gives rise to difficult questions of interpretation, as reflected in the Draft Decision and the NCL report commissioned by ANCA. It considers that any decision in relation to coordination parameters should reflect an '*appropriate interpretation*' of the North Runway planning permission and Condition 5, and it does not endorse any approach which does not take such an interpretation of it.

3.112 Dublin Airport notes the assumption which previously underpinned the S22 and W22 parameters, i.e. that the first 92-day modelling period falls in S23. It states that it believes this is a reasonable interpretation of C5 but that there are also alternative interpretations of this condition, given its ambiguity and complexity. It states that while it notes the analysis contained in the Draft Decision on the background of the North Runway planning permission, it also notes that the 92-day modelling period is not addressed in the Draft Decision for Summer 2023.

3.113 Dublin Airport notes the suggestion from the cargo operators that C5 is an Operating Restriction and thus would not apply in S23 due to non-compliance with the 2014 Regulation and/or Directive 2002/30/EC in relation to notification requirements. It states that we should consider obtaining the view of ANCA on this point and quotes the NCL report written on behalf of ANCA, which states that C5 is indeed an Operating Restriction, and was introduced prior to

June 2016, when the 2014 Regulation entered into force.[25] Dublin Airport confirms that it is not aware of any notice being provided under Directive 2002/30/EC.

3.114 Finally, Dublin Airport states that we should consider the implications for slot coordination if C5 is interpreted in a different manner by a competent authority.

3.115 DHL supports the proposed parameters. It notes the uncertainty in relation to C5 and the decision of FCC in relation to the *Relevant Action* application. DHL notes that declaring S23 runway capacity in line with S22 capacity prevents additional night flights, thus preventing an increase in night noise. It considers that previous efforts in the Coordination Committee to identify a mechanism to restrict night slots was discriminatory under the Slot Regulation.

3.116 DHL considers that any implementation of C5 (or 3(d)) would be inconsistent with the 2014 Regulation. DHL seeks certainty that no additional Operating Restrictions will be introduced at Dublin Airport until the ABP appeal is heard and sufficient notice of the introduction has been provided to all relevant operators as per the legislation.

3.117 DHL sets out the importance of night flying to its business model, and provides an overview of the value of air freight to the Irish economy.

3.118 FedEx supports the proposed parameters and states that it believes that these offer a path forward which would not conflict with Ireland's international obligations under the EU-US Air Transport Agreement (ATA). FedEx considers that the imposition of C5 (and also 3(d)) would conflict with the obligations of the Government of Ireland to ensure adoption of the ICAO Balanced Approach, incorporated in European Directive (EC) 2002/30 and Regulation (EC) 598/2014 and incorporated by reference in Article 15 of the ATA. It highlights the absence of due process which the ATA requires Ireland to afford to U.S. carriers when considering limitations on operations.

3.119 FedEx states that Article 15 of the ATA imposes specific consultation timelines, mitigation efforts, and measures to ensure that U.S. carriers are afforded a fair and equal opportunity to compete, when government authorities consider restrictions at airports related to environmental concerns.

3.120 FedEx outlines the operational impact which C5 could have on its business and states that if we were to attempt to implement restrictions consistent with the conditions or propose alternative restrictions that do not meet the process and substance requirements of the ATA, the Government of Ireland will have failed to act consistently with the ATA. In such a situation, FedEx states that it may be forced to seek intervention by the U.S. Government and/or the European Commission. It notes that such intervention could result in the imposition of a remedy, based on a broad scope of countervailing measures available to the U.S. Government and the Commission when there is a breach of the ATA.

3.121 The Freight Transport Association of Ireland (FTAI) supports the proposed parameters. It highlights the importance of night flights at Dublin Airport to the air cargo industry as well as the contribution of this industry to the Irish economy. It states that Condition 3(d) and 5 of the North Runway planning permission are not conducive to the operation of night flights for cargo and would have significant impacts for the economy and air freight services in Ireland. Finally, it states that it is not clear that the implementation of these restrictions would be in line with Irish obligations under European Directive (EC) 2002/30 or Regulation (EC) 598/2014.

[25] Thus also before the establishment of the current ANCA, within FCC.

The FTAI also states that would it be inconsistent with the obligations of the Government of Ireland under the U.S.-EU ATA with regard to U.S. carriers operating in Dublin.

3.122 UPS supports the proposal to make no changes to the R60 limits in the night hours relative to S22. UPS states that restrictions on night time runway limits would adversely affect their operations, leading to a delay in cargo moving in and out of the country, as well as delivery of time-critical shipments, with consequent impacts on Ireland's competitiveness. UPS provides an overview of the value of air cargo night flights via Dublin Airport.

3.123 Like FedEx, UPS states that C5 requires notification to the European Commission, thus is not eligible to be introduced for S23. It also considers that C5 does not comply with the Balanced Approach more generally, and therefore the 2014 Regulation and the ATA. UPS states that it would continue to challenge any decision which impacts its competitiveness, violates EU–U.S. Air Agreements, does not take into account the Balanced Approach, and ultimately restricts growth of their business and the Irish economy as a whole.

3.124 Liam O' Grádaigh has restated his submission on the W22 Decision which states that C5 should apply as a year-round limit of 65 flights each night, as opposed to an average over the 92-day modelling period. He states that it was never the intention of ABP that C5 would apply to the 92 day period only. He states that daa was intending to adhere to the '*65 night-time flight limit'*, and refers to daa commentary on the nature of C5 in an investor prospectus and 2016 consultation document.[26]

3.125 Pearse Sutton further states that CAR should refer to ANCA on these conditions. He states that the 92-day modelling period was purely a reference to define the average flights over a period, rather than a period over which the 65 flight limit should apply. He further questions why Egis was not provided background material from the Oral Hearings in 2007, and provides the AI request from January 2007 (as discussed in our Draft Decision on S23) and states that this should have been provided to Egis for their review of C5 undertaken in 2021. This issue is also raised by Liam O' Grádaigh in his submission. Liam O' Grádaigh asserts that he is still waiting for a response from CAR on this issue.

3.126 Liam O'Grádaigh asks what plans CAR has if there is a legal challenge to the decision. He questions what the legal implications will be for CAR if the planning authority decide to retain the 65 flight limit. He states that in current planning applications, Dublin Airport intends to adhere to the 65 night flight limit. He further states that if the condition was not restricting operations, Dublin Airport would not be seeking to change it, yet CAR has interpreted C5 as essentially '*non-existent*'.

3.127 In relation to the point made by the cargo operators that the rules for the introduction of noise related Operating Restrictions have not been followed, Liam O'Grádaigh questions why daa would be applying to revoke the condition if this were the case. He considers that if the cargo companies are suggesting that these Operating Restrictions are not legitimate based on non-adherence to EU law, then it could also be argued that the Relevant Action application to revoke and amend them is premature as the Operating Restrictions are not in effect. He suggests not opening the North Runway as a solution, or as the North Runway has already opened, he states that the 65 flights per night limit should be implemented until the Planning Authority has reached a decision on the conditions.

[26] We have considered this daa commentary referred to by Mr O' Grádaigh. We note that, in that commentary, daa refers to the restriction as an average, over which period being unspecified, rather than a nightly one.

3.128 Michael O' Rourke (whose submission represents both Saint Margaret's The Ward Residents Group and his own personal views), Dr. Niamh Maher, Pearse Sutton, and Stephen Smyth share the view that a year-round nightly limit of 65 should be implemented until the Planning Authority has reached a decision on the Relevant Action application by daa.

3.129 Liam O' Grádaigh, Michael O' Rourke and Pearse Sutton state that CAR did not engage with local communities despite section 33(d) of the Aviation Regulation Act, 2001, which requires CAR to have due regard for '*the contribution of the airport to the region in which it is located*'. Liam O' Grádaigh and Pearse Sutton further question whether we have appropriately considered the health implications for residents given that the HSE has stated that Condition 3(d) and 5 were implemented to protect public health. Liam O' Grádaigh states that it is not for CAR to decide how to interpret these conditions as it does not have the expertise nor the legal remit. He and Pearse Sutton refer to a health webinar on the effects of aircraft noise on the cardiovascular system which concludes that all night-time flights should be stopped due to the health implications. Pearse Sutton states that CAR, daa and ANCA have all failed to carry out any studies on the health effects of night noise in reaching their decisions. He also states that no consultation was carried out by CAR with any of the resident groups in St Margarets The Ward area.

3.130 Ryanair considers that any decision which would have the effect of removing the entitlement to slots which Ryanair has under the Slot Regulation, based on the alleged requirements of C5, would be unlawful, because an unclear condition is not a proportionate or transparent basis upon which to remove Ryanair's rights. It states that the wording of C5 means that implementation of the condition for Summer 2023 is rendered extremely challenging to the point of unenforceability. It states that regulatory conditions which are insufficiently precise are not enforceable. It states that any decision to implement C5 in a manner that results in Ryanair (and other Dublin airport users) losing historic slots, when there is an interpretation of C5 available that results in users not losing historic slots, would be irrational, disproportionate, and a breach of CAR's statutory duty under Article 6(1) of the Slot Regulation and Section 8(1) of the Aviation Regulation Act, 2001.

3.131 Ryanair outlines its position that, under EU law, the failure to notify renders the unnotified measure inapplicable, and this defect therefore operates as a fundamental bar to the operation of C5. It states that C5 does not have operative effect by reason of this defect and conduct allegedly contrary to C5 will not be unlawful. Accordingly, Ryanair calls on CAR not to apply C5. As an unnotified measure, Ryanair states that it has no effect and therefore there will be no breach or illegality in any alleged failure to comply with C5.

3.132 Ryanair states that if CAR were to attempt to apply C5 in such a manner as removed Ryanair's entitlement to slots under the Slot Regulation, it would be unlawful under the Slot Regulation, general principles of EU law, and Ryanair's property rights. Ryanair states that, should CAR take any decision which would result in Ryanair losing historic slots, Ryanair would be forced to seek a judicial review of the decision on the grounds of the breaches of domestic and EU law.

3.133 Ryanair provides an overview of the direct and indirect impacts (based on a S21 peak week) which it considers that the operation of C5 could have on it, the industry, and the Irish economy.

CAR Final Decision

3.134 The responses summarised above are consistent with the overview we provided in the Draft

Decision, namely that the views of relevant parties in relation to C5 could be summarised as follows:

- There is uncertainty/disagreement over how C5 should be interpreted.
- Certain interested parties take the view that C5 is not capable of being enforced against them for S23 and/or is unlawful more generally.

3.135 Clear but opposing views are held by residents, on the one hand, and by aircraft operators, on the other hand, in relation to C5:

- Only the residents provide a clear view in relation to the appropriate interpretation of C5, believing that it should be interpreted to imply a year round nightly limit of 65 movements as opposed to applying on average over the 92 day modelling period.
- Aircraft operators generally provide a clear view that C5 is not capable of enforcement, during S23 and/or more generally, on the grounds of various legal bases including being void for uncertainty, non-compliance with EU and national law, as well as non-compliance with the obligations of the Irish Government under the US-EU Air Transport Agreement (ATA). Aircraft operators make it clear that, in particular, they will challenge any attempt to implement C5 on them in a manner which would prevent them operating their historic slots.

3.136 As suggested above, we note that none of these parties consider that C5 should be enforced in the precise manner it is written during S23.

3.137 As previously, Dublin Airport remains uncertain as to how C5 might be interpreted, while also stating that the parameters should take '*appropriate account*' of it. It notes that C5 contains ambiguities and complexities. It also does not provide a view on the implications of the non-notification of C5, in relation to how this might affect the appropriate way to take account of it for S23, other than to suggest that we refer to ANCA on this point.

3.138 We consider that the issues raised by the relevant parties give rise to a range of complex questions of planning law, as well as EU and international law. As suggested by certain respondents, including Aer Lingus and Liam O'Grádaigh, it is not the role of CAR to determine such issues. We are not a planning enforcement authority and are not able to predict with any sufficient degree of certainty or foreknowledge, the outcome in the event that these issues were to come before such an authority, where presumably the relevant parties would make the arguments outlined above on the complex legal and planning questions apparently raised by C5.

3.139 In our view, as set out elsewhere in this document, we ought to have regard to the evidence and submissions of relevant parties, and to the proposals and advice from the Coordination Committee. We also ought to consider a possible maximal, rather than minimal, approach to capacity declaration, having regard to the terms of the Slot Regulation. Thus, absent sufficiently objectively clear and cogent material and evidence suggesting otherwise, we ought to be slow to make any decision to adjust the parameters for slot allocation in a manner that would result in more restricted capacity and in decreasing the possibilities for accommodating air traffic. This is so generally, and also if this would imply the withdrawal of historic slot entitlements of air carriers. Any other approach may risk pre-emptively giving particular weight to a constraint by taking a view of its meaning and effect in particular

circumstances, where such might differ from that ultimately deemed to be represented by C5, or giving particular weight to a constraint which might be deemed unenforceable or to not fall to be enforced in S23.

3.140 Thus, in line with our Draft Decision, the R60 parameters for 2200z to 0600z are declared in line with the pre-existing S22 capacity. As per the Draft Decision, we reiterate the following:

- No advice has been received by us from the Coordination Committee to make any adjustments to the relevant R60 limits.
- Retaining the pre-existing single runway based capacity declaration in the night hours for the entire S23 season means that no more runway capacity can be allocated than was possible in the absence of the North Runway.
- The Slot Regulation obliges us to tend towards a maximal declaration of the available capacity, within the bounds of clearly stated or evidenced constraints.

3.141 As we stated in the Draft Decision, an Operating Restriction ought to be clearly set out well in advance of the capacity declaration for the relevant season, such that there is clarity on the scope and duration of the legally enforceable constraining factor which it will represent during the relevant season. In that context, as noted above, the 2014 Regulation requires six months' notice to be provided (following the relevant consultation and appeals procedures) of the introduction of an Operating Restriction, ending at least two months prior to the determination of the coordination parameters for the season in which it is to take effect. This enables the orderly functioning of the aviation industry by allowing aircraft and airport operators to plan operations accordingly, any constraint to be translated into the capacity declaration as necessary, as well as allowing Air Navigation Service Providers and EUROCONTROL (the network manager) to plan for expected changes to traffic flows, operating procedures and concepts, and traffic forecasts.

3.142 Given that this is not the case in relation to C5, we agree with Dublin Airport and Liam O'Grádaigh that it is important for stakeholders to consider what may occur in the event that it is determined that C5 is enforceable, and it should then fall to be enforced both within S23 and in a manner which requires a reduction in aircraft movements, in a given period, relative to the level which prevailed on the Southern Runway before the North Runway was completed.

3.143 As per Article 6(1) of the Slot Regulation, we are required to determine the parameters and provide these to the airport coordinator in good time before the initial slot allocation takes place. Thus there is no scope to postpone this current declaration process materially beyond September 2022, as outlined in the worldwide calendar for coordination activities for S23.[27]

3.144 Therefore, in the event that such a decision is made by an authority charged with interpreting and enforcing planning conditions, the Commission may need to review the affected parameter(s) by reference to the Slot Regulation, Worldwide Slot Allocation Guidelines, and supporting materials. This might require a supplementary capacity declaration, potentially accompanied by a Local Rule to allocate any required reduction. While not part of the standard coordination process, we note that such an approach has occurred at a number of other Level 3 Coordinated airports during S22 whereby capacity reductions have been

[27] https://www.iata.org/contentassets/4ede2aabfcc14a55919e468054d714fe/calendar-coordination-activities.pdf

necessary due to COVID-19 and associated operational disruption.

3.145 The Slot Regulation also references a number of scenarios leading to a result whereby slots may not be used. For example, Section 10.4(b) of the Slot Regulation references *'interruption of air services due to action intended to affect these services which makes it practically and/or technically impossible for the air carrier to carry out operations as planned*'. This might occur if, for example, an order were to be made directly that aircraft operators were to cancel certain operations and not use their historic slots.

3.146 We expect that the specific approach would depend on the particular circumstances, and we would expect to receive advice from the Coordination Committee, and consult with the Coordinator, in relation to same.

3.147 Practically, in order to reflect it in a capacity declaration, we would first need a decision on what precisely C5 lawfully requires and when precisely it requires it. Should this require a reduction relative to the pre-existing single runway capacity, we would likely then need to receive further advice from the Coordination Committee and potentially other stakeholders. Converting a restriction into specific scheduling parameters may be complex; for example, if the restriction is determined to relate to runway times, this would need to be converted to block times for scheduling purposes, potentially with an element of buffer included, while a given number of total or average permitted movements might need to be split across hours, days/weeks/seasons, and aircraft operators.

3.148 Compensatory adjustments would likely be warranted to facilitate flight re-times, e.g. temporary increases in R60 capacity in the 0600z (7am to 8am local) and 2100z hours (10pm to 11pm local) when both the North Runway and Southern Runway can be used during S23, or increases in capacity on any days which may not be subject to the restriction. This would allow for a compensatory increase in the use of both runways during these periods to balance the reduced use of the Southern Runway.

3.149 Furthermore, if an enforceable constraining factor determined to be represented by C5 would require or warrant any adjustments to ATC and/or airfield operational processes or procedures, either on the ground or in the Terminal airspace, this would need be done in a manner which maintains the required levels of safety in ATC operations (which in turn may also impact how it should be reflected in capacity parameters). This has already occurred with Condition 3(d) whereby IAA ANSP holds aircraft short of the North Runway until precisely 0600z (7am local) due to the application of Condition 3(d) on a daily basis.

3.150 It is thus important to highlight to all stakeholders that non-withdrawal of such slots at this time, and the current capacity declaration, should not be taken by operators as any guarantee or commitment on the part of CAR that C5 will not prevent the use of certain slots during S23. Operators should be mindful of this when planning operations for S23; operators might, for example, look to re-time certain flights outside the hours referenced by C5 as part of the S23 initial coordination process, in order to mitigate uncertainty over being able to use these slots in an uninterrupted manner during S23.

3.151 In relation to the comments received on the consultation process and statutory objectives, we note the following:

- The Slot Regulation provides for a specific process whereby the Coordination Committee provides us with proposals and advice in relation to the parameters to be declared. As far as we are aware, it is not general practice to also undertake

any further public consultation on the parameters. This is an additional step we choose to include in order to enhance the declaration process, and we consider all submissions received, as outlined above.

- Section 33(d) of the original Aviation Regulation Act, 2001, referenced by a number of respondents, was removed by the State Airports Act, 2004. Thus, it is no longer one of our statutory objectives. Furthermore, Section 33 relates solely to determinations on the maximum levels of Airport Charges, not our role under the Slot Regulation.

- Coordination Committee members have been aware of the timelines for this consultation (with reference to the worldwide deadline for declaring coordination parameters) which is unchanged now for an 11th scheduling season, and was itself subject to consultation in 2017.

3.152 Finally, in relation to the review we commissioned from Egis in 2021, both Egis and CAR reviewed the AI request of January 2007 referenced by Liam O'Grádaigh and Pearse Sutton. This is the document which contained Information Request 5, discussed above. We note that the Egis review was specifically in relation to the S22 declaration.

Parking Stands

3.153 We have retained the hard constraint on stands as per S22, updating the counts by apron area based on expected availability in S23.

Draft Decision

3.154 In the Draft Decision, we proposed to retain the hard constraint on stands, while updating the stand count relative to S22 to take account of anticipated changes to stand availability in the various apron areas. Dublin Airport proposed maintaining the current parameter while updating the count, as usual, to reflect seasonal changes. There was no objection or alternative proposal made within the Coordination Committee.

3.155 In the letter of advice from the Coordination Committee, concerns relating to stand constraints were referenced by Aer Lingus and by Swiss. Aer Lingus considers that the addition of runway capacity for S23 after the first wave will compound pressure on stands.

3.156 Aer Lingus further states that it can only support additional runway capacity if there is a realignment of the stand allocation plan in the '*core widebody and CBP demand period of 1000z to1400z'.* Finally, Aer Lingus considers that this issue will be compounded in S24 if the West Apron Underpass is being constructed, as stands will need to be removed from service.

3.157 We stated that we do not consider that runway parameters should be used as proxy to address limiting factors which themselves can be (and in the case of stands, already are) the subject of a constraint.

3.158 The current stand parameter operates such that where demand for stands exceeds supply (as per the stand count in the appendix), flights are referred to Dublin Airport for detailed assessment. This is a hard coordination parameter as opposed to a referral parameter. Thus, if the issue cannot be resolved, a slot will not be allocated. We did not receive a specific proposal to adjust the stand parameters or determine it in a different manner.

3.159 We note that the forecast S23 schedule has been facilitated in Dublin Airport's stand planning analysis for S23. The Egis modelling includes the operation of aircraft off/on stand also. While in practice that would be impacted if OTP does not improve relative to S22, we expect that it is likely to improve as set out above. We note that poor OTP can lead to aircraft which are due on stand having to hold until their stand becomes available. The S22 operation is likely not a true reflection of the airfield in a more stable year, i.e. S23.

3.160 If Coordination Committee members continue to consider that stand constraints are not being adequately reflected in the parameter in S23, this may warrant a more objective review of the stand parameter and/or the allocation rules. This might include an objective review of the causes and potential short/longer term remedies; for example, excessive holding off stand in a particular area of the apron may be impacted by insufficient buffer, or differences in OTP by carrier, or various other factors.

3.161 We do not consider that potential constraints in S24 are relevant factors for the S23 capacity parameters. Should there be a requirement to adjust the capacity for S24 due to works on the underpass, or otherwise, this should be considered as part of the S24 capacity determination process.

Final Decision

3.162 We did not receive any specific proposal in relation to the stand parameter. As noted above, if Coordination Committee members consider that the stand parameter is not appropriately reflecting the constraint, ahead of future seasons we suggest that specific proposals are considered with reference to the operation of the stand parameter.

4. Terminal Building Coordination Parameters

4.1 We have decided to roll forward the S22 limits for arrivals, which are set out in Table 4.1. For departures, we maintain the S22 limits for Terminal 1. In line with advice of the Coordination Committee, we reduce the limits for Terminal 2 departures, while also adjusting the load factor assumption for Terminal 2 departures from 95% to 85%.

4.2 We maintain the load factor assumptions of 95% for scheduled services in Terminal 1, and 100% for charter services. We propose to maintain the referral parameters in relation to Terminal 2 check-in desks and US Preclearance as per the S22 capacity.

4.3 These changes are in line with the proposals in the Draft Decision.

Table 4.1: Hourly Terminal Limits for S23

	Summer 2023- Passenger Terminal Buildings Limits	
	Departures	Arrivals
Terminal 1	4,130	3,960
Terminal 2	3,600	3,400

Source: CAR. Hourly limit rolled every 10 minutes

Proposed Hourly Limits – Dublin Airport

4.4 Dublin Airport proposed the rolling forward of the Summer 2022 terminal limits for arrivals and to maintain the limits for departures in Terminal 1 while reducing the limits for departures in Terminal 2. These proposed changes were supported by Aer Lingus, CityJet, Delta, Dublin Airport, and TUI, while all other members, broadly those unaffected by Terminal 2 capacity, abstained from the vote.

Proposed Referral Limits – Dublin Airport

4.5 Referral limits are not hard coordination parameters. If a proposed operation hits a referral limit, it is referred to the airport to attempt to find a workable solution.

4.6 The airport proposed retaining the referral parameter for Terminal 2 check-in desks 1-28 (Terminal 2 operators excluding Aer Lingus) – where demand exceeds 28 desks. It also recommended retaining the referral for US Preclearance, which applies to any new flights, or time changes to pre-existing flights, intending to use this facility.

4.7 There were no objections or alternative proposals in relation to these limits.

Draft Decision on Terminal Capacity

4.8 As part of our decision on the Summer 2018 limits, the Commission assessed the processing capacity of the different passenger terminal building processors with reference to the proposed Summer 2018 limits, and determined that the proposals were feasible.[28] We noted that Dublin Airport has conducted analysis which has led it to conclude that, for S23, the T2 departing capacity may be less than that which has previously been declared (in the context

[28] https://www.aviationreg.ie/_fileupload/s18/Decision%20Summer%202018%20Coordination%20Parameters(1).pdf

where the runway capacity was in any case the constraining factor on overall airport capacity).

4.9 Terminal 1 has longer lanes, newer technology, and larger trays which allows a higher processing rate than (currently) in Terminal 2. Based on this analysis, Dublin Airport has proposed to reduce terminal 2 capacity from 4130 to 3600.

4.10 Dublin Airport also conducted a complementary analysis of 2019 transfer volumes, showing that 15% of passengers did not depart through security in T2. As such, it proposed to lower the load factor assumption for Terminal 2 from 95% to 85%. While the declared capacity of security would be lower, the reduction in assumed load factor offsets this, leaving the overall 'at-the-gate' capacity at 2.5% lower than the equivalent figure in the S22 declaration. The S23 schedule can still be accommodated with these changes to Terminal 2 departure parameters, with capacity available.

4.11 No Committee member objected or proposed a higher level of declared capacity. The proposed T60 parameters are not expected to be constraining on the forecast S23 schedule. We therefore see no reason not to adjust the parameters as proposed by Dublin Airport and supported by the Coordination Committee without objection.

4.12 We note the concern raised in relation to the ASU resourcing issues experienced by Dublin Airport and potential issues continuing into S23, raised primarily in the context of the discussions on the runway limits. We do not consider it likely that this issue will continue into S23. Nor that the capacity of the infrastructure should be constrained due to a staffing issue unless it would not be possible to address this issue in time for the relevant season. We note the significant improvements observed in performance across the summer. We note also that there was no objection to the proposed terminal parameters.

4.13 We also proposed to roll forward all referral parameters from S22 which are detailed in the Appendix. There was no objections or alternative proposals put forward by the Coordination Committee on this.

Responses and Final Decision

4.14 Aer Lingus supports the adjustment to the Load Factor assumption which it states aligns with Aer Lingus' own analysis. Ryanair also supports the Draft Decision proposals.

4.15 We did not receive any objection or disagreement with the Draft Decision proposals and we confirm the implementation of the proposals as per the Draft Decision.

5. Appendix: Summer 2023 Coordination Parameters

The Commission for Aviation Regulation has determined the following limits for the Summer 2023 season.

Runway Scheduling Parameters:

Runway Hourly Limits			
Time UTC	Arrivals Limit	Departures Limit	Total Limit
0000	23	25	32
0100	23	25	32
0200	23	25	32
0300	23	25	32
0400	23	25	32
0500	23	36	40
0600	20	**37**	**46**
0700	25	25	41
0800	25	25	45
0900	25	24	**48**
1000	27	27	**48**
1100	**29**	28	**51**
1200	**24**	27	**49**
1300	27	**26**	**50**
1400	23	27	**47**
1500	26	25	47
1600	**27**	29	**52**
1700	23	27	**47**
1800	23	26	**43**
1900	23	22	39
2000	25	22	38
2100	30	25	**42**
2200	28	25	32
2300	23	25	32
Totals	**591**	**633**	**997**

Maximum number of movements per 10 minute period	
Maximum Total	13
Maximum Arrivals	6
Maximum Departures	7

Passenger Terminal Parameters:

	Departures Hourly Limit	Arrivals Hourly Limit
Terminal 1	4,130	3,960
Terminal 2	3,600	3,400

Notes:

The hourly limit for passengers is rolled every 10 minutes.
Load factors of 95% are applied to Scheduled services for Terminal 1.
Load factors of 85% are applied to Scheduled services for Terminal 2.
Load factors of 100% are applied for Chartered services for both Terminal 1 and Terminal 2.

Stand Parameters:

	GA	**Non-Turnaround**		**Turnaround Stands**									**All**
	W.A.N	W.A.S	Total	5G	MRO	P1	P2	P3	P4	S.A	Triangle	Total	Total
Contact						22	11	11	21	9		74	74
Remote	8	16	24	15	6	3					5	29	53
All	8	16	24	15	6	25	11	11	21	9	5	103	127

Note: Stands defined based on ICAO Code B and C size.

Area	**Constraint**
Stands	Where demand for stands exceeds supply based on coordination allocation, flights to be referred to Dublin Airport for detailed assessment.

Referral Parameters:

Area	**Flag**
T2 Check-in Desks 1-28 (T2 Operators excluding EI)	Demand exceeds 28 desks
US Preclearance	New flights and schedule changes