



Submission by SMTW Environmental DAC on behalf of the St Margaret's The Ward Residents Group

TO IAA'S DRAFT S27 DECISION

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EXECUTIVE SUMMARY

This submission concerns whether the IAA has demonstrated compliance with Article 6 of Regulation 95/93 when determining the Summer 2027 coordination parameters. While the Draft Decision contains extensive analysis of technical and operational factors, it does not demonstrate an equivalent assessment of environmental constraints, despite Article 6 requiring consideration of all relevant technical, operational and environmental constraints and any changes thereto. SMTW submits that the Draft Decision fails to adequately address six issues:

- (1) the unresolved status of Condition 5 and the Relevant Action process;
- (2) the ongoing CJEU and High Court proceedings concerning airport capacity constraints;
- (3) newly commenced Section 160 enforcement proceedings concerning compliance with extant planning conditions;
- (4) the cumulative environmental effects of continued airport growth; and
- (5) the absence of a contemporary environmental assessment supporting the proposed increase in declared capacity.
- (6) the failure to explain how environmental constraints identified through the Environmental Noise Directive process, including the Dublin Airport Noise Action Plan and ANCA's annual monitoring reports, have been considered within the Article 6 assessment.

Accordingly, SMTW requests that, before finalising the proposed Summer 2027 coordination parameters, the IAA explain how these environmental constraints have been identified, assessed and taken into account in accordance with Article 6.

I.0 Draft Decision on S27 Coordination Parameters

I.1 Introduction

This submission is made by SMTW Environmental DAC on behalf of St Margaret's The Ward Residents Group in response to the Irish Aviation Authority's Draft Decision on Summer 2027 Coordination Parameters at Dublin Airport. The submission focuses on whether the Draft Decision demonstrates compliance with Article 6(1) of Regulation 95/93, which requires coordination parameters to be determined while taking account of all relevant technical, operational and environmental constraints and any changes thereto.

The Draft Decision contains extensive analysis of runway throughput, delay performance, stand availability, taxi times and other operational factors. However, it is less clear how equivalent consideration has been given to environmental constraints that remain relevant to airport growth, including:

- the ongoing uncertainty surrounding the 32mppa planning condition;
- the continuing dispute concerning Condition 5 and nighttime aircraft movements;
- the unresolved status of ACP's Relevant Action process;
- the recently commenced Section 160 enforcement proceedings;
- cumulative aircraft noise impacts;
- greenhouse-gas emissions associated with continued airport growth; and
- the wider environmental and public-health consequences of increasing aircraft activity.

The purpose of this submission is not to suggest that the IAA should determine planning disputes or enforce planning conditions. Rather, the submission questions whether the Draft Decision adequately demonstrates that relevant environmental constraints have been identified, assessed and taken into account as part of the Article 6 exercise.

This issue is particularly important because Dublin Airport continues to operate within an unusually uncertain regulatory environment. Multiple legal and regulatory processes remain unresolved, including the CJEU proceedings concerning Article 6, the ongoing litigation concerning Condition 5 and ACP's Relevant Action, and planning enforcement proceedings relating to the 32mppa planning condition. The Draft Decision does not explain in any detail how these developments have been taken into account or how the proposed coordination parameters would respond to material changes in the legal or environmental position during the Summer 2027 season.

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In addition, recent analysis commissioned by the St Margaret's The Ward Residents Group demonstrates that aircraft noise continues to impose significant impacts on surrounding communities. That analysis estimates that in 2023 approximately 71,388 people were highly annoyed and 32,562 people were highly sleep disturbed by aircraft noise associated with Dublin Airport, with estimated annual health costs of approximately €772 million. Projections prepared for future growth scenarios indicate that substantial health impacts may continue even where operational performance at the airport improves. These findings reinforce the importance of ensuring that environmental constraints are assessed with the same degree of rigour as operational constraints.

The submission therefore focuses on six principal concerns:

1. Whether the Draft Decision adequately assesses relevant environmental constraints in accordance with Article 6.
2. Whether continued reliance on pre-North Runway nighttime parameters provides an adequate response to the unresolved status of Condition 5 and the Relevant Action process.
3. Whether the IAA has sufficiently considered ongoing legal developments, including the Advocate General's Opinion, the pending CJEU judgment and the recently commenced Section 160 proceedings.
4. Whether the cumulative environmental consequences of continued airport growth have been adequately assessed.
5. Whether appropriate contingency measures exist should the legal or regulatory position materially change during the Summer 2027 season.
6. Whether environmental constraints identified through the Environmental Noise Directive process, including the Noise Action Plan and ANCA's annual monitoring reports, have been adequately considered.

For the reasons set out below, SMTW submits that the Draft Decision should be amended to provide a more complete assessment of environmental constraints and to establish a mechanism for revisiting the coordination parameters if material legal or environmental developments occur before or during Summer 2027.

2.0 Legal and Regulatory Uncertainty

2.1 Ongoing Legal Proceedings and Regulatory Change

The Draft Decision is being made in circumstances where several significant legal and regulatory processes remain unresolved. These include:

- the reference to the Court of Justice in Case C-857/24 concerning the interpretation of Article 6 of Regulation 95/93;
- the related High Court proceedings concerning the 32mppa planning conditions;
- ongoing proceedings concerning Condition 5 and ACP's Relevant Action decision; and
- recently commenced Section 160 enforcement proceedings concerning compliance with extant planning conditions at Dublin Airport.

The existence of legal uncertainty does not, of itself, require the IAA to adopt any particular coordination parameter. However, Article 6 requires coordination parameters to be determined having regard to all relevant technical, operational and environmental constraints and any changes thereto. Where significant legal developments are foreseeable during the period covered by the determination, it is reasonable to expect the decision to explain how those developments have been taken into account.

The Draft Decision identifies the existence of several ongoing proceedings but does not explain whether, or how, the possibility of material legal change during the Summer 2027 season has informed the proposed parameters.

2.2 Advocate General's Opinion and pending CJEU Judgement

The Advocate General's Opinion in Case C-857/24 is not binding. It nevertheless provides an important and reasoned indication of how Article 6 may be interpreted and of the constraints potentially relevant to the capacity-determination exercise.

The Opinion suggests that relevant constraints may extend beyond physical airport infrastructure and may include legal constraints that directly or indirectly affect airport operations. If the Court adopts a similar interpretation, the legal context within which coordination parameters are determined may change materially during or before the Summer 2027 season.

In those circumstances, the IAA should explain:

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- how it has taken account of the Advocate General's Opinion;
- how it has assessed the possibility of a material change in the legal position during S27; and
- whether any mechanism exists to review or reconsider the parameters should the legal context materially change.

2.3 Section 160 Proceedings

The Draft Decision discusses the litigation concerning the 32mppa planning conditions, Condition 5 and ACP's Relevant Action decision. However, it does not address the recently commenced Section 160 proceedings initiated by SMTW Environmental DAC.

Those proceedings are distinct from the judicial review proceedings referenced in the Draft Decision. They seek enforcement relief in respect of alleged breaches of planning conditions and therefore form part of the wider legal and operational context within which future airport activity will occur.

SMTW does not contend that the IAA is required to determine the merits of those proceedings. However, their existence is a material development relevant to future airport operations and to the assessment of operational and environmental constraints.

The Final Decision should therefore:

- acknowledge the existence of the Section 160 proceedings;
- explain whether and how those proceedings have been taken into account;
- distinguish them from the other legal proceedings referenced in the Draft Decision; and
- explain how the IAA would respond to a material change in the legal or operational position arising during the S27 season.

2.4 Need for a Review Mechanism

The purpose of highlighting these proceedings is not to suggest that capacity must immediately be reduced or frozen.

Rather, the concern is that the Draft Decision appears to assume that the present legal position will remain unchanged throughout the Summer 2027 season. Given the number of

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active legal and regulatory processes affecting Dublin Airport, that assumption may not be justified.

Accordingly, SMTW submits that the Final Decision should identify a clear mechanism for reviewing or reconsidering the Summer 2027 coordination parameters in the event of a material legal or regulatory development, including:

- the CJEU judgment in Case C-857/24;
- orders made in the Section 160 proceedings;
- developments concerning Condition 5;
- developments concerning ACP's Relevant Action decision; or
- any other legal or regulatory decision materially affecting airport capacity or environmental constraints.

3.0 Environmental Assessment and Environmental Constraints

3.1 No Equivalent Assessment of Environmental Constraints

Article 6(1) of Regulation 95/93 requires coordination parameters to be determined having regard to all relevant technical, operational and environmental constraints and any changes thereto. The supporting material accompanying the Draft Decision contains extensive analysis of runway throughput, stand availability, delay performance, taxi times and operational efficiency. However, it is less clear how comparable consideration has been given to environmental constraints associated with continued airport growth.

The Draft Decision does not identify any assessment of:

- cumulative aircraft-noise exposure;
- changes in Lden or Lnight contours;
- highly annoyed or highly sleep disturbed populations;
- greenhouse-gas emissions associated with additional capacity;
- cumulative environmental effects arising from successive seasonal capacity increases;
or
- wider public-health implications associated with increased aircraft activity.

The absence of such analysis does not establish that environmental constraints are absent. Rather, it raises the question of whether those constraints have been assessed with the same degree of rigour as the operational constraints considered elsewhere in the Draft Decision.

The principal technical assessment commissioned by the IAA for Summer 2027 examined operational metrics including taxi-out times, taxi delays, runway holding delays and arrival taxi performance. The assessment did not evaluate aircraft-noise exposure, highly annoyed or highly sleep disturbed populations, public-health impacts or greenhouse-gas emissions. Accordingly, while the study assists in evaluating operational performance, it does not itself constitute an assessment of environmental constraints within the meaning of Article 6.

3.2 Absence of Contemporary Environmental Baseline

The Draft Decision appears to rely primarily on operational modelling without identifying a contemporary environmental baseline against which the consequences of additional airport activity can be assessed.

This is significant because Dublin Airport has undergone substantial operational changes in recent years, including the opening of the North Runway, changes to flight tracks, ongoing disputes concerning environmental controls, and continued growth in passenger demand.

Without a clearly defined environmental baseline it is difficult to understand:

- the existing level of environmental impact;
- how those impacts have changed over time; and
- whether further increases in capacity are likely to have material environmental consequences.

3.3 Cumulative Environmental Effects

The proposed S27 uplift is not occurring in isolation. It follows a sequence of slot determinations that have maintained or increased available airport capacity over a number of seasons.

The environmental significance of any individual increase may appear limited when viewed in isolation. However, the cumulative consequences of repeated increases may be materially different.

The Draft Decision focuses largely on whether additional traffic can be processed efficiently by airport infrastructure. It does not explain whether the cumulative environmental consequences of successive capacity increases have been examined, including impacts on:

- noise exposure;
- population exposure;
- health and quality of life;
- climate emissions; and
- environmentally sensitive areas affected by airport operations.

SMTW submits that cumulative environmental effects should be considered expressly as part of the Article 6 assessment.

3.4 Greenhouse Gas Emissions

Increased aircraft activity gives rise to foreseeable greenhouse-gas emissions. The Draft Decision identifies the operational capacity available to accommodate additional movements, but it does not appear to identify any assessment of the greenhouse-gas implications of facilitating that additional activity.

SMTW does not suggest that the IAA is required to establish an airport-specific carbon budget or to perform functions assigned to another authority. The narrower issue is whether increased greenhouse-gas emissions constitute a relevant environmental consideration for the purposes of Article 6 and, if so, how that consideration informed the determination.

The Final Decision should therefore explain:

- whether the greenhouse-gas implications of the proposed capacity increase were assessed;
- what emissions information, projections or policy context was considered;
- whether the assessment included the cumulative consequences of successive seasonal capacity increases; and
- what weight, if any, was attributed to those matters when the coordination parameters were determined.

If the IAA considers greenhouse-gas emissions irrelevant to the Article 6 assessment, the Final Decision should provide a reasoned explanation for that conclusion.

3.5 Environmental Assessment and Planning Context

SMTW acknowledges that the IAA is not the planning authority and does not exercise planning enforcement functions.

However, coordination parameters play an important role in facilitating the level of activity that may ultimately occur at the airport. While the IAA does not grant planning permission, its capacity determinations influence the operational framework within which airport growth takes place.

In those circumstances, the Final Decision should explain:

- whether environmental impacts associated with the proposed capacity increase have been assessed elsewhere;

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- how those assessments have been taken into account;
- whether the IAA considers existing environmental information sufficient to support the proposed coordination parameters; and
- how environmental constraints have been weighed alongside technical and operational considerations in accordance with Article 6.

3.6 Environmental Assessment of Growth Beyond the Existing Planning Framework

The Draft Decision proposes coordination parameters that may facilitate levels of airport activity beyond those presently authorised by the existing planning framework.

SMTW acknowledges that the determination of coordination parameters is not, of itself, a grant of planning permission and that the IAA is not the competent authority for carrying out planning or environmental assessment procedures.

However, where a determination may facilitate continued airport growth while material environmental controls remain unresolved, the Draft Decision does not identify whether the cumulative environmental consequences of that growth have been examined through SEA, EIA, another statutory environmental process, or any assessment undertaken specifically for the coordination-parameter determination.

The Draft Decision does not explain:

- whether the environmental implications of facilitating activity beyond the currently authorised planning framework have been assessed;
- whether any strategic assessment exists on which the IAA relies; or
- why the IAA considers that no further environmental assessment is required in order to support the proposed Summer 2027 parameters.

SMTW therefore requests that the Final Decision clarify what environmental assessment, if any, has been relied upon when determining capacity at levels that may exceed those currently permitted within the planning framework.

3.7 Requested Clarification

SMTW respectfully requests that the Final Decision:

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- identify the environmental constraints considered relevant to the Summer 2027 determination;
- explain the evidence and environmental baseline used to assess those constraints;
- explain whether cumulative aircraft-noise, population-exposure and public-health effects were considered;
- explain whether the greenhouse-gas implications of the proposed capacity increase were assessed and how any such assessment informed the determination;
- identify any environmental assessments undertaken elsewhere upon which the IAA relied; and
- explain how environmental constraints were weighed alongside technical and operational considerations under Article 6.

3.8 Conclusion

The Draft Decision contains substantial analysis of technical and operational constraints but provides limited insight into the manner in which environmental constraints have been assessed. Given the continuing legal, regulatory and environmental issues affecting Dublin Airport, SMTW submits that the Final Decision should contain a more transparent explanation of the environmental considerations that informed the proposed coordination parameters and how those considerations were taken into account under Article 6.

4.0 Condition 5 and the Relevant Action Process

4.1 Condition 5 and the Underlying Environmental Constraint

Condition 5 of the North Runway planning permission limits nighttime aircraft movements between 23:00 and 07:00 to an average of 65 movements per night over the relevant assessment period. The Draft Decision acknowledges that the legal status and practical application of Condition 5 remain the subject of ongoing proceedings and that ACP's proposed replacement regime has not yet been implemented.

The purpose of this submission is not to argue that the IAA must determine those proceedings. Rather, the issue is whether the Draft Decision adequately addresses the environmental constraint that Condition 5 was intended to manage, namely the adverse effects of nighttime aircraft noise on surrounding communities.

Even if the precise legal effect of Condition 5 remains disputed, the underlying environmental concern does not disappear. The Draft Decision should therefore explain how that environmental constraint has been identified, assessed and taken into account in accordance with Article 6 of Regulation 95/93.

4.2 Reliance on Historic R60 Parameters

The IAA proposes to retain the pre-North Runway R60 nighttime parameters and states that no additional nighttime capacity has been declared as a result of the opening of the North Runway.

The Draft Decision presents this approach as a practical response to the current legal uncertainty. However, it is not clear how the IAA has assessed whether the retained R60 parameters provide environmental protection equivalent to the protection that Condition 5 was intended to achieve.

The relevant comparison is not simply whether nighttime slot parameters have increased since the North Runway opened. The relevant question is whether the proposed S27 nighttime framework adequately addresses the environmental effects associated with nighttime aircraft activity.

The Draft Decision does not identify any assessment of:

- expected nighttime movement levels;
- exposure under the L_{night} indicator;

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- highly sleep disturbed populations;
- population exposure to nighttime aircraft noise;
- health impacts associated with nighttime aircraft activity; or
- consistency with the objectives of the current noise-management framework.

As a result, it is difficult to understand how the IAA has concluded that the retained R60 parameters adequately address the underlying environmental constraint.

4.3 Distinction Between Separate Legal Proceedings

The Draft Decision would benefit from a clearer distinction between three separate categories of legal proceedings:

Condition 5 Proceedings

These proceedings concern the legal status, effect and enforcement of the 65-movement nighttime restriction. A stay affecting enforcement does not necessarily resolve the separate question of whether the environmental considerations underlying Condition 5 remain relevant to the Article 6 assessment.

Relevant Action Proceedings

The proceedings concerning ACP's Relevant Action decision are legally distinct. They concern the validity of ACP's decision to replace Condition 5 and introduce alternative operating restrictions, including the Noise Quota Scheme and annual nighttime movement limits. The European Commission has since identified deficiencies in the Balanced Approach process, and ACP has not yet clarified how the position will be addressed.

Passenger-Cap Proceedings

The proceedings concerning the 32mppa planning condition involve separate questions relating to Article 6 and the slot-allocation process. They should not be treated as determinative of the treatment of Condition 5, which raises different legal and environmental issues.

4.4 Operational Modelling does not replace Environmental Assessment

The supporting documentation accompanying the Draft Decision contains detailed operational modelling addressing issues such as:

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- runway throughput;
- taxi times;
- runway delays;
- stand utilisation; and
- network performance.

That analysis is useful in determining whether additional traffic can be accommodated operationally.

However, the modelling does not address the environmental consequences of additional activity, including:

- nighttime noise exposure;
- highly sleep disturbed populations;
- noise contour changes;
- public-health effects; or
- cumulative environmental impacts.

The Draft Decision therefore demonstrates that additional aircraft can be processed by the airport, but it does not explain whether the associated environmental impacts have been assessed with equivalent rigour.

4.5 Regulatory Uncertainty does not remove Environmental Constraints

The Draft Decision explains that uncertainty remains regarding Condition 5 and ACP's proposed replacement measures.

However, uncertainty regarding the legal mechanism used to address an environmental problem does not necessarily remove the environmental problem itself.

The adverse effects associated with nighttime aircraft noise continue to exist irrespective of the outcome of ongoing litigation. Similarly, uncertainty regarding the final form of nighttime restrictions does not establish that additional airport capacity is environmentally neutral.

The Draft Decision should therefore explain how the environmental consequences of nighttime activity have been evaluated independently of the current legal uncertainty surrounding the particular regulatory tools intended to manage those impacts.

4.6 Requested Clarifications

SMTW respectfully requests that the Final Decision:

- explain how the environmental objectives underlying Condition 5 have been assessed;
- clearly distinguish the Condition 5, Relevant Action and passenger-cap proceedings;
- explain the legal basis for the proposed treatment of Condition 5;
- assess the environmental implications of the proposed nighttime parameters;
- explain how those parameters relate to the current noise-management framework;
- assess cumulative environmental effects associated with successive capacity increases; and
- establish a mechanism for reconsidering the parameters should the legal or regulatory context materially change before or during Summer 2027.

5.0 Article 6 and the Interaction with Other Environmental Control Processes

5.1 Scope of the Article 6 Assessment

Article 6(1) of Regulation 95/93 requires coordination parameters to be determined while taking account of all relevant technical, operational and environmental constraints and any changes thereto.

Responsibility for planning control, environmental assessment and aircraft-noise regulation lies with several authorities, including ACP, ANCA and Fingal County Council. SMTW accepts that the IAA is not responsible for exercising those authorities' statutory functions and that a coordination-parameter determination is not a substitute for the relevant planning or environmental processes.

However, the allocation of responsibility among separate authorities does not remove the requirement for the IAA to identify and take account of environmental constraints relevant to its own decision. The central question is not whether the IAA must resolve the underlying planning or environmental disputes. It is whether the Draft Decision demonstrates that the constraints to which those disputes relate have been identified and considered as part of the Article 6 assessment.

SMTW further notes that recent independent legal analysis commissioned by Opportunity Green concludes that the concept of "environmental constraints" under Article 6(1) of Regulation 95/93 is capable of extending beyond purely physical infrastructure limitations and may include legal or environmental restrictions that affect airport operations. The analysis also concludes that climate-related measures which impose binding limitations on airport capacity are capable of falling within the scope of relevant environmental constraints. While SMTW does not ask the IAA to adopt any particular interpretation of the Slot Regulation, the existence of this reasoned legal analysis reinforces the importance of clearly identifying all environmental constraints considered relevant to the Summer 2027 determination and explaining how those constraints have informed the coordination parameters.

5.2 Unresolved Environmental Controls

The environmental framework governing Dublin Airport remains subject to several ongoing processes, including:

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- the unresolved status of Condition 5;
- ACP's Relevant Action process and the proposed replacement nighttime restrictions;
- ANCA's proposed amendment of the Noise Abatement Objective;
- the continuing dispute concerning the 32mppa planning condition;
- the pending CJEU and related High Court proceedings; and
- the recently commenced Section 160 proceedings concerning alleged non-compliance with planning conditions.

SMTW does not contend that the existence of these proceedings determines the appropriate Summer 2027 coordination parameters. However, the fact that an environmental control is under review, subject to litigation or temporarily inoperative does not necessarily render the underlying environmental constraint irrelevant.

The Draft Decision should therefore explain whether these unresolved matters were considered, the significance attributed to them and whether they influenced the proposed coordination parameters.

5.3 Evidence of Continuing Environmental Impacts

The Dublin Airport Noise Action Plan is the action plan prepared under Article 8 of the Environmental Noise Directive and the European Communities (Environmental Noise) Regulations 2018. It is the formal process through which the aircraft-noise situation at Dublin Airport is assessed, environmental noise problems and priorities are identified, and actions for their management are established.

The NAP identifies the Noise Abatement Objective as a central component of the noise-management framework for Dublin Airport. It requires the implementation of the existing noise-mitigation measures and provides for the continuing review of the NAO. ANCA's annual reviews of the effectiveness of those measures monitor the resulting noise situation and progress against the outcomes established by the NAO.

Those annual reviews record that key nighttime noise outcomes have not been achieved and that the number of persons exposed above 55 dB Lnight has increased significantly relative to the 2019 baseline. These are not environmental concerns formulated by SMTW for the purposes of this consultation. They are findings arising from the statutory END and NAP framework through which environmental noise at Dublin Airport is assessed and managed.

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SMTW does not suggest that the IAA is required to enforce the NAP, determine compliance with the NAO or exercise ANCA's statutory functions. The point is narrower. Article 6 requires the IAA to take account of all relevant environmental constraints. Where the statutory END process has identified continuing nighttime noise impacts and the applicable NAP establishes actions and outcomes directed at those impacts, those findings are directly relevant to the IAA's inquiry into whether aircraft-noise-related environmental factors and the controls directed at them affect, or are capable of affecting, aircraft movements, operating procedures, infrastructure use or capacity.

The Final Decision should therefore explain:

- whether the Dublin Airport strategic noise maps, NAP, NAO and ANCA's annual effectiveness reviews were considered;
- what environmental problems and priorities identified through that process were treated as relevant;
- whether the proposed Summer 2027 parameters are liable to affect achievement of the applicable NAP and NAO outcomes; and
- if those matters were considered irrelevant to Article 6, the legal and evidential basis for that conclusion.

5.4 Risk of Deferring Environmental Constraints

A recurring feature of the current regulatory position is that environmental controls remain under review or subject to litigation while airport capacity continues to be determined and allocated.

This creates a risk that environmental constraints are deferred pending decisions by other authorities, while technical and operational capacity is treated as presently available. The result may be that the practical consequences of successive capacity determinations become established before the applicable environmental-control framework is settled.

SMTW does not suggest that the IAA should anticipate or predetermine the outcome of another authority's process. However, where those processes concern environmental limits capable of affecting airport operations, the Final Decision should explain how the resulting uncertainty has informed the Article 6 assessment.

5.5 Advocate General's Opinion

The Advocate General's Opinion in Case C-857/24 is not binding on the Court of Justice. It nevertheless provides an important indication of how Article 6 may be interpreted, including the potential relevance of legal constraints that directly or indirectly affect airport operations.

If the Court adopts a similar interpretation, the legal context within which the Summer 2027 coordination parameters operate may change materially. The Final Decision should therefore explain:

- how the Advocate General's Opinion has been considered;
- how the possibility of a material change in the legal position has been addressed; and
- whether a mechanism exists to reconsider the coordination parameters following such a change.

5.6 Passenger Cap and Article 6

SMTW acknowledges that the treatment of the 32mppa planning condition within the Article 6 framework remains the subject of ongoing judicial proceedings and has not been definitively resolved.

Nevertheless, the passenger-cap issue remains relevant to the context of the Summer 2027 determination because:

- the planning condition remains extant;
- alleged non-compliance remains the subject of legal proceedings;
- the condition forms part of an extant planning permission and operates within the wider planning and environmental-control framework applicable to Dublin Airport; and
- enforcement relief could have consequences for the scale or manner of airport operations.

The continuing relevance of the 32mppa planning condition is reflected in the judgments of Mr Justice Barry O'Donnell, who recognised that the slot-allocation process and the planning-control regime operate as separate legal frameworks. The Court observed that the 32mppa condition remains an extant planning condition and that issues concerning compliance and enforcement remain matters for the planning system. While those judgments do not determine the treatment of the planning condition under Article 6 of Regulation 95/93, they demonstrate

that the operation of the slot-allocation process does not of itself remove the continuing existence or potential significance of the underlying planning restriction. SMTW therefore submits that the continuing existence of the 32mppa condition, together with the associated litigation and enforcement proceedings, forms part of the legal and environmental context relevant to the Article 6 assessment.

5.7 Proposed Amendment of the Noise Abatement Objective

ANCA is separately considering substantial amendments to the Noise Abatement Objective for Dublin Airport. Those amendments may alter the framework against which aircraft-noise effects and noise-management outcomes are assessed.

SMTW notes that independent planning evidence prepared for the consultation on the proposed amendment of the Noise Abatement Objective concluded that many of the communities now exposed to increased aircraft noise were already designated for residential development long before recent changes in airport operations and noise contours. This evidence raises questions regarding the extent to which increasing exposure is attributable to airport growth rather than recent residential encroachment and further underlines the importance of a transparent assessment of environmental constraints.

The IAA is not required to determine the merits of the proposed amendments. However, because a material change to the airport's noise-management framework is under active consideration, the Final Decision should explain:

- whether the existing or proposed NAO informed the assessment;
- which version of the NAO or other noise-management framework was treated as relevant;
- whether finalisation of the amended NAO could materially affect the Article 6 assessment; and
- whether such a development could trigger reconsideration of the Summer 2027 parameters.

5.8 Need for a Transparent and Responsive Decision

The Draft Decision contains detailed analysis of operational limitations affecting airport capacity. It provides materially less explanation of:

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- which environmental constraints were considered;
- the information used to assess them;
- the weight attributed to unresolved environmental controls;
- the treatment of ongoing legal and regulatory proceedings;
- the influence of environmental constraints on the proposed parameters; and
- how the parameters would respond to a material change in circumstances.

SMTW therefore requests that the Final Decision identify the relevant environmental constraints, explain how they were assessed and state whether a material legal or environmental development could trigger reconsideration of the coordination parameters.

6.0 Section 160 Proceedings

6.1 Relevance of SMTW's Section 160 Proceedings

The Draft Decision discusses ongoing litigation concerning the 32mppa planning condition, Condition 5 and ACP's Relevant Action decision. However, it does not appear to address the separate proceedings recently commenced by SMTW Environmental DAC pursuant to section 160 of the Planning and Development Act 2000.

Those proceedings are distinct from the judicial review proceedings referenced elsewhere in the Draft Decision. Rather than challenging the validity of an administrative decision, the Section 160 proceedings seek planning-enforcement relief in respect of alleged non-compliance with extant planning conditions at Dublin Airport. The proceedings concern both the 32mppa planning condition and Condition 5, which are central issues within the wider regulatory and environmental framework affecting airport operations.

SMTW does not suggest that the IAA is required to determine the merits of those proceedings. Nor is it suggested that the commencement of Section 160 proceedings automatically requires any particular coordination parameter to be adopted.

However, the existence of active planning-enforcement proceedings forms part of the legal and operational context within which the Summer 2027 determination is being made. Depending on their outcome, the proceedings may have implications for the future operation of the airport or for the implementation of environmental controls that remain subject to ongoing dispute.

In these circumstances, SMTW submits that the Final Decision should:

- acknowledge the existence of the Section 160 proceedings;
- distinguish those proceedings from the judicial review proceedings discussed elsewhere in the Draft Decision;
- explain whether the proceedings have been considered as part of the Article 6 assessment;
- explain whether the proceedings are considered relevant to the operational or environmental context of the Summer 2027 season; and
- identify any mechanism that would permit reconsideration of the coordination parameters should a material court order or other legal development arise before or during the Summer 2027 period.

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The purpose of this section is not to seek a determination from the IAA regarding the merits of the proceedings. Rather, it is to request a transparent explanation of whether the proceedings have been considered and, if so, how they have been taken into account when assessing the legal, operational and environmental context relevant to Article 6 of Regulation 95/93.

7.0 IAA's Winter 2026 Final Decision

7.1 IAA's Interpretation of Environmental Constraints

In its Winter 2026 Final Decision, the IAA stated that submissions made by SMTW and the NRTG misunderstood the respective roles of the IAA and ANCA and were, in substance, asking the IAA to create an aircraft-noise operating restriction through the coordination-parameter process.

SMTW accepts that the IAA is not the competent authority for establishing a noise abatement objective, applying the Balanced Approach or imposing an operating restriction under Regulation (EU) 598/2014. However, that response does not address the distinction central to this submission between creating an environmental restriction and identifying and taking account of a relevant environmental constraint under Articles 2(m) and 6(1) of Regulation 95/93.

7.2 The Winter 2026 Response did not Address SMTW's Case

The distinction drawn by SMTW is between creating an environmental restriction, which is not the IAA's function, and identifying and taking account of a relevant environmental constraint, which is expressly required by Articles 2(m) and 6(1) of Regulation 95/93.

Independent legal analysis supports a two-part inquiry under which a relevant environmental constraint must relate to or arise from an environmental factor and must affect the performance or operational use of airport infrastructure or its subsystems. Binding environmental measures that limit movements, operating hours, runway use, passenger throughput or airport capacity are capable of satisfying that test. Broader environmental limitations may require a fact-sensitive assessment of whether, and to what extent, they affect airport infrastructure and operations.

The statutory END process, including the strategic noise maps, Dublin Airport Noise Action Plan, Noise Abatement Objective and ANCA's annual monitoring reports, provides official and directly relevant evidence of the aircraft-noise problems and priorities identified for Dublin Airport. Consideration of that evidence would not require the IAA to establish a new noise limit. It would enable the IAA to examine whether the identified environmental problems and the legal and regulatory controls directed at them bear upon aircraft movements, operating procedures, infrastructure use or capacity during Summer 2027.

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The Winter 2026 response explained why the IAA could not impose an operating restriction. It did not demonstrate that the separate Article 6 inquiry had been completed. In particular, it did not identify which aircraft-noise-related environmental factors and controls were examined, whether they affected or were capable of affecting airport performance, what environmental inputs were included in the operational modelling, or how those matters influenced the declared parameters.

SMTW therefore submits that the appropriate Article 6 response is not to disregard environmental evidence unless and until ANCA has introduced a formally operative restriction. It is to undertake the fact-sensitive inquiry required by Articles 2(m) and 6(1), distinguish the identification of an environmental constraint from the imposition of an operating restriction, and provide reasons explaining why each material environmental factor or control was treated as relevant or irrelevant to the Summer 2027 coordination parameters.

7.3 Independent Legal Analysis

This distinction is supported by independent legal analysis commissioned by Opportunity Green. The legal opinion concludes that Articles 2(m) and 6(1), construed together, likely require a relevant environmental constraint to:

“(a) affect the performance of the airport infrastructure and its different sub-systems, and (b) relate to or arise from environmental factors.”

The opinion gives climate laws imposing binding requirements to reduce airport capacity for environmental reasons as a clear example. It also recognises that broader environmental or climate-related limitations may qualify where their effect on airport infrastructure is established through a fact-sensitive inquiry. The example of a climate law is illustrative of the proposed test rather than an exhaustive definition of the environmental constraints capable of falling within Article 6.

The same reasoning is capable, in principle, of applying to aircraft-noise controls. A legally binding noise-related measure that limits aircraft movements, runway use, operating hours or airport throughput:

- relates to or arises from an environmental factor, namely aircraft noise; and
- affects the performance or use of airport infrastructure and its subsystems by constraining the movements that can be scheduled or operated.

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Indeed, the IAA itself accepts that a lawfully introduced operating restriction under Regulation (EU) 598/2014 constitutes an environmental constraint for Article 6 purposes. The point of disagreement is therefore not whether aircraft noise can generate an environmental constraint. It is whether the IAA's consideration is confined to a formally operative restriction or extends to other existing environmental factors and legal controls capable of affecting airport performance.

7.4 IAA's Narrow Interpretation of Environmental Constraints

The Winter 2026 Final Decision states that the IAA takes account of constraints “anticipated to limit the ability of the airport to process passengers or aircraft during the relevant season.” It further states that, in the case of aircraft noise, the IAA's role is to take account of an operating restriction introduced by ANCA, not to determine such a restriction itself.

SMTW does not dispute either proposition. The concern is that the IAA appears to move from them to a narrower conclusion: unless an operating restriction has completed the Regulation 598/2014 process and is operative in sufficient time for the relevant seasonal determination, there is no environmental constraint to be reflected in the parameters.

That conclusion is not demonstrated by the wording of Articles 2(m) or 6(1). The provisions refer respectively to environmental “factors” affecting airport performance and “all relevant technical, operational and environmental constraints”. Articles 2(m) and 6(1), read together, require the relevant environmental factor or constraint to bear upon the performance or operational use of airport infrastructure. SMTW's concern is that the IAA has treated a formally operative Regulation 598/2014 restriction as the only means by which aircraft noise can satisfy that test, without demonstrating why other environmental or legal controls affecting movements, runway use or throughput fall outside it.

Nor does recognising aircraft-noise exposure as potentially relevant require the IAA to set a new noise limit. It requires the IAA to undertake the prior Article 6 inquiry:

- What environmental factors presently affect the airport and surrounding communities?
- Do any such factors affect, or have the capacity to affect, the operational use or performance of airport infrastructure?
- What existing legal and regulatory controls correspond to those factors?
- Are material changes to those controls reasonably foreseeable during the coordination period?

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- How did those matters influence, or fail to influence, the parameters ultimately selected?

The answer may be that a particular noise consideration is not a presently operative constraint on Summer 2027 capacity. However, that conclusion should follow from an objective and reasoned assessment rather than from treating completed operating restrictions as the only category of environmentally relevant constraint.

7.5 Environmental Controls and Slot Allocation at Heathrow, Gatwick and Stansted

SMTW notes that Airport Coordination Limited (ACL), which acts as the slot coordinator for Dublin Airport, also acts as the coordinator for Heathrow, Gatwick and Stansted Airports. These airports therefore provide practical examples of how coordinated airports may incorporate environmental restrictions established through separate regulatory and planning processes into their slot-allocation frameworks.

SMTW recognises that these United Kingdom arrangements do not determine the interpretation of Regulation 95/93 within the European Union. They are relied upon as practical comparators demonstrating that aircraft-noise limits established by government, planning or environmental processes can affect the slots and night operations capable of being allocated by the same coordination organisation that coordinates Dublin Airport.

At Heathrow, night operations are governed by a seasonal movement limit and a seasonal noise quota prescribed by the Department for Transport. Heathrow's published Local Rule 1 provides that all night flights operating within the Night Planning Period require both a slot allocation and a corresponding allocation within the available Night Quota. The Night Quota consists of both a Movement Limit and a Noise Quota Limit. Requests for new night flights or changes to existing night flights may only be approved where sufficient Night Quota remains available. The movement cap and noise quota therefore directly influence the number and type of night slots capable of being allocated.

At Stansted, Local Rule 1 similarly provides that all flights require a slot and that flights operating within the Night Planning Period require associated Night Quota allocation. The allocation of Night Slots is expressly stated to be subject to the availability of Night Quota. Stansted's Night Quota regime is specifically linked to compliance with the airport's Section 106 planning obligations, the airport's Noise Action Plan and the Department for Transport's Night Flying Restrictions. ACL is responsible for allocating Night Quota for planned operations.

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At Gatwick, Local Rule 1 provides that all Night Flights require both a slot allocation and corresponding movement and noise quota allocation. ACL administers the allocation of Night Quota for planned operations and requests for additional night operations may be refused where sufficient quota is not available.

These examples demonstrate that environmental controls established through planning obligations, noise-control regimes or government-imposed night-flying restrictions can be reflected directly within the slot-allocation framework. ACL does not establish the underlying environmental limits. It administers slot and quota allocation within the resulting operational framework, in which controls established by the relevant government, planning or airport authorities constrain night operations, runway utilisation and slot availability.

SMTW does not suggest that Dublin Airport must replicate the Heathrow, Gatwick or Stansted arrangements. Nor does SMTW suggest that the IAA should create aircraft-noise restrictions. The significance of these examples is narrower.

ACL coordinates slots at Dublin Airport and administers the allocation of Night Quota for planned operations at Heathrow, Gatwick and Stansted within the environmental limits established and managed under the applicable airport, planning and government frameworks.

Those airports demonstrate that environmental controls established through external legal and regulatory processes can directly affect slot availability and airport capacity without requiring the slot coordinator itself to determine the underlying environmental restriction. They therefore provide practical examples of environmental factors affecting the operational use of airport infrastructure and being reflected within the slot-allocation framework.

Unlike Heathrow, Gatwick and Stansted, the environmental controls relevant to Dublin Airport remain the subject of ongoing litigation, regulatory review and amendment. That distinction does not mean that environmental controls are irrelevant to the slot-allocation process. Rather, it reinforces the need for a reasoned explanation of whether, and if so how, the relevant environmental controls, findings and restrictions have been considered within the Article 6 assessment.

Accordingly, SMTW submits that it is insufficient to conclude that environmental considerations fall outside the Article 6 assessment merely because the IAA is not the authority responsible for creating aircraft-noise restrictions. The relevant question remains whether environmental factors, environmental controls and environmental findings identified through the applicable regulatory framework are capable of affecting airport operations, movements, runway use or capacity and, if so, how those matters have been taken into account when determining the Summer 2027 coordination parameters.

7.6 Maximal Capacity Approach does not Displace Environmental Constraints

The Winter 2026 Final Decision states that the IAA tends towards a “maximal rather than minimal approach” when declaring coordination parameters, relying on Article 6(3), which requires discussion within the Coordination Committee “with a view to increasing the capacity and number of slots available for allocation.” SMTW accepts that efficient use of available airport capacity is a purpose of the Slot Regulation. However, Article 6(3) cannot be read in isolation from Article 6(1), which expressly requires account to be taken of all relevant technical, operational and environmental constraints.

The requirement to discuss increasing capacity does not create a presumption that every increment of technically or operationally available capacity must be declared. Nor does it reduce the environmental limb of Article 6(1) to restrictions already embodied in a formally operative measure. The capacity available for slot allocation is the capacity remaining after all relevant constraints have been objectively identified and taken into account.

Accordingly, a “maximal” approach should not be understood as meaning maximising slots first and postponing consideration of environmental constraints until another authority has converted them into an operative restriction. The Final Decision should explain how the IAA reconciles its stated preference for maximising declared capacity with its separate obligation to take account of all relevant environmental constraints.

7.7 Environmental Evidence is not itself an Operating Restriction

The IAA also appears to conflate two distinct propositions:

- treating worsening noise exposure as evidence relevant to identifying an environmental constraint; and
- using that evidence to impose an operating restriction.

Reliance on strategic noise maps, the Dublin Airport Noise Action Plan, the Noise Abatement Objective and ANCA’s monitoring findings would not necessarily mean that the IAA was regulating aircraft noise. Those materials could instead inform the IAA’s identification of the environmental context and whether any relevant factor affects airport infrastructure, operating procedures or capacity.

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In particular, the NAP is not merely a stakeholder document or a discretionary policy statement. It is the action plan produced through the statutory Environmental Noise Directive process for Dublin Airport. Its findings identify aircraft-noise problems and priorities requiring management, while ANCA's annual reviews provide continuing evidence concerning achievement of the associated NAO outcomes. Taking those findings into account would not require the IAA to create an operating restriction. It would involve using the State's established environmental-noise assessment framework to identify whether relevant environmental factors or constraints bear upon airport operations, movements or capacity.

The IAA's own modelling approach reinforces this distinction. The Winter 2026 Final Decision states that the simulated schedule represented an "aggressive growth scenario" and that it was important to test fully the potential impact of the increased capacity on the assumption that the capacity was used. However, the resulting assessment was confined principally to operational performance, including runway throughput, taxi times and delay.

If it was appropriate to assume full utilisation of the additional capacity when testing operational consequences, the Final Decision should explain why the same reasonable worst-case assumption was not applied when considering aircraft-noise exposure, population effects, health consequences and greenhouse-gas emissions. The relevant question is not whether every available slot will certainly operate, but whether the foreseeable environmental consequences of the capacity being made available were objectively assessed.

The Winter 2026 Final Decision records that the NRTG specifically asked the IAA to identify the environmental constraints at Dublin Airport, consider the strategic noise maps and Noise Action Plan, assess whether 32 additional daily movements would affect noise exposure and explain how the parameters took account of Article 2(m).

The IAA's response principally explained why it could not create an operating restriction and why completed Regulation 598/2014 procedures matter. It did not provide the requested assessment of the potential environmental effects of the additional movements. Its statement that the operational modelling "does not suggest that there will be any particular environmental or health impacts" does not resolve the issue because the modelling described in the decision assessed runway throughput, taxi times, ground delay and operational performance rather than noise exposure or health outcomes.

The Winter 2026 Final Decision states that the simulation modelling took account of "infrastructural, operational, and environmental constraints." However, its description of the model identifies runway and taxiway configuration, aircraft separation, towing, runway-exit

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usage, infrastructure works and operational procedures, without identifying any aircraft-noise, population-exposure, public-health or greenhouse-gas input.

The Final Decision should therefore identify precisely which environmental constraints were represented in the model, the data and assumptions used to represent them, and how those inputs affected the resulting parameters. If no such environmental inputs were included, operational modelling cannot support a conclusion that the additional capacity would produce no particular environmental or health impact. The absence of an environmental effect from a model that was not designed to assess that effect is not evidence that the effect does not exist.

7.8 Relevance to Summer 2027

For Summer 2027, SMTW does not ask the IAA to create an aircraft-noise restriction or predetermine any ongoing ANCA, ACP or court process. SMTW asks the IAA to discharge its own distinct obligation by identifying the environmental constraints and factors relevant under Articles 2(m) and 6(1), examining whether and how they affect airport infrastructure and operations, and explaining their treatment in the Final Decision.

The independent legal analysis reinforces that environmental constraints are not necessarily limited to physical infrastructure limitations and may include environmental or legal restrictions that affect airport operations and capacity. It therefore supports, rather than contradicts, SMTW's distinction between the IAA impermissibly creating a noise restriction and the IAA lawfully taking account of environmental factors and existing controls within its Article 6 capacity assessment.

The To70 assessment concludes that the operational effects of the proposed increase are measured in seconds rather than minutes. In those circumstances, it is reasonable to expect a corresponding assessment of whether any environmental effects arising from the additional capacity have also been identified and evaluated.

Accordingly, SMTW respectfully requests that the Final Decision:

1. identify the environmental factors and constraints considered under Articles 2(m) and 6(1);
2. state whether the IAA considers that only formally operative Regulation 598/2014 restrictions can constitute aircraft-noise-related environmental constraints and, if so, identify the legal basis for that interpretation;

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3. explain whether the strategic noise maps, Noise Action Plan, Noise Abatement Objective and relevant ANCA findings were considered as evidence of the environmental context;
4. assess whether the proposed parameters and additional movements may alter aircraft-noise exposure;
5. distinguish clearly between taking account of an environmental constraint and creating an operating restriction; and
6. explain how any material change in the applicable environmental-control framework before or during Summer 2027 would be addressed.

8.0 Requested Actions

For the reasons set out in this submission, SMTW respectfully requests that the IAA, before finalising the Summer 2027 coordination parameters:

1. Identify the environmental constraints considered relevant under Article 6(1) of Regulation 95/93.
2. Explain the assessment undertaken, including the evidence, environmental baseline and methodologies relied upon.
3. Explain how environmental constraints influenced the outcome, including how they were weighed alongside technical and operational considerations.
4. Address the environmental implications of the nighttime parameters, including the relationship between the retained R60 parameters, Condition 5 and ACP's unresolved Relevant Action process.
5. Address the relevant legal and regulatory proceedings, including the pending CJEU and High Court proceedings and the recently commenced Section 160 proceedings, while distinguishing between their respective subject matters and potential consequences.
6. Explain the treatment of the 32mppa planning condition, including why the continuing dispute and associated enforcement proceedings do or do not affect the Article 6 assessment.
7. Explain how the strategic noise maps, the Dublin Airport Noise Action Plan, the existing and proposed Noise Abatement Objectives, and ANCA's annual effectiveness reviews informed the identification of environmental constraints under Article 6; whether the proposed Summer 2027 parameters are liable to affect the outcomes and actions identified through the END and NAP process; and whether the proposed amendment of the NAO could materially alter the environmental framework relied upon by the IAA.
8. Assess or identify the consideration given to cumulative environmental effects, including aircraft-noise exposure, population exposure, public-health impacts and the consequences of successive seasonal capacity increases.
9. Explain whether greenhouse-gas emissions were considered, including the foreseeable emissions implications of facilitating additional aircraft activity.
10. Establish a review mechanism capable of responding to a material legal, regulatory or environmental development occurring before or during the Summer 2027 season.

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11. If material environmental constraints remain insufficiently defined or subject to ongoing review, explain why the available evidence nevertheless provides a sufficient basis for finalising the proposed Summer 2027 coordination parameters.
12. Explain how the IAA reconciles its stated preference for a “maximal” capacity declaration with the express requirement under Article 6(1) to take account of all relevant environmental constraints.
13. Identify the environmental inputs included in the operational modelling and explain whether the assumed utilisation of the proposed additional capacity was assessed for aircraft-noise, population-exposure, public-health and greenhouse-gas consequences.
14. Explain whether the IAA considered the practical treatment of aircraft-noise-related movement and quota limits at other coordinated airports served by ACL and, if not, why those arrangements were not considered relevant to the distinction between creating an environmental restriction and administering slots within an externally established environmental framework.

9.0 Conclusion

SMTW acknowledges that the determination of coordination parameters involves detailed technical and operational analysis. Article 6(1) of Regulation 95/93 nevertheless requires the IAA also to take account of all relevant environmental constraints and any changes thereto.

The Draft Decision provides substantial analysis of runway capacity, airport infrastructure and operational performance. It provides materially less explanation of the environmental constraints considered, the evidence used to assess them, the weight attributed to them and their influence on the proposed Summer 2027 parameters.

This is particularly significant because the statutory Environmental Noise Directive process, including the Dublin Airport Noise Action Plan and ANCA's annual monitoring reports, continues to identify unresolved nighttime-noise impacts and increasing population exposure above 55 dB Lnight. The Draft Decision does not explain how those findings informed the Article 6 assessment.

Those findings arise from the State's own Environmental Noise Directive framework and therefore provide a particularly relevant source of evidence when identifying environmental constraints relating to aircraft noise at Dublin Airport.

That omission must also be considered in the context of the unresolved status of Condition 5 and ACP's Relevant Action process, the proposed amendment of the Noise Abatement Objective, the continuing dispute concerning the 32mppa planning condition, the pending CJEU and High Court proceedings, the new Section 160 proceedings and the absence of an identified assessment of cumulative noise, health and greenhouse-gas consequences.

SMTW does not ask the IAA to determine matters falling within the statutory responsibilities of other authorities or to anticipate the outcome of ongoing proceedings. It asks the IAA to demonstrate transparently how the environmental constraints arising within that framework have been identified, assessed and taken into account in its own Article 6 determination.

The importance of providing a clear explanation of the environmental constraints considered is further underscored by recent legal analysis indicating that Article 6 is capable of extending beyond purely technical and operational limitations and may encompass legal and environmental constraints that affect airport operations and capacity.

Accordingly, SMTW respectfully requests that the IAA address the matters identified in this submission, provide the explanations and assessments set out in Section 8, and establish an

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effective mechanism for responding to material legal, regulatory or environmental developments before or during the Summer 2027 season.