



Submission on behalf of the St Margaret's The Ward Residents Group

TO IAA'S DRAFT W25 DECISION

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EXECUTIVE SUMMARY

The main points outlined in this submission are:

- It is imperative that no additional slots are allocated until the stay is lifted and full clarity is restored.
- An Bord Pleanála have issued a draft recommendation on the Relevant Action planning application (F20A/0668) and recommended a nighttime aircraft movement limit of 13000 movements per year, with 9100 allocated to the 92-day summer period and 3900 allocated to the remainder of the year. The IAA have made no plans for such a decision.
- Dublin Airport breached the 32m cap in 2019, 2023, and again in 2024 with 34.6m passengers.
- The IAA have failed to carry out their duties under Section 15 of the Climate Action and Low Carbon Development Act 2015 (as amended 2021)
- The IAA have failed to take account of environmental impacts as referenced in the Slot Regulation legislation
- The IAA have failed to assess the impacts on local residents' health and have failed to quantify the economic health burden of aircraft activity at Dublin Airport which was in the order of 800million euro in 2023
- The 32m cap is an Operating Restriction under EU598/2014. Any impact on an Operating Restriction requires a Regulatory Decision by ANCA under the Aircraft Noise (Dublin Airport) Regulations Act 2019.
- The judgements by Justice O'Donnell have made it clear that the '*stay*' is just on the slot regulation process and not the passenger cap. The planning authority is free to enforce the cap.

I.0 Draft Decision on W25 Coordination Parameters

I.1 Introduction

This submission is in response to the IAA's Draft Decision on Winter 2025 Coordination Parameters at Dublin Airport.

We note the order from the High Court directing the IAA not to take account of the 32m passenger cap pending the outcomes of decisions made by the CJEU and the outcome of Judicial Reviews.

It is very worrying that during the Court proceedings, no party brought up the environmental cost of the breach of the 32m cap. The economic losses to the airlines, daa and IAA were the only losses considered. The economic health costs to adjacent communities were not discussed. The impact of increased emissions was never discussed. State organisations have a duty to consider the environment and the health of the public in their decision making.

I attach an economic report from PMCA Consulting into the health costs of aircraft noise at Dublin Airport. In summary, the costs amounted to almost 800 million euro in 2023.

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I.2 High Court Decisions

It has been incorrectly stated in the media that the High Court has put a 'stay' on the passenger cap. We want to clarify this statement with reference to Judge O'Donnell's judgement delivered on April 2nd:

https://www.courts.ie/view/Judgments/17cf4b7f-2c18-4745-9c82-e70a2e7afa72/7d951c88-d278-47f7-b339-f900989674f1/2025_IEHC_190.pdf/pdf.

Section 66 refers to a fourth warning letter from Fingal County Council to the daa:

66. daa also identified certain new factual matters that were said to be relevant. There was a description of engagements with Fingal County Council, and it was noted that on the 17 December 2024 the council sent a fourth warning letter concerning alleged breaches of the 32mppa conditions. daa responded to the warning letter with its own lengthy letter of reply dated the 23 January 2025. That letter noted, among other matters, that insofar as there was any breach of the 32mppa this was due to circumstances entirely outside the control of daa. As of the date of the swearing of the daa affidavit, the council had not responded to the daa letter from the 23 January 2025.

The most relevant section of this judgement for this enforcement is section 9:

*9. The planning conditions in question were attached by An Bord Pleanála to two permissions granted to daa in relation to Terminals 1 and 2 at Dublin Airport. Those conditions mandate that the combined capacity of the two terminals should not exceed 32 million 6 passengers per annum unless otherwise authorised by a further grant of planning permission. Those conditions are described as the 32mppa conditions. **It must be emphasised that the 32mppa conditions are not the subject of challenge in these proceedings.***

Judge O'Donnell has made it clear that the proceedings were not related to the 32m cap but rather the slot regulation process.

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In Judge O'Donnell's judgement of November 4th, he made it clear that the proceedings only apply to the slot regulation process and do not suspend any planning condition. He clearly states that these proceedings do not impact on the Planning Authority in taking action in relation to compliance with planning conditions.

https://www.courts.ie/acc/alfresco/15161097-34b3-4ec5-aade-92ad2fc65032/2024_IEHC_624.pdf/pdf#view=fitH

*92. Aside from that conflation, the court does not accept that primary responsibility for complying with the 32mppa conditions rests with any party other than daa. Here, there is no live application pursuant to section 160 of the 2000 Act. I do not accept that this application for a stay is properly analogous to the situation of a developer who, having carried out unauthorised development, seeks to stay the effect of an order under section 160 of the 2000 Act to protect its economic interests. **Any order made by this court in this application only applies to decisions made under the Slot Regulation. Any order made by this court does not (and cannot) suspend the effect of any planning conditions. It does not and cannot affect the entitlement of the planning authorities to take whatever steps they deem necessary or appropriate under their governing legislation to address any concerns they may have about compliance with planning conditions.** Likewise, the court is not binding the hand of daa in relation to the steps that it might be able to take in responding to any planning concerns that might be raised by the planning authority.*

Therefore, Fingal County Council are not impacted in pursuing enforcement on the 32m passenger cap. The daa have publicly admitted that they breached it and also declared this in the High Court. The IAA should have a plan B in place as Fingal County Council are duty bound to enforce the cap.

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I.3 Slot issuance

In the context of the ongoing W25 slot coordination process, it is essential to underscore that no new slots should be issued while the High Court stay remains in force. The purpose of the stay is to provide regulatory and operational clarity during a period of uncertainty—whether related to a pending passenger cap or a draft decision on further regulatory action.

Issuing new slots during this period undermines that clarity and risks significant confusion should the passenger cap or draft decision be enforced. In such a scenario, airlines may argue that they have acquired historic rights to operate these new slots, despite the fact that the underlying regulatory environment was in flux at the time of issuance.

Allowing new slot allocation during a stayed period would not only create a misalignment between regulatory intent and operational planning but could also expose the process to legal challenges and disputes over slot entitlement.

Therefore, to preserve the integrity of the slot coordination system and to avoid the potential for future complications, it is imperative that no additional slots are allocated until the stay is lifted and full clarity is restored.

The proposed W25 Coordination Parameters presented in Appendix 1 allow for an increase on W24. It is evident that this will lead to more slots being acquired by airlines who will claim rights to these in the future. This will cause legal uncertainty in the future if the cap is enforced, or the Relevant Action draft decision is upheld.

2.0 Condition 5 of the North Runway (65 nighttime limit)

2.1 Condition 5

In section 3.23 of the draft recommendation the IAA refers to Condition 5 of the North Runway's planning permission. It refers to the High Court proceedings on the subject matter, that adjourned proceedings pending a decision by An Bord Pleanála regarding the introduction of a Noise Quota Count System to replace Condition 5.

On the 11th of September, An Bord Pleanála published a draft recommendation to grant permission for the Relevant Action planning application subject to the inclusion of an aircraft movement restriction and additional insulation criteria to protect communities impacted by aircraft.

In section 3.24 the IAA proposed no changes to the R60 limits for the night hours, pending the decision by An Bord Pleanála. The Board have now assigned a limit of 13000 aircraft movements per year, split between 9100 allocated to the 92-day summer period and 3900 allocated to the remainder of the year. Therefore, the IAA needs to modify the R60 limits for the nighttime period to take account of this decision. We note that this is a draft decision, but it is a recommendation from the Board and therefore the IAA should assume that this decision could stand and make preparations for its inclusion.

3.0 Passenger Numbers

3.1 Daa’s Passenger Numbers

On the daa’s corporate website, the total passenger numbers for 2024 are presented:

<https://www.daa.ie/wp-content/uploads/2025/01/daa-Monthly-Statistics-December-2024.pdf>

Dublin Airport - December 2024 Statistics						
Region	Dec 2024	Dec 2023	% Change	YTD 2024	YTD 2023	% Change
Domestic	14,957	13,574	10%	173,250	156,570	11%
Great Britain	779,607	805,762	-3%	9,761,655	9,518,467	3%
Rest of Europe	1,227,994	1,244,714	-1%	19,363,119	18,672,355	4%
Transatlantic	261,684	254,897	3%	4,166,676	3,906,259	7%
Other International	97,597	86,862	12%	1,160,071	1,019,354	14%
Transit	358	632	-43%	9,236	249,589	-96%
Total Passengers	2,382,197	2,406,441	-1%	34,634,007	33,522,594	3%
Commercial ATM's	16,586	17,321	-4%	236,303	233,162	1%

The figures show that Dublin Airport handled 34,634,007 passengers in 2024, which is a clear breach of the 32mppa planning condition.

The IAA need to take account of this further breach when deliberating on passenger charges.

4.0 Environmental Impacts / Climate Change

4.1 Environmental considerations

Article 2(m) defines coordination parameters as:

*“coordination parameters’ shall mean the expression in operational terms of all the capacity available for slot allocation at an airport during each coordination period, reflecting all technical, operational and **environmental factors** that affect the performance of the airport infrastructure and its different sub-systems.”*

Article 6(1) states that:

*“1. At a coordinated airport the Member State responsible shall ensure the determination of the parameters for slot allocation twice yearly, while taking account of all relevant technical, operational and **environmental** constraints as well as any changes thereto.”*

The IAA’s draft recommendation does not take the environment into account. The impact of the draft recommendation will be an increase in emissions. This has not been factored into the decision making thus far.

There is an obligation on the IAA as a Relevant Body under Section 15 of the Climate Action and Low Carbon Development Act 2015 (amended 2021) to perform its duties in a manner consistent with the furtherance of the national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change.

The IAA has failed to properly assess, address and mitigate the greenhouse gas emissions as a result of their draft recommendation. The IAA have also failed to take account of the adverse effects on human health, the environment, noise and air pollution.

5.0 Operating Restriction

5.1 32m Passenger Cap – Operating Restriction

Article 2(6) of EU 598/2014 defines 'Operating Restrictions' as:

“‘Operating restrictions’ means a noise-related action that limits access to or reduces the operational capacity of an airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, which for example apply for an identified period of time during the day or only for certain runways at the airport.”

And a 'noise-related action' is defined in article 2(5):

“‘noise-related action’ means any measure that affects the noise climate around airports, for which the principles of the Balanced Approach apply, including other non-operational actions that can affect the number of people exposed to aircraft noise;”

It is clear that the 32m passenger cap affects the noise climate around Dublin Airport and limits access to or reduces the operational capacity of Dublin Airport and, therefore, falls into the category of an Operating Restriction.

ANCA have also stated in a number of pre-planning meetings with the daa in relation to planning application F20A/0668, that the 32m passenger cap is an Operating Restriction.

In conclusion, the pre-planning meeting minutes show unequivocal evidence that ANCA deem the 32m passenger cap as an Operating Restriction under EU598/2014, and that the daa acknowledged this understanding.

The IAA's draft recommendation has serious consequences for this Operating Restriction, and this has not been factored into the draft recommendation. ANCA has exclusive competency over Operating Restrictions and the IAA cannot interfere.