



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

TO IAA'S DRAFT S26 DECISION

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EXECUTIVE SUMMARY

- It is imperative that no additional slots are allocated until the stay is lifted and full clarity is restored.
- An Coimisiun Pleanála have issued a final decision on the Relevant Action planning application (F20A/0668) and recommended a nighttime aircraft movement limit of 35,672 movements per year. The IAA should ensure that this limit is not exceeded as airlines will claim historical rights to all slots granted.
- Dublin Airport breached the 32m cap in 2019, 2023, and again in 2024 with 34.6m passengers. The daa are predicting in excess of 36m passengers in 2025. The IAA are complicit in breaching this planning condition.
- 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 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 IAA have no jurisdiction on Operating Restrictions.
- 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 S26 Coordination Parameters

I.1 Introduction

This submission is in response to the IAA's Draft Decision on Summer 2026 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.

The St Margarets The Ward Residents Group commissioned an economic report from PMCA Consulting on the health costs of aircraft noise at Dublin Airport. The report outlined costs totalling almost €800 million in 2023.

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I.2 High Court Decisions / Enforcement Notice

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.

The most relevant section of this judgement for this draft decision 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 a the 32mppa conditions. **It must be emphasised that the 32mppa conditions are not the subject of challenge in these proceedings.***

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

In section 66 Judge O'Donnell 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.

However, since this judgement, Fingal County Council issued the daa with an enforcement notice, PENF/0122/2025, dated the 18th of June. Correspondence received from Fingal County Council stated:

"I wish to advise you that in response to complaints received about alleged exceedance/breach of the 32 million per annum passenger capacity restriction at Dublin

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Airport, contrary to Condition No.3 of Planning Permission F06A/1248 (PL 06F.220670) and Condition No.2 of Planning Permission of F06A/1843 (PL 06F.223469), the Planning Authority has carried out an investigation under Section 153 of the Planning and Development Act 2000 (as amended).

Further to this investigation, the Planning Authority has made a decision to serve a Planning Enforcement Notice, in accordance with Section 154 of the Planning and Development Act 2000 (as amended), and issued an Enforcement Notice, dated 18th June 2025, requiring the daa to conform with Condition No.3 of Planning Permission F06A/1248 (PL 06F.220670) and Condition No.2 of Planning Permission of F06A/1843 (PL 06F.223469) within two years of the date of the Notice, so that the combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum."

It is clear that the daa are carrying out unauthorised development and this has been facilitated by the actions of the IAA.

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***

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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.

As a result, Fingal County Council were not impacted in pursuing their enforcement on the 32m passenger cap.

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I.3 Slot issuance

In the context of the ongoing S26 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 S26 changes allow for an increase of 25 in the total daily limits. 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

Fingal County Council also issued an enforcement notice regarding the breach of Condition 5 of the North Runway's planning permission. PENF/0133/2023 was issued on the 28th of July 2023. The daa have gone to the High Court (2023 916 JR) on this enforcement and the proceedings are awaiting a final decision on the Relevant Action planning application. An Coimisiun Pleanála published a final decision in July, but this decision is the subject of 3 separate Judicial Review Proceedings. As these actions will lead to further delays, it is unclear how this High Court action will progress, and the IAA should have a plan B in place if a decision is made to respect Condition 5.

Section 3.26 of the IAA's Draft Decision states that An Coimisiun Pleanála's first and third conditions are new operating restrictions which have not been introduced in time for the S26 declaration. The first condition relates to Condition 5 of 2007. If these new operating restrictions are not in effect for S26 then the existing operating restrictions are in force and should be complied with.

3.0 Environmental Impacts / Climate Change

3.1 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.

4.0 Operating Restriction

4.1 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.

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 have no legal jurisdiction.