



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

***TO IAA'S DRAFT S25 DECISION***

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## EXECUTIVE SUMMARY

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The main points outlined in this submission are:

- The IAA's draft decision allocates 25.2m passengers for the S25 season. This would result in a total seat capacity of 39.6m for the entire W24 and S25 period. Allowing for loading factors of 81% and 86%, the IAA's draft determination still facilitates the breaching of the 32m passenger cap.
- 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 erroneously excluded 4.3% of passengers, contrary to the clear advice of Fingal County Council and An Bord Pleanála.
- Dublin Airport breached the 32m cap in 2019 and again in 2023, according to their own figures and the figures from the Dept of Transport.
- Dublin Airport has publicly stated that they are on course to breach the 32m cap even further in 2024
- The daa are taking Judicial Review proceedings against the IAA for the over allocation of slots, leading to a breach of the 32m cap.
- The IAA have not provided the historical planning evidence on the passenger cap in their draft decision. It is unclear if the IAA made the coordination committee aware of the planning history and specifically the views of An Bord Pleanála and Fingal County Council.
- ABP ruled in 2018 that the request from the daa to add '*origin-destination*' to the planning condition would be material in planning terms and refused its approval by way of a S146(A) notice.
- In the S146(A) the daa clearly showed how they interpreted the planning condition and that it applied to **ALL** passengers as per the International Aviation Convention.
- In 2019 the daa applied to increase passenger numbers from 32 to 35m but withdrew the application in 2020.
- In pre-planning meetings between the daa, Fingal County Council and ANCA, very clear advice from the Planning & Strategic Infrastructure Dept is provided that the 32m mppa is

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considered to be a **cumulative, annual figure comprising all passengers using (traveling to, through and from) Dublin Airport**. There is to be no differentiation between different types of passengers.

- Fingal County Council have made it very clear in their request for further information for the Infrastructure Application (F23A/0781) that they agree with the CSO's reporting mechanism on passenger numbers, and no adjustments should be made.
- The daa's own passenger numbers show they breached the cap, but they have tried to deliberately mislead by counting transfer passengers only once and excluding transit passengers.
- The 32m cap is an Operating Restriction under EU598/2014 regulations and therefore ANCA should be contacted for opinion and how the IAA's actions could affect this Operating Restriction. Any impact on an Operating Restriction requires a Regulatory Decision by ANCA under the Aircraft Noise (Dublin Airport) Regulations Act.

## **I.0 Draft Decision on S25 Coordination Parameters**

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### **I.1 Introduction**

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

We note the proposal from the daa to implement a seat capacity of 25.2 million seats for the S25 season. We welcome the opportunity to comment on this proposal and provide evidence that while the intentions of the daa may be correct, the reality is that this proposal will once again facilitate a breach of the 32m passenger cap at Dublin Airport. It is not acceptable that a State Body knowingly facilitates a breach of a planning condition imposed by An Bord Pleanála. The IAA has a duty to respect planning conditions and has not performed its duty to ensure such a breach is not breached again.

### 1.2 Legislation

It is noted that the IAA have the power to determine the coordination parameters and whether to approve Local Guidelines proposed by the Coordination Committee. We note in section 2.6 of the draft decision that the IAA tends towards a maximal rather than minimal approach as regards capacity parameters. We wish to refer to the definition of '*coordination parameters*' as defined in the Slot Regulation:

*“‘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;”*

It is very clear that Dublin Airport has operational and environmental factors affecting its performance. The IAA must respect these factors and Irish Planning Law and not cherry pick parts of the Slot Regulation to suit its narrative.

The onus is on the IAA to identify the '*established capacity*'. We note that the IAA have not made a rigorous attempt to establish the capacity requirements at Dublin Airport within the planning condition boundaries and have left it to the daa and coordination committee to interpret the planning conditions.

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## I.3 Relevant Constraint

We agree with the IAA's decision that a seasonal seat cap should be imposed. In section 4.20 it states that:

*"We therefore conclude that, in all of the circumstances, having considered all the materials and information available to us, and noting the absence of any alternative proposals, it is appropriate to take account of the 32m ppa Conditions for S25 by means of a seasonal seat cap of 25.2m seats."*

Section 4.19 outlines how the figure of 25.2m was derived at. It is based on an assumed load factor of 86% with 4.3% of total airport passengers not using the capacity of Terminals 1 or 2, and assuming a passenger volume of 21.67m.

From section 4.12 of the W24 declaration, the IAA used a Load Factor of 81%. Also 4.8% of passengers were deemed to not use the capacity of Terminal 1 or 2. 34.7% was assigned to W24.

Assuming a 34.7% contribution of seats in W24 and a cap of 32m passengers, then a maximum of 11.104m passengers could be catered for at Dublin Airport for W24. Assuming a load factor of 81% then 13.71m seats could be made available.

Assuming a 65.3% contribution of seats in S25 and a cap of 32m passengers, then a maximum of 20.896m passengers could be catered for at Dublin Airport for S25. Assuming a load factor of 86% then 24.297m seats could be made available.

So, for the total W24 and S25 seasons, the IAA should be allocating a maximum of 38m seats. Unfortunately, the IAA has allocated 39.6m (14.4 + 25.2) seats which is 1.6m of an over allocation. This will inevitably lead to a breach of the 32m passenger cap.

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

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### **2.1 Condition 5**

In section 3.25 of the IAA's report 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 11<sup>th</sup> of September, An Bord Pleanála published a draft recommendation to grant permission for the Relevant Action planning application, as approved by Fingal County Council, subject to the inclusion of an aircraft movement restriction and additional insulation criteria to protect communities impacted by aircraft.

In section 3.26 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 will stand.

In section 2.9 it is stated that in Dublin Airport's proposal, no changes were considered between 2200z and 0600z. Given the draft decision by An Bord Pleanála, the daa need to revise their proposal and the IAA need to adjust the R60 limits. Therefore, the comments in section 3.26, that no changes to the R60 limits in the night hours, need to be revised.



### 3.0 Passenger Numbers

#### 3.1 Daa’s Passenger Numbers

On the daa’s corporate website, a section is devoted to ‘*Investor Relations*’:

<https://www.daa.ie/media-centre/investor-relations-2/>.

At the bottom of this section, passenger statistics are provided on a monthly basis:

**Passenger Statistics**

- [Passenger Statistics January, 2024](#)
- [Passenger Statistics February, 2024](#)
- [Passenger Statistics March, 2024](#)
- [Passenger Statistics April, 2024](#)
- [Passenger Statistics May, 2024](#)
- [Passenger Statistics June, 2024](#)
- [Passenger Statistics July, 2024](#)
- [Passenger Statistics August, 2024](#)

**2023 Passenger Statistics**

All the monthly passenger figures for 2023 can be accessed by clicking on ‘*2023 Passenger Statistics*’:



- [Passenger Statistics December, 2023](#)
- [Passenger Statistics November, 2023](#)
- [Passenger Statistics October, 2023](#)
- [Passenger Statistics September, 2023](#)
- [Passenger Statistics August, 2023](#)
- [Passenger Statistics July, 2023](#)
- [Passenger Statistics June, 2023](#)
- [Passenger Statistics May, 2023](#)
- [Passenger Statistics April, 2023](#)
- [Passenger Statistics March, 2023](#)
- [Passenger Statistics February, 2023](#)
- [Passenger Statistics January, 2023](#)

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Clicking on 'Passenger Statistics December, 2023' reveals not only the December 2023 figures but also includes the cumulative Year To Date (YTD) passenger figures:

Dublin Airport - December 2023 Statistics						
Region	Dec 2023	Dec 2022	% Change	YTD 2023	YTD 2022	% Change
Domestic	13,574	11,102	22%	156,570	128,549	22%
Great Britain	805,762	707,981	14%	9,518,467	7,778,809	22%
Rest of Europe	1,244,714	1,160,602	7%	18,672,355	15,980,480	17%
Transatlantic	254,897	238,231	7%	3,906,259	3,248,198	20%
Other International	86,862	72,066	21%	1,019,354	674,346	51%
Transit	632	19,226	-97%	249,589	275,180	-9%
<b>Total Passengers</b>	<b>2,406,441</b>	<b>2,209,208</b>	<b>9%</b>	<b>33,522,594</b>	<b>28,085,562</b>	<b>19%</b>
Commercial ATM's	17,321	16,378	6%	233,162	202,773	15%

The figures show that Dublin Airport handled 33,522,594 passengers in 2023, which is a clear breach of the 32mppa planning condition.

The August 2024 statistics show a further increase in passenger numbers of 4% compared to 2023:

Dublin Airport - August 2024 Statistics						
Region	Aug 2024	Aug 2023	% Change	YTD 2024	YTD 2023	% Change
Domestic	18,355	16,921	8%	121,507	101,803	19%
Great Britain	926,501	901,500	3%	6,588,950	6,359,523	4%
Rest of Europe	2,071,746	1,959,595	6%	13,338,573	12,735,485	5%
Transatlantic	499,418	442,426	13%	2,834,675	2,630,682	8%
Other International	118,088	101,619	16%	773,352	675,528	14%
Transit	1,020	34,150	-97%	4,142	199,736	-98%
<b>Total Passengers</b>	<b>3,635,128</b>	<b>3,456,211</b>	<b>5%</b>	<b>23,661,199</b>	<b>22,702,757</b>	<b>4%</b>
Commercial ATM's	23,090	22,167	4%	160,311	155,974	3%

The daa have had plenty of advance notice of these inevitable breaches and were served with enforcement warnings by Fingal County Council.

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On January 24<sup>th</sup> the daa published figures for December 2023 and total figures for the whole of 2023:

<https://www.dublinairport.com/latest-news/2024/01/24/almost-32-million-through-dublin-airport-s-terminals-in-2023>

2023 In Numbers	
Passengers Through Terminals	31,908,471
Connecting Passengers	1,081,800*
Other Passengers	532,222**
Number of Flights	241,595

*\* This 1,081,800 figure represents the number of people who connected through the terminals at Dublin Airport (counted once); one person equals one passenger, as opposed to a double count of such people (as they take two flights (1 arriving and 1 departing) for aviation reporting purposes.*

*\*\* Passengers that did not use the terminals include Transit passengers who do not exit the plane when landing at Dublin Airport, and other categories such as Search and Rescue and Air Ambulance.*

It is clear from the above description that the figure of 31,908,471 only includes 1,081,800 connecting passengers when in fact that figure should be doubled in line with International Aviation Convention. The daa cite the International Aviation Convention in their letter to An Bord Pleanála on June 28<sup>th</sup>, 2018, when the daa sought a section 146 (A) request to amend the 32mppa cap to be applicable to origin-destination passengers only:

<https://planningapi.agileapplications.ie/api/application/document/FG/634827>

In the letter by the Group Head of Planning, Ms Yvonne Dalton, she states:

***“In line with International Aviation Convention such passengers are counted twice, once as an arriving passenger, and secondly as a departing passenger even though it is a single person travelling through the airport. For example, 1,000 transfer passengers is actually 500 people travelling through the airport.”***

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So, the 1,081,800 figure is actual people and this equates to 2,163,600 transfer passengers.

The ‘*Other Passengers*’ category includes transit passengers and search and rescue and air ambulance passengers and their figure of 532,222 has also not been included in the headline figure of 31,908,471.

This reporting is flawed and inconsistent with the normal reporting of passenger numbers to their investors and to the CSO and Department of Transport.

**It can only be construed that this is a deliberate attempt to mislead the Planning Authorities and the Irish public.**

**It is imperative that the IAA is not playing a significant role to facilitate the daa with this deliberate breach.**

On the Dublin Airport webpage, the daa gave ‘*massaged*’ figures for 2023 - <https://www.dublinairport.com/latest-news/2024/01/24/almost-32-million-through-dublin-airport-s-terminals-in-2023>:

2023 In Numbers	
Passengers Through Terminals	31,908,471
Connecting Passengers	1,081,800*
Other Passengers	532,222**

The total figure for 2023 is given as 31,908,471 passengers. They deliberately use the term ‘*Passenger Through Terminals*’ to attempt to lower the number used by the International Aviation Convention.

They also list connecting passengers but count them singly in the total figures. The International Aviation Convention definition of passengers counts transfer passengers as both an arrival and a departing passenger. Therefore, an additional 1,081,800 passengers need to be added to the total figures. Also, the ‘*Other Passengers*’ are excluded. Therefore, the total figure for December in line with the International Aviation Convention is **33.522m.** as per the figures provided on the daa’s Investor webpage.

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There is undisputed proof based on pre-planning guidance given by Fingal County Council's Planning & Infrastructure Department to the daa in February 2020, and the decision by ABP in relation to the section 146 (A) request and the daa's own interpretation of the International Aviation Convention on passenger numbers, that the daa knowingly and deliberately handled over 33.522 million passengers in 2023.

Enforcement Complaints have been sent to Fingal County and investigations are currently ongoing,

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### 3.2 Department of Transport – State Airport Statistics

The Department of Transport released 2023 aviation passenger numbers:

<https://www.gov.ie/pdf/?file=https://assets.gov.ie/295870/3ecfe192-3b13-4451-a590-a6a1a63ddc8e.pdf#page=null>

Table 1 shows the passenger numbers at Dublin Airport for 2022 and 2023:

Dublin Monthly Passenger Traffic	2022	2023	% Change
Jan	991,518	2,117,352	114
Feb	1,327,953	2,059,123	55
Mar	1,859,976	2,482,617	33
Apr	2,392,124	2,834,472	18
May	2,604,252	3,049,800	17
Jun	2,850,267	3,244,576	14
Jul	3,067,527	3,458,606	13
Aug	3,076,083	3,456,211	12
Sep	2,782,360	3,112,385	12
Oct	2,713,345	3,001,295	11
Nov	2,210,949	2,299,716	4
Dec	2,209,208	2,406,441	9
YTD	28,085,562	33,522,594	19

**Table 1: Passenger traffic at Dublin Airport 2022 and 2023.**

This again is clear evidence that Dublin Airport has breached its 32m cap and this could only have happened with the IAA's cooperation in assigning sufficient slots above the cap.

## **4.0 Operating Restriction**

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### **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.

In a meeting on February 5<sup>th</sup>, 2020, the minutes of the meetings from ANCA clearly state that it's ANCA's position that the **32m cap is an Operating Restriction**:

<https://planningapi.agileapplications.ie/api/application/document/FG/707690>

It was highlighted that each application will require a noise assessment and the timescale of possible regulatory processes needs to be carefully thought through as it is the position of ANCA that there are 3 Operating Restrictions:

1. Condition No. 3 of F04A/1755 (PL 06F.217429) North Runway Permission.
2. Condition No. 5 of F04A/1755 (PL 06F.217429) North Runway Permission.
3. 32 MPPA Passenger Cap on Terminal, 2 Condition No. 3 of F06/1248 (06F.220670) & Terminal 1 Extension, Condition No. 2 of F06A/ 1843 (06F.223469)

ANCA advised that it must consider all Operating Restrictions *as part of the EU 598 Balanced Approach process*.



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The minutes from the P&SI Department of the same meeting also state that ANCA is of the opinion that the **32m cap is an Operating Restriction** under EU598/2014:

<https://planningapi.agileapplications.ie/api/application/document/FG/733927>

- Discussion of procedural implications for the making of the planning applications and the content of same, following ANCA comment that in its opinion, the 32mppa cap included for in Condition 3 of F06A/1248 (PL 06F 220670) and Condition 2 of F06A/1843 (PL 06F 223469) is an operating restriction as per the Regulation Act, 2019.
- As daa plc representatives did not necessarily agree with that interpretation and referred to legal opinion they have stating such, there is agreement that a further Section 247 pre planning consultation would take place following the applicant's consideration of the implications of the 32mppa cap being an operating restriction.

In another pre-planning meeting on February 14<sup>th</sup>, 2020, it was re-iterated in the ANCA minutes that their opinion is that there are 3 Operating Restrictions:

<https://planningapi.agileapplications.ie/api/application/document/FG/733840>

It was re-iterated as per the meeting on February 5<sup>th</sup> that each application will require an assessment under the Act and Regulations and the timescale of possible regulatory processes needs to be carefully thought through as it is the position of ANCA that there are 3 Operating Restrictions.

The minutes from the P&SI Department of the same meeting show that the P&SI Department questions whether the 32m passenger cap application should be applied under section 34C of the Planning Act:

<https://planningapi.agileapplications.ie/api/application/document/FG/733841>

- The P&SI Dept requests that consideration be given to the planning implications that arise if the ANCA continues to consider the 32mppa passenger cap as an operating restriction and would be reviewing same as part of any EU Regulation 598 process. For example, whether:
  - It would be necessary to apply for permission to amend/ revoke Condition 3 of F06A/1843 and Condition 2 of F06A/1248.
  - That would be part of the intended S34C application (i.e. relating to Conditions 3d and 5 of F04A/1755).
  - The approach taken by the applicant should be as broad as possible to ensure correct procedure, transparency and third-party involvement.



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In a meeting on February 25<sup>th</sup>, 2020, the minutes from the P&SI Department show that they advised the daa that for enforcement purposes, they don't make any differentiation between passenger types:

<https://planningapi.agileapplications.ie/api/application/document/FG/737676>

- Discussion on the interpretation of the 32mppa passenger capacity cap with regard to types of passengers, in particular the transfer/ transit passengers.
- The P&SI Dept advises the applicant that, with reference to ABP decisions and known international, European and national methods of counting passengers at airports, the 32mppa passenger cap included in Condition 3 of F06A/1248 (PL 06F 220670) and Condition 2 of F06A/1843 (PL 06F 223469) is considered to be a cumulative, annual figure comprising all passengers using (traveling to, through and from) Dublin Airport.
- The P&SI Dept advises the applicant that as the 32mppa cap is considered to be all inclusive figure, it is not considered possible/ practical for planning assessment and subsequent enforcement purposes, to make any differentiation between different types of passengers.

And in a meeting on September 16<sup>th</sup>, 2020, the daa presented a slide where they acknowledge that **ANCA deem the 32m cap an Operating Restriction:**

<https://planningapi.agileapplications.ie/api/application/document/FG/735166>

### Operating Restrictions at Dublin

#### North Runway planning permission

- Condition 3d: No use of North Runway at night (2300 to 0700)
- Condition 5: 65 movement cap at night averaged over 92-day modelling period
- Condition 4: Crosswind runway essential use only

#### T2/T1X planning permissions

- Condition 2: 32mppa cap is deemed an OR by ANCA

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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, and that the Planning Authority included all passenger types for enforcement purposes.

It is imperative that the IAA seek immediate guidance from ANCA as the IAA's actions will affect an Operating Restriction at Dublin Airport under ANCA's remit.

## **5.0 Planning History**

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### **5.0 Introduction**

This Chapter summarises the various planning decisions to date related to the 32m cap.

### 5.2 History of 32m passenger cap

Both Condition 3 of An Bord Pleanála Ref. **PL06F.220670** (Multiple infrastructure permission including Terminal 2) and Condition 2 of An Bord Pleanála Ref. **PL06F.223469** (Extension to Terminal 1) provide for a combined terminal passenger capacity of 32 mppa.

**Condition 3:** *The combined capacity of Terminal 2 as permitted with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.*

*Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.*

**Condition 2:** *The combined capacity of Terminal 1 (including the extension authorised by this grant of permission) and Terminal 2 granted permission under planning register reference number F06A/1248 (An Bord Pleanála appeal reference number PL 06F.220670) shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.*

*Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.*

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### 5.3 2018 – SI46A (ABP ref PL06F.22067)

In 2018, the Dublin Airport Authority made a request to An Bord Pleanála under S.146A to amend the wording of Condition no. 3 (**PL06F.220670**) to remove connecting passengers from the scope of the condition. The amended wording sought to include the words highlighted in bold as follows:

*3. The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million **origin-destination** passengers per annum unless otherwise authorised by a further grant of planning permission.*

The daa's letter can be viewed at:

<https://planningapi.agileapplications.ie/api/application/document/FG/634827>

In the letter from the daa, they elaborate on passenger types:

#### **Clarification of Passengers Types**

~~For much of its history Dublin Airport operated as primarily an origin-destination airport. This means that Dublin was either the departing or arriving destination for most passengers. At the time of the grant of the T2 planning permission, 99% of passengers were origin-destination passengers.~~

Connecting passengers are passengers who may travel through Dublin Airport, but Dublin is not their final destination.

The vast majority of connecting passengers are transfer passengers. They may arrive into Dublin on one aircraft and switch aircraft to complete the second leg of their journey towards their final destination. These passengers remain airside, and have no impact on transportation requirements at the airport. In line with international aviation convention such passengers are counted twice, once as an arriving passenger, and secondly as a departing passenger even though it is a single person travelling through the airport. For example, 1,000 transfer passengers is actually 500 people travelling through the airport.

A second type of connecting passenger is a transit passenger. A small number of aircraft stop at Dublin Airport for technical reasons including to refuel. Passengers on these flights are counted as transiting through the airport although they do not generally use the terminal buildings as they remain on the aircraft during the transit stop. It is much clearer that condition no. 3 doesn't apply to such passengers, however we include them for overall context.

Transfer and transit (collectively referred to as connecting passengers) do not impact the transportation network. An airport that facilitates connecting passengers may be referred to as a hub airport.

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This line is extremely relevant:

***“In line with international aviation convention such passengers are counted twice, once as an arriving passenger and secondly as a departing passenger eg. 1000 transfer passengers are actually 500 people travelling through the airport.”***

Therefore, the daa clearly acknowledged their interpretation that, in line with International Aviation Convention, transfer passengers are counted twice.

ABP's Direction of August 2018 stated:

*"It is considered that the alteration sought would be material in planning terms, and cannot, therefore be considered under S.146A of the Act. The Board considered that the proposed alteration would enable greater throughput of overall passenger numbers through the airport. This greater level of activity would have material planning consequences (in terms of movement and access to the airport, airport capacity, and also in relation to planning policy relation to the airport) and would go beyond what was permitted in the permission granted."*

The decision on the S.146A application confirms that the limit of 32mmpa applies to **any** passenger type in the terminal buildings.

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### 5.4 2019 – FS5/036/19 (ABP-305458-19)

In September 2019, the daa made an application to Fingal County Council seeking a declaration under section 5 (FS5/036/19) on whether development is or is not exempted development. The development consisted of the following:

*“Three questions in relation to the use by passengers of the airport in excess of 32 million passengers per annum.*

*(a) Is the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa and if so, is it exempt development?*

*(b) Is the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) constitute 'development' if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa?*

*(c) Currently a connecting passenger using Dublin Airport is double counted, as both an arriving and department passenger (for the purpose of aviation security measures). If a connecting passenger is counted singly for the purposes of planning, is this development, and if so, is it exempt development?”*

The decision by Fingal County Council was to refer it to An Bord Pleanala.

The question to ABP was whether the 3 questions in FS5/036/19 in relation to the use of in excess of 32mppa is or is not development or is or is not exempted development

ABP's Inspector stated in their report:

*"Use of the "airport" by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa), if those connecting passengers are facilitated by the Pier 4 passenger transfer facility and the combined capacity of the facility together with Terminal 2 as permitted and Terminal 1 would exceed 32 mppa, would contravene condition no. 3 of PL06F.220670, and is therefore not exempted development."*

Therefore, the Board's inspector's view was that the use of the airport by 3 million connecting passengers was not exempted development and that use of the Pier 4 passenger transfer facility was to be included in the calculation.

## SUBMISSION ON BEHALF OF THE ST MARGARET'S THE WARD RESIDENTS GROUP

### 5.5 2019 – (F19A/0449)

The daa previously breached the passenger cap in 2019 and so have already carried out unauthorised development at Dublin Airport. Even though this breach was reported to Fingal County Council, no follow up action was taken.

Here is the press release from the daa's website where they openly boast about the numbers :

<https://www.dublinairport.com/latest-news/2020/01/29/dublin-airport-welcomed-32.9m-passengers-in-2019>

***“Dublin Airport welcomed a total of 32.9 million passengers during 2019, setting a new record for traffic at the airport”.***

It should be noted that in September 2019, the daa submitted a planning application (F19A/0449) to increase passenger numbers from 32mppa to 35mppa. However, they withdrew the application in June 2020. There has been no attempt since then to apply for planning permission to increase passenger numbers beyond 32m until the Infrastructure Application was submitted on December 15<sup>th</sup> 2023.



## SUBMISSION ON BEHALF OF THE ST MARGARET'S THE WARD RESIDENTS GROUP

### 5.6 Pre-planning Document, 2020

In a pre-planning document dated February 25<sup>th</sup>, 2020 (reference Number: PPC 106276 & PPC 106336) between the daa, ANCA and the Planning Authority a discussion arose in relation to the interpretation of the 32mppa cap with regard to passenger types:

- Discussion on the interpretation of the 32mppa passenger capacity cap with regard to types of passengers, in particular the transfer/ transit passengers.
- The P&SI Dept advises the applicant that, with reference to ABP decisions and known international, European and national methods of counting passengers at airports, the 32mppa passenger cap included in Condition 3 of F06A/1248 (PL 06F 220670) and Condition 2 of F06A/1843 (PL 06F 223469) is considered to be a cumulative, annual figure comprising all passengers using (traveling to, through and from) Dublin Airport.
- The P&SI Dept advises the applicant that as the 32mppa cap is considered to be all inclusive figure, it is not considered possible/ practical for planning assessment and subsequent enforcement purposes, to make any differentiation between different types of passengers.

This is very clear advice from the Planning & Strategic Infrastructure Dept that the 32mppa is considered to be a cumulative, annual figure comprising all passengers using (traveling to, through and from) Dublin Airport. There is to be no differentiation between different types of passengers.

Therefore, the daa cannot now turn around and state that their interpretation excludes transit passengers and only counts transfer passengers singly as alluded to in this article:

<https://www.travelextra.ie/dublin-airport-on-course-hit-its-cap-of-32m-passengers-on-december-17/>

The daa knew back in February 2020 how the Planning Authority interpreted the 32mppa cap.

### 5.7 Infrastructure Application (F23A/0781), 2023

In December 2023, the daa submitted an Infrastructure Application to increase passenger numbers from 32m to 40m. Fingal County Council made a Request for Further Information on February 16<sup>th</sup> 2024. It is very clear from section 11.5 of that request that Fingal County Council fully understands the interpretation of the cap and how An Bord Pleanála has ruled on matters relating to the cap in the past. The report states:

*“The annual passenger threshold policy was intended to protect the future development potential of the airfield balanced development in advance of a decision regarding the division of terminals to serve and realise the full airfield capacity between the east and west of the airfield. This longstanding policy has evolved and current policy provision requires protection of all increased capacity options until such a time as the optimal development strategy is determined. See section of this report on aviation sector policy and Airport LAP for further detail.*

*The International Civil Aviation Organisation (ICAO) and the Airports Council International (ACI) provide a standardised form and definition of terms for airports to record their Annual Airport Traffic Statistics. A Reference Manual on Airport Statistic (latest edition 2017) is published by Eurostat to provide information/guidance to reporting countries. This reporting of passenger statistics provided by airport operators rests with the CSO in Ireland.”*

The report further states:

*“The Planning Authority are of the considered opinion that the CSO definitions and counting convention apply to the existing 32 mppa cap and the proposed 40mppa cap. For purpose of clarity the Planning Authority are of the opinion that where a passenger leaves the terminal to stay in what has/is being referred to as the permitted 'terminal hotel' regardless of onward journey they are no longer considered to fall within the transit passenger category for counting mppa for the purpose of planning permission (i.e. they are counted twice, once for arrival and once for departure).”*

Therefore, there is no ambiguity with the Planning Authority on how the cap should be interpreted. The IAA should consult with the Planning Authority, ANCA and ABP to ensure that the coordination committee are fully briefed on the planning interpretation. The IAA has a duty to ensure that they are not complicit in breaking planning laws.