



**Final Decision**  
**on Winter 2024 Coordination Parameters**  
**at Dublin Airport**

7 May 2024

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## 1. Executive Summary

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- 1.1 The IAA is responsible for declaring coordination parameters at coordinated Irish airports. In this paper, we set out our Final Decision on the Dublin Airport parameters for the Winter 24/25 ('W24') season, which runs from 27 October 2024 to 29 March 2025 inclusive.<sup>1</sup> The W24 coordination parameters are laid out in the appendix.
- 1.2 The Coordination Committee, comprising daa (the operator of Dublin Airport), AirNav Ireland (the Air Navigation Services Provider), and airlines operating at Dublin Airport, is required under Article 5 of the Slot Regulation to provide advice to the IAA on the coordination parameters to be declared in accordance with Article 6. The majority advice, driven by the votes of airlines, is to not implement any capacity parameter associated with certain planning conditions relating to the annual capacity of terminals 1 and 2 at Dublin Airport, while also to '*consider*' increases to the runway parameters, subject to modelling and further engagement with the Coordination Committee.
- 1.3 To appropriately take account of these planning conditions, we have decided to implement a seat capacity limit of 14.4 million seats for the W24 season. Other parameters are unchanged relative to the Winter 23/24 season ('W23'). Thus, this Final Decision remains in line with our proposals from the Draft Decision.
- 1.4 We received approximately 70 responses, which focus almost entirely on the proposed seasonal seat cap. These responses took different views on the proposal:
- Airlines generally consider that the planning conditions are not a relevant constraint, in principle and/or specifically for the W24 coordination parameters, and, without prejudice to that position, that we estimated the associated seat cap parameter on an overly conservative basis.
  - Local residents generally consider that the conditions are a relevant constraint, but that we estimated the associated seat cap parameter on an overly generous basis.
  - daa states that the limiting constraint established by the planning conditions must be reflected in the coordination parameters, but without providing a proposal as to how that should be done.
- 1.5 We have carefully considered the responses received, as reflected in this document, but ultimately not been persuaded to make any adjustment relative to our Draft Decision for the reasons we explain below.

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<sup>1</sup> As per the worldwide slot calendar: <https://www.iata.org/contentassets/4ede2aabfcc14a55919e468054d714fe/calendar-coordination-activities.pdf>

## 2. Background

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### Legislation

- 2.1 Section 8(1) of the Aviation Regulation Act, 2001, as amended, provides that the IAA is the competent authority in Ireland for the purposes of Council Regulation (EEC) No. 95/93, as amended ('the Slot Regulation'). The IAA is therefore responsible for:
- The designation of the Coordination status of Irish airports.
  - Appointing a qualified schedules facilitator or coordinator, as appropriate, at airports which have been designated as Schedules Facilitated or Coordinated.
  - The determination of coordination parameters at Coordinated airports in line with Article 6 of the Slot Regulation, taking account of relevant technical, operational and environmental constraints as well as any changes thereto.
  - Deciding whether to approve Local Guidelines proposed by the Coordination Committee.
- 2.2 Dublin Airport is designated as Coordinated by the IAA. Airport Coordination Limited (ACL) is the appointed coordinator.
- 2.3 Under Article 5 of the Slot Regulation, one of the roles of the Coordination Committee is to advise the IAA on the coordination parameters to be determined in accordance with Article 6. The IAA attends Coordination Committee meetings as an observer.
- 2.4 Article 6(1) states that the determination of the parameters '*shall be based on an objective analysis of the possibilities of accommodating the air traffic, taking into account the different types of traffic at the airport, the airspace congestion likely to occur during the coordination period and the capacity situation*'. Thus, the determination of the parameters is a forward-looking projection in which we take account of expected demand, capacity (including airspace capacity), and relevant constraining factors, during the relevant season, in an objective manner.
- 2.5 Article 6(3) of the Slot Regulation details the required interaction between the IAA and the Coordination Committee:
- 'The determination of the parameters and the methodology used as well as any changes thereto shall be discussed in detail within the coordination committee with a view to increasing the capacity and number of slots available for allocation, before a final decision on the parameters for slot allocation is taken. All relevant documents shall be made available on request to interested parties.'*
- 2.6 In that regard, when taking account of relevant constraints in issuing a capacity declaration, we tend towards a maximal rather than minimal approach as regards declaring the airport capacity parameters. This is because of the

requirement that discussion within the Coordination Committee is *‘with a view to increasing the capacity and number of slots available for allocation.’* This framing of the determination of the parameters is given further weight where a parameter is expected to have a constraining effect on demand, given that Article 6(1) requires the determination to be based on the *‘possibilities of accommodating the air traffic’*.

### *Coordination Committee Process for W24*

- 2.7 Ahead of the W24 season, the primary focus of the Coordination Committee was on how to take account of certain planning conditions relating to terminals 1 and 2 at Dublin Airport. Specifically, Condition 3 of the Terminal 2 planning permission F06A/1248 (PL 06F.220670), from 2007, states that:

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

- 2.8 Similarly, Condition 2 of a Terminal 1 extension planning permission (06F.223469 & F06A/1843), from 2008, states that:

*‘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 further grant of planning permission.’*

- 2.9 We will refer to these collectively as ‘the 32mppa Conditions’.

- 2.10 Subsequent to the last (Summer 2024) capacity declaration process, daa, as the owner of the planning permissions, and in an effort to ensure its compliance with the 32mppa Conditions, sought to propose a Local Guideline under Article 8(5) of the Slot Regulation, which would suspend the allocation of slots to ad hoc passenger operations. The Coordination Committee voted against this, and consequently it was not proposed to the IAA for assessment/approval. daa then sought the advice of the IAA as to how the slot allocation process might otherwise support daa’s efforts to comply with the 32mppa Conditions.

- 2.11 In a letter of 29th January 2024 to daa, we reiterated that the capacity declaration process itself, rather than local guidelines, might be the more appropriate mechanism to address this matter. We suggested that, if daa considered that additional measures or adjustments to forthcoming capacity declaration(s) might be necessary to take account of the 32mppa Conditions, daa should proceed without delay to consider what those measures or adjustments might be, and engage with the Coordination Committee as soon as practicable. The IAA confirmed its willingness to discuss with daa any measures or adjustments it might have been considering in that regard.

- 2.12 We also confirmed our understanding that, in light of the 32mppa Conditions, and unlike previous seasons, daa would not make any other proposals to increase other capacity parameters, such as the runway parameters.

Consequently, we noted to the Coordination Committee Chair that the IAA would not carry out any simulation modelling ahead of W24, given the absence of any proposals for adjusted parameters for us to model.

- 2.13 Following our letter of 29 January, an Extraordinary General Meeting (EGM) of the Coordination Committee was called. The Coordination Committee decided at that EGM to establish a sub-committee to evaluate the options as regards taking account of the 32mppa Conditions, and to propose processes for ensuring that capacity would continue to be allocated in a fair and transparent manner for W24 and beyond. This sub-committee was composed of representatives of daa, representatives of various airlines, and a mediator from the consultancy company Mott MacDonald, to facilitate the sub-committee discussions. The IAA attended as an observer, as it usually does at Coordination Committee meetings in advance of seasonal capacity declarations. The sub-committee met on 27 February, 5 March, 12 March, and 19 March to discuss the potential options to bring forward to the full Coordination Committee.
- 2.14 In the first sub-committee meeting on 27 February, a range of potential options was outlined. These options were further refined and expanded upon in subsequent sub-Committee meetings. The W24 pre-meeting of the full Coordination Committee then took place on 25 March. daa provided an overview of the actual W23 operational performance, infrastructural capacity enhancements coming on-stream for the W24 season, and an update on planning conditions. The set of refined potential measures identified by the sub-Committee were also presented for consideration by the full Coordination Committee. It should be noted that the below table does not represent any agreed positions of the sub-committee members, but rather summarises the various views expressed by various members.

**Table 2.1: Potential Measures Considered by the Sub-Committee**

Measure	Impact
1. Do not declare new hourly runway slots and/or terminal limits in the seasonal capacity declaration. <ul style="list-style-type: none"> <li>- However, with the new runway, should not withhold hourly capacity increases in W24 declaration.</li> </ul>	Will not prevent further growth over 32 mppa level.
2. Declare a new seasonal ATM and/or Seat Cap capacity limit. <ul style="list-style-type: none"> <li>- Set limit to accommodate historic slots – new allocations would be limited by the seasonal limit.</li> <li>- Should focus on managing seat capacity growth rather than movements.</li> </ul>	Would limit further growth from W24.
3. Request voluntary flight cancellations and/or passenger limits from airlines (to be considered JNUS). <ul style="list-style-type: none"> <li>- Reductions should not only apply in winter, as impacts too much on year-round operators.</li> <li>- Voluntary measures with JNUS protections is only option with broad airline support.*</li> </ul>	Could reduce towards the 32 mppa level.  For ACL to grant JNUS there would need to be mandated reductions, although voluntary reductions could be part of a mandatory scheme.
4. Mandatory pro-rata passenger reductions to be applied in a fair and non-discriminatory manner. <ul style="list-style-type: none"> <li>- Not supported by airlines – but if imposed, need reasonable notice period (eg, ~100 days minimum).</li> <li>- A “narrowest interpretation” of the passenger limit (eg, excluding all transfer passengers) should be applied to minimise/eliminate need for reductions.</li> </ul>	

Source: Coordination sub-Committee, views of members as summarised by the mediator.

\*JNUS refers to the concept of Justified Non Use of Slots, as provided for by the Slot Regulation.

- 2.15 As is apparent from Table 2.1 above, with the exception of the first measure which essentially involves rolling forward the W23 parameters to W24, these proposals were limited to broadly stated principles, as opposed to any specific proposals for new or amended coordination parameters. No specific proposals on measures 2 to 4 were forthcoming from any member. For example, in relation to the possibility of a seasonal seat cap, there was no proposal as to what seat cap should be set, and how it should operate. Nor was there a specific proposal regarding the mechanism or legal basis which could lead to, for example, ‘*mandatory pro-rata passenger reductions*’, nor any specific proposal made as to what these reductions would be or on what basis they would be pro-rated.
- 2.16 Discussions at the pre-meeting on 25 March showed a degree of uncertainty within the wider group as to the measures put forward by the sub-Committee. The interpretation of the 32mppa Conditions was disputed, with some members suggesting that the 32mppa Conditions should not be reflected as a capacity parameter until final clarification as to their meaning and effect is obtained from a court. Furthermore, some participants advocated for an increase in runway capacity for the W24 season, if modelling were to be carried out in support of

any such increases. Again, no specific proposals were made.

- 2.17 Given the disagreement on the range of measures put forward by the sub-Committee, a series of statements and questions, as set out in Table 2.2 below, was proposed for voting by the Coordination Committee at the final meeting on 28 March. Each member was asked to agree, disagree, or abstain. Point number 1 was proposed by an airline, and 2 to 6 were originally proposed by daa (with the wording then amended during the meeting).

**Table 2.2: Coordination Committee Voting Points**

Voting Points
1. Condition 3 is ambiguous and until it is clarified, it should not be considered in the W24/25 declaration.
2. Do you agree passenger growth should be paused for Winter 24/25 season?
3. To remain compliant with the adjusted terminal passenger limit of 32mppa, a new seasonal seat cap should be considered in W24/25.
4. Should historic rights to slots be honoured in full for W24/25?
5. Additional runway slots should be considered to make use of the dual runway capacity subject to modelling and further review by the Coordination Committee.
6. If reductions in passenger numbers are required to remain compliant with the adjusted terminal passenger limit of 32mppa, Summer 24 should also be considered for action.

Source: Coordination Committee

- 2.18 Clarification on point number 5 was sought by AirNav Ireland, as no assessment had been conducted in relation to adding additional runway capacity. While some members pointed to additional capacity potentially improving efficiency by allowing airlines to adjust slot times, daa pointed out that at the beginning of the W24 process, it had highlighted that additional capacity leading to a higher service level cannot be facilitated as Dublin Airport is no longer in a *'business-as-usual'* situation.
- 2.19 As is again apparent from Table 2.2, the Coordination Committee voted on a series of broad principles and objectives, which pertain to the determination of the coordination parameters but also variously to the role of the coordinator and other matters outside the scope of the W24 capacity declaration and/or more generally outside the scope of processes governed by the Slot Regulation. This marks a change from previous seasons where the Coordination Committee voted on a specific proposal or proposals for the capacity parameters originating from daa.

### Coordination Committee Vote

- 2.20 Coordination Committee members voted on the points outlined in Table 2.2. Voting rights for members are set out in the Coordination Committee constitution. A set number of votes are allocated to daa and AirNav Ireland, with



the rest allocated to airlines based on the number of movements flown at Dublin Airport in the preceding year. Only those who are present (online or in person) at the Coordination Committee can vote. We note that the voting process is an indicative part of the Coordination Committee's advice to the IAA, rather than the IAA being bound to follow the majority position. As part of the capacity declaration process, we take into account all positions set out by Coordination Committee members, as well as any associated comments or evidence relevant to the parameter declaration.

- 2.21 The results of the vote on the six points in Table 2.2 are outlined in the Appendix. The final advice letter sent to the IAA on 4 April 2024 was published alongside the Draft Decision.
- 2.22 The Coordination Committee members voted overwhelmingly (93%) in support of the proposition/view that Condition 3 is ambiguous, and should not be '*considered*' for the W24 declaration until it is clarified. daa and TUI were the only members who disagreed with this position. daa, in its written comments, accepts that it could be argued that Condition 3 is ambiguous, but states that this ambiguity is not a reason for the condition to be disregarded for the W24 declaration.
- 2.23 Most Coordination Committee members disagreed that '*passenger growth should be paused*' for W24, with just daa, Swiss and TUI voting in favour of this principle. Luxair, UPS and AirNav Ireland abstained. daa qualified its position by saying that passenger growth should be paused for W24 only if that is required to ensure compliance with the 32mppa Conditions, and claimed that it is for the IAA to determine whether this is the case.
- 2.24 The concept of '*considering*' a seasonal seat cap for W24 was rejected by most members of the Coordination Committee (92% of votes against it). daa voted in favour, but again said that it should be considered only if it is required to ensure compliance with the 32mppa Conditions, and that this is for the IAA to determine.
- 2.25 With just AirNav Ireland abstaining, all Coordination Committee members agreed that historic entitlements to slots should be '*honoured*' in full for W24, with daa noting that the appropriate granting of historic slots is in accordance with the Slot Regulation, but stating that the appropriate actions to comply with the 32mppa Conditions were for the IAA to determine.
- 2.26 All Coordination Committee members, apart from daa and TUI, then supported the consideration of additional runway capacity to make use of the dual parallel runways, subject to modelling and further review. Swiss commented that this capacity should only be viable for time shifts and not passenger services, while daa commented that additional runway slots should not be considered unless the IAA determines that these could be implemented without causing non-compliance with the 32mppa Conditions.
- 2.27 Finally, 50% of votes cast were in support of the concept that S24 '*would be considered for action*', if required, as opposed to a sole focus on winter. Aer Lingus, who voted in favour, provided an additional comment that it only

supports this option once all legal options have been exhausted. daa, who also supported the principle, commented that the re-opening of S24 should only be considered if required to ensure compliance with the 32mppa Conditions, and that this was, again, for the IAA to determine.

### 3. Airfield Coordination Parameters

- 3.1 This section addresses runway parameters and parking stand parameters.
- 3.2 No specific proposals were received from the Coordination Committee to alter runway parameters. We have decided to roll-forward the W23 runway parameters. That is, we retain the respective R60 limits and R10 limits for dual and single runway operations as per the W23 parameters.
- 3.3 We retain the stand parameter as a hard constraint. Where demand for stands exceeds supply as per the count in the appendix, movements are referred to daa for detailed assessment.

#### *Taxi Out times and On Time Performance (OTP) in Winter 2023*

- 3.4 At the Coordination Committee pre-meeting on 25 March, daa provided an update on outturn operational performance in W23 compared to W22.
- 3.5 On Time Performance (OTP) to the end of February has significantly improved in W23 compared to W22. This improvement has been observed across both arrivals and departures, with the most marked uplift occurring in December. Aircraft Rotation remains the most significant source of delay minutes.
- 3.6 Across the full day, average taxi-out times fell in W23 compared with the W22 season. Notably, taxi-out times to Runway 28R (the North Runway) decreased by one minute year-on-year, while taxi-out times to Runway 28L showed a decrease of 19 seconds. Average first wave taxi-out times to Runway 28L were also 19 seconds shorter in W23 compared with W22.
- 3.7 A number of airfield, terminal, and pier projects are expected to be available in whole or in part for the W24 season. These are shown in Table 3.1 below.

**Table 3.1: Major Projects Expected for W24**

Airfield Projects	Terminal/Pier Projects
Apron 5H	T2 Central Search Upgrade
Critical Taxiway North	T1 & T2 HBS
Foxtrot Inner Rehabilitation (Pier 1)	Campus Road/External Roads – Phase 2
South Perimeter Road	Pier 100 GSE EV charging
Runway 16/34 LVP	

Source: daa

#### *Responses to Draft Decision*

- 3.8 A number of individuals, along with St Margaret’s the Ward Residents Group, note their dissatisfaction with the rolling forward of the R60 limits for the night hours, given Condition 5 of the North Runway Planning Permission. daa also again states that we should ‘take account’ of it, but does not say how or on what basis.

### *Final Decision on Airfield Coordination Parameters*

- 3.9 Our Final Decision is to roll forward all airfield parameters from W23 to W24, while updating the stand count by apron area to align with that of S24.
- 3.10 In relation to Condition 5 of the North Runway planning permission, as stated previously, it is not for the IAA to determine the status of this condition. In recent capacity declarations, we have sought to take account of the potential constraining factor represented by Condition 5.<sup>2</sup> This condition gives rise to complex questions of planning law, EU law, and international law, and is currently the subject of High Court proceedings to which the IAA is a notice party. In August 2023, daa obtained leave to apply for judicial review of Fingal County Council's enforcement notice (issued on 28 July 2023) in relation to alleged non-compliance by daa with Condition 5. A stay on the enforcement notice was also granted. The hearing commenced before the High Court on 12 March. On 13 March, with the consent of all parties, the proceedings were adjourned to 24 June 2024, with a view to the Court being updated on that date in relation to An Bord Pleanála's decision regarding the introduction of a new noise quota count system to replace Condition 5. The stay on the enforcement notice remains in place.
- 3.11 Thus, with any clarification of this matter still pending, and consistent with each declaration since S22, we make no changes to the R60 limits in the night hours relative to those which were in place prior to completion of the North Runway. This again means that no runway capacity has been added between 2300 and 0700 local time since completion of construction of the North Runway, meaning that the North Runway cannot lead to more flights in this period than were previously possible under the single Runway 28L based capacity declaration.

### *Parking Stands*

- 3.12 We retain the hard constraint on stands, while updating the stand count to take account of any changes to stand availability in the various apron areas as since also reflected in the S24 capacity declaration.

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<sup>2</sup> See, in particular, section 3 of the S23 Declaration: [cp5-2022-final-decision-on-summer-2023-coordination-parametersf238415a-5893-4288-8556-8a4bb98220bf.pdf](https://www.iaa.ie/cp5-2022-final-decision-on-summer-2023-coordination-parametersf238415a-5893-4288-8556-8a4bb98220bf.pdf) (iaa.ie)

## 4. Terminal Building Coordination Parameters

- 4.1 We have decided to roll forward the W23 rolling hourly Passenger Terminal Buildings (PTB) limits, which are set out in Table 4.1, to the W24 season.
- 4.2 We maintain the peak hourly load factor assumptions of 85% for scheduled services, and 95% for charter services. We also maintain the referral parameters in relation to Terminal 2 check-in desks 1 to 28, and the US Preclearance facility, as per the W23 capacity declaration.

**Table 4.1: Proposed hourly Terminal Limits – W24**

	Departures	Arrivals
Terminal 1	3,700	3,550
Terminal 2	3,700	3,050

Source: IAA

- 4.3 To take account of the relevant constraint represented by the 32mppa Conditions, we also include a seasonal seat-cap-based capacity parameter for terminals 1 and 2, estimated so as to align with an annualised combined capacity limit of 32mppa.

### *Proposed Hourly Limits*

- 4.4 No proposal was made for any changes to the PTB hourly limits.

### *Proposed Referral Limits*

- 4.5 No proposal was made for any changes to the referral parameters in relation to Terminal 2 check-in desks or US Preclearance.

## Seasonal Terminal Seat Capacity Constraint – Draft Decision Overview

- 4.6 We noted in the Draft Decision that, while the majority advice of the Coordination Committee is that we should await further clarification on the precise meaning and effect of the 32mppa Conditions, daa, the owner of the relevant planning permissions, does not agree with this position. In that regard, while daa has submitted an application to Fingal County Council ('FCC') to increase this limitation to 40mppa, daa has now acknowledged that a final decision on this application is unlikely to be available in 2024 or 2025. We noted that, in 2023 and 2024 to-date, use of the existing capacity by airlines has also trended above the most recent forecasts of the IAA, of December 2022, and of daa (of November 2023).
- 4.7 We said that unlike Condition 5 of the North Runway Planning Permission, the 32mppa Conditions and/or their enforceability has not been challenged by daa, nor credibly challenged/disputed by another interested party. Further, and also unlike Condition 5, we said that we do not consider the 32mppa Conditions to be so vague and imprecise as to require a series of further judgements by the IAA as to their meaning and effect, in order to be reasonably converted into coordination parameters. In this case, there are a number of different, but

individually specific, interpretations available for the purpose of estimating seasonal capacity parameters.

- 4.8 As regards the current disagreement over the meaning and effect of the 32mppa Conditions, since our most recent (S24) capacity declaration, as part of a Request for Further Information dated 16 February 2024 in the context of daa's application to (amongst other things) increase the 32mppa limitation, FCC has provided an interpretation which appears to differ from that taken by daa over the last number of years. daa has subsequently, in March, provided a further response in support of its interpretation of how the annual terminal capacity should be assessed for the purposes of compliance with the 32mppa Conditions. Aer Lingus has, in correspondence to the IAA, put forward its own different interpretation. That interpretation is, in essence, that the 32mppa Conditions encompass only origin and destination passenger capacity. This interpretation has received the support of other airlines.
- 4.9 We noted that we have previously set out in detail (in the context of Condition 5 of the North Runway planning permission) that it is not for the IAA to decide on the precise meaning and effect of ambiguous or disputed planning conditions, or what constitutes a material deviation from such conditions.<sup>3</sup> The correct interpretation of a grant of planning permission is a matter of law to be determined by objective interpretation, and may ultimately be decided only by a court.
- 4.10 We said that we agree with daa that, for the purposes of the W24 capacity declaration, the existence of different possible interpretations of the 32mppa Conditions does not provide a basis not to reflect the constraint in the declared capacity at all. On any of the suggested interpretations, based on current data and traffic forecasts, an annualised capacity of 32mppa is likely to become a limiting constraint on demand by, at the latest, 2025. Thus, on any of the posited interpretations, we suggested that it appears to be necessary to reflect the limitation on capacity which is set out in the 32mppa Conditions in the capacity declaration for W24, a season which will conclude in March 2025.
- 4.11 We proposed not to follow the majority advice of the Coordination Committee, but rather to follow the position daa supported in the voting, and implement a seasonal seat cap for the W24 season. We agreed, in principle, with the view expressed by daa in relation to point 1 of the voting, as regards taking account of the 32mppa Conditions in the W24 declaration. However, we noted that, having proposed a Local Guideline and set out its view that passenger growth in the terminals needs to 'stall', daa, in its comments in the Coordination Committee advice letter, then suggested that it has no position on whether any particular measure is, or is not, warranted to assist it in achieving compliance with the 32mppa Conditions. We noted that daa has made no proposal on the specifics of any such measure.
- 4.12 In that context, we proposed our own estimate of an appropriate seat cap parameter for W24, based on an objective analysis of the possibilities of accommodating the air traffic, subject to the constraint on terminal capacity set

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<sup>3</sup> See S23 capacity decision, section 3.

out in the 32mppa Conditions. This was based on a seasonal average Load Factor for W24 in line with the outturn W23 Load Factor, at just under 81%. We proposed a seasonal split in line with the outturn split in passenger numbers between S23 and W23. This implies an allocation of the capacity limit to the winter season of 34.7%.<sup>4</sup> We assumed a similar proportion of passengers not using the capacity of Terminal 1 or Terminal 2 as was reported by daa for 2023 (4.8%), which gives a Passenger Air Traffic Movement (PATM) seat cap of 14,405,737 seats for the W24 season at Dublin Airport.

- 4.13 We explained that the proposed PATM seat parameter would be a seasonal limit applying to all passenger services using Terminal 1 or Terminal 2. An individual airline seasonal quota would not be applied. Rather, the total seasonal limit applies to all users. Slots returned will include the seats assigned to that slot at the time of return to the pool. These seats would be made available to other users, as long as the slot request does not exceed the PATM seat parameter.
- 4.14 We further explained that operations not using the passenger capacity of Terminal 1 or Terminal 2 would not be limited by the PATM seat cap. Most notably for the W24 season, this would mean that cargo and General Aviation (GA) operations would not be limited by it, in the latter case because they enter via gateposts or the Platinum Services terminal, rather than terminals 1 or 2. In the case of GA, we said that this will be kept under review for future seasons pending the outcome of the disagreement over the meaning and effect of the 32mppa Conditions. We noted that, in any event, the question is of limited materiality in the context of the volume of GA passengers, of which there were less than 18,000 in 2023.
- 4.15 We noted that we do not agree with certain claims made by daa in the Coordination Committee advice letter, most notably that *'it is a matter for the IAA to determine the appropriate actions to comply with the 32m annual passenger terminal cap'*, and various similar statements. The IAA is not responsible for the enforcement of, or compliance with, the 32mppa Conditions, nor for deciding how they ought to be interpreted. It is for daa, as the owner of the relevant planning permissions and as the entity proceeding with development in accordance with those permissions, to determine the appropriate actions to comply with conditions attached to those permissions.
- 4.16 In that regard, we noted that the wording of the 32mppa Conditions provides for a limitation on annual *'capacity'*. The IAA can declare limits on the terminal capacity accordingly, as we propose to do for W24, but this is not the same as determining the final result in terms of passenger throughput. The final result in terms of actual passenger throughput is not determined by the IAA, but rather is determined by the decisions of the airlines operating at Dublin Airport, who sell seats to passengers. We explained, for the avoidance of any potential doubt, that the IAA cannot *'ensure'* the delivery of any specific outturn passenger throughput number over a given year, if the 32mppa Conditions are to be interpreted to relate to outturn throughput, rather than capacity. In simple terms, the capacity determination process can control the number of aircraft

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<sup>4</sup> Both W23 and W24 are seasons of 153 day duration.

movements for which slots are allocated, but not how many passengers are on each of those aircraft.

## Responses to Draft Decision

4.17 The responses we received to the Draft Decision focused almost entirely on the proposed PATM seat cap parameter. We have considered all of these responses carefully. We address the following main points raised, which we have categorised by theme as follows:

- Whether the 32mppa Conditions should be considered as a relevant constraint to take account of for the W24 season.
- The roles, powers, and responsibilities of the various parties.
- The calculation and specifications of the proposed PATM seat cap parameter.
- The application/operation of the proposed PATM seat cap parameter.
- Other issues not directly related to the proposed seasonal PATM seat cap parameter for W24.

### Relevant Constraint for W24

4.18 Aer Lingus considers that the 32mppa Conditions are not a relevant constraint to be taken account of in determining the coordination parameters for W24, based on the following submissions:

- The IAA, in our submission of 29 January 2024 to FCC in respect of daa's infrastructure application,<sup>5</sup> stated that we considered it '*likely*' that the 32mppa Conditions would be a relevant constraint, indicating that we had not reached a decision on this point, which Aer Lingus claims to be inconsistent with our '*definitive position*' on that point in the Draft Decision for W24.
- Aer Lingus claims that we have not explained why we proposed to consider the 32mppa Conditions as a relevant constraint for W24, having not done so in previous scheduling seasons.
- There is a lack of clarity and different interpretations regarding what passengers are to be counted for the purposes of the 32mppa Conditions, and the distinction we drew relative to the uncertainty/ambiguity in respect of Condition 5 of the North Runway Planning Permission does not have merit.

4.19 The view of Aer Lingus is reiterated/supported in a number of other responses, from Iberia and Iberia Express, British Airways, Vueling, all of which are part of International Airlines Group (IAG), and also supported by IAG's own response. We note that a number of these airlines further claim that they have not been provided with sufficient notice ahead of W24, and refer to the timelines for the introduction of an Operating Restriction under Article 8(1) of Regulation

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<sup>5</sup> Ref. No. F23A/0781



598/2014.

- 4.20 Ryanair also considers the 32mppa Conditions to not be a relevant constraint, as they are too ambiguous to be implemented and insufficiently precise to be enforceable. Ryanair argues that the 32mppa Conditions are not '*relevant technical, operational and environmental constraint[s]*' under Article 6(1) of the Slot Regulation, as they relate to '*obsolete concerns regarding surface access to and from Dublin Airport*', and not terminal, runway or stand parameters which are considered under Article 6 of the Slot Regulation. It further adds that the 32mppa Conditions have not been applied previously, and that surface access has improved, and there has been a significant increase the use and availability of public transport at Dublin Airport.
- 4.21 Emerald Airlines considers that the 32mppa Conditions are ambiguous, and argues that they should not be considered as relevant for the capacity declaration process until assessed through the Courts.
- 4.22 On the other hand, daa considers the 32mppa Conditions to be a relevant constraint which must be taken account of in the final capacity declaration for W24. daa considers that any ambiguity around the meaning of the 32mppa Conditions does not justify them being disregarded.
- 4.23 St. Margaret's the Ward Resident's Group also considers the 32mppa Conditions to be a relevant constraint for W24, citing the definition of 'Coordination Parameters' in the Slot Regulation. It further cites confirmation by the Aircraft Noise Competent Authority (ANCA) that they are an Operating Restriction.
- 4.24 Sabrina Joyce-Kemper supports the view that the 32mppa Conditions are a relevant constraint. We also received a large number of other responses from residents, which are similar to each other and appear to all implicitly support the position that the 32mppa Conditions are a relevant constraint. Limerick Chamber also supports the position that the 32mppa Conditions are a relevant constraint.
- 4.25 We have not been persuaded by the views of the airlines that the 32mppa Conditions should not be considered a relevant constraint for W24. We note that, under Article 6(1) of the Slot Regulation, the parameters are to be declared taking account of all relevant technical, operational, and environmental constraints. Given that there is likely to be a limiting condition on the capacity of terminal infrastructure in 2024 and 2025 such that demand cannot be fully satisfied for W24, we agree with daa and the residents that this constitutes a relevant constraint for the purposes of Article 6(1). Indeed, the definition of coordination parameters in the Slot Regulation recognises that they are to reflect all technical, operational and environmental factors affecting the performance of the airport infrastructure. Such constraints are not limited to aircraft processors, but also are commonly set in respect of passenger terminal infrastructure. As set out in the Draft Decision, we reiterate the following:
- daa, the owner of the Planning Permission, now appears to consider the proposed PATM measure to be an important part of its strategy to comply

with the 32mppa Conditions, i.e. the constraint on capacity not being exceeded.

- On any of the posited interpretations, the 32mppa Conditions are likely to represent a limiting constraint on demand from W24. We note that, based on Aer Lingus' own interpretation, the 32mppa Conditions are likely to become a limiting constraint on demand in 2025. In that context, the W24 declaration sets the capacity parameters until March 2025.
- 4.26 The question of whether or not measures such as the 32mppa Conditions are a relevant constraint to be reflected in the coordination parameters may depend on a range of factors, including their meaning and effect, the level of demand, and the intentions of the owner of the Planning Permission as regards applying to have them amended and the expected timeline in that regard. For example, as noted below, when in 2018 we asked daa to consider whether the 32mppa Conditions might be a relevant constraint, we were advised that a short-term planning application would be made in the first instance, with a more substantive, longer-term application made thereafter. If the 32mppa Conditions are capable of enforcement and are subsisting through 2024/2025, which daa has now advised will very likely be the case, and are likely to be a constraining factor on demand by 2025 at the very latest, we accept daa's position that they are a relevant constraint for W24.
- 4.27 There is no inconsistency with our submission to FCC in respect of daa's Infrastructure Application. In that submission, we noted that the 32mppa Conditions were likely to be a relevant constraint. It would not have been appropriate to take a definitive position on that point, for a particular scheduling season, in the context of a submission on daa's planning application. At that point, the IAA had not made any determination on parameters, or formed any particular view of the interpretation of the 32mppa Conditions, and could not have taken a definitive position in respect of the W24 season in advance of receiving the advice of the Coordination Committee in respect of that season, and considering submissions received in response to the Draft Decision.
- 4.28 We have already addressed the question of ambiguity as regards the interpretation of the 32mppa Conditions. Importantly, and unlike Condition 5, the enforceability of the 32mppa Conditions is not disputed by the owner of the associated planning permissions, with daa having instead set out a detailed view on how they ought to be interpreted. Nor have they been credibly challenged by any other party. While Aer Lingus states that no enforcement notice has yet been issued in respect of the 32mppa Conditions for daa to challenge, it is clear from daa's submissions to both the IAA and FCC that it considers the 32mppa Conditions to be valid and enforceable, with the disagreement being primarily related to how passenger capacity should be assessed.
- 4.29 As to the additional points raised by Ryanair on the merits of the 32mppa Conditions themselves, this is not for the IAA to decide or comment on. It is separate from the question of whether or not they are a relevant constraint for the W24 coordination parameters. Regardless of whether the 32mppa Conditions are considered to have merit and/or the reasons for them are

considered to be obsolete, they are subsisting and unchallenged planning conditions which are likely to be a limiting constraint on demand by, at the latest, 2025.

- 4.30 We note the view of St Margaret's the Ward Resident's Group, citing the view of ANCA, that the 32mppa Conditions are an Operating Restriction for the purposes of Regulation 598/2014. daa has maintained, most recently in its aforementioned Infrastructure Application of December 2023, that they are not an Operating Restriction. We note also the references made by airlines to the timeline for the introduction of Operating Restrictions under that Regulation. We note that no responses raise the question of whether the 32mppa Conditions were also an Operating Restriction under the preceding Directive 2002/30/EC, and if so, any implications of their not having followed the introduction and notification processes provided for by that Directive.

### *Roles, Powers and Responsibilities*

- 4.31 As set out above, daa states that, in its view, it is for the IAA to declare parameters which reflect the limits on capacity, and in that regard supports the view in our Draft Decision that the 32mppa Conditions are a relevant constraint for W24. It refers to a letter from the IAA (then CAR) to the Coordination Committee in January 2021 in relation to Condition 5 of the North Runway Planning Permission, the condition which purported to limit the average number of nighttime aircraft movements, over the 92 day modelling period, to 65. In that letter, we noted that the maximum number of scheduled aircraft movements over a particular period is determined through the coordination parameters set by the IAA, and that daa cannot itself limit the use of the runway in this way. daa states that it agrees with this assessment of the *'roles of the IAA and daa in applying restrictions in planning permissions'*.
- 4.32 daa then asks that we make *'Clarifications/Corrections'* from the Draft Decision in relation to the following:
- daa claims that our explanation in the Draft Decision that *'the correct interpretation of a grant of planning permission is a matter of law to be determined by objective interpretation, and may ultimately be decided only by a court'* is *'not correct and overstates the position'*, insofar as it suggests that the IAA is precluded from interpreting the terms of a grant of planning permission.
  - daa says that it is disingenuous for the IAA to suggest that daa's position has changed within the course of the consultation process, where we had pointed out that daa had initially proposed a specific Local Guideline and advised that passenger growth needs to *'stall'*, but then, for the W24 capacity declaration, that daa had taken no position on whether any particular measure is, or is not, warranted to assist it in achieving compliance with the 32mppa Conditions.
  - daa claims that the process that has been followed across previous declarations is that the airlines prepare a wishlist and daa provides the relevant data in this respect. Accordingly, the references in the Draft Decision to the process in previous seasons being based on proposals by

daa are *'incorrect and must be corrected in the final decision'*.

- 4.33 daa then states that the Slot Regulation does not require an airport authority to make proposals in respect of the coordination parameters, and that it is not the responsibility of daa to make proposals as to how the IAA should carry out its regulatory function. Accordingly, the IAA approach in the Draft Decision, insofar as it takes issue with the absence of any proposals by daa, appears to daa to be somewhat disingenuous, as daa is a consultative body only.
- 4.34 St Margaret's the Ward Residents Group says that it is unclear whether the IAA made the Coordination Committee aware of the planning history and how An Bord Pleanála and FCC interpreted the 32mppa Conditions, and if not, then we should do so now as a matter of urgency.
- 4.35 Aer Lingus submits that there is a fundamental difference between setting capacity parameters on the airport infrastructure, which the IAA is empowered to do, as against setting an actual level of passenger throughput. It states that daa and FCC appear to consider the 32mppa Conditions to be a cap on passenger throughput, rather than capacity, and that we appear to have adopted a similar approach. Aer Lingus considers that it is for daa, not the IAA, to limit throughput. It notes that we can only implement capacity constraints on a seasonal basis, and claims that there is no basis for such seasonal limitations in the 32mppa Conditions, which provide for an annual constraint. Aer Lingus considers that the 32mppa Conditions are distinguishable from Condition 5 of the North Runway Planning Permission, in that Condition 5 seeks to impose a limit on aircraft movements which is directly linked to the allocation of slots which does fall within the remit of the IAA under the Slot Regulation.
- 4.36 We note that daa has now sought to extrapolate, from our 2021 summary of the specific situation as regards Condition 5 of the North Runway Planning Permission, a general principle that the IAA is responsible for ensuring compliance with restrictive planning conditions attached to planning permissions owned by daa. This is not accepted. As we explained in the Draft Decision, the number of aircraft movements within a period of hours/days (as per Condition 5) can be limited by the IAA through the coordination parameters, but the coordination parameters alone cannot deliver a specific outturn passenger volume over a calendar year, if that is required to ensure compliance with the 32mppa Conditions. While the PATM seat cap parameter may assist daa in achieving material compliance with the 32mppa Conditions, whether daa actually achieves compliance with the 32mppa Conditions also depends on a range of other factors.
- 4.37 The IAA is not responsible for ensuring that daa complies with its planning conditions, and, in the particular case of the 32mppa Conditions, it is not in any event possible for us to do so. In that regard, there is disagreement over what exactly the 32mppa Conditions require, and uncertainty over how exactly daa will operate the airport in terms of, for example, how many transfer passengers will use the capacity of terminal 1 or terminal 2. If daa considers that further measures are required, whether via operational changes to reduce the relative use of terminals 1 and 2, proposing a Local Guideline, seeking 5% voluntary reductions from airlines which, as it states in its response, it has assumed it will

do, or some other measure or combination of measures, those are matters for daa to address. daa has also highlighted to FCC the other actions which it says that it is taking to ensure compliance in 2024, in particular through increases in airport charges and discontinuation of certain growth incentive schemes.

- 4.38 We note that daa has, last December, publicly acknowledged its obligations in respect of, and set out its ongoing and planned approach to, the 32mppa Conditions:<sup>6</sup>

*'We continue to have discussions with our airline customers about their schedules for next spring, summer and beyond to ensure that passenger numbers for 2024 will remain below the 32 million level. Until planning permission to grow beyond 32 million passengers is granted, daa will continue to manage the passenger capacity to ensure that current planning restrictions are not breached.'*

- 4.39 It is not clear what daa considers to be incorrect in respect of our explanation that a court is the ultimate arbiter of the precise meaning and effect of ambiguous or disputed planning conditions, particularly when daa goes on to agree that *'the ultimate decision on the correct interpretation of a planning permission is a matter for the Superior Courts.'* We have previously stated that any such planning conditions ought to be set out comprehensively and without any ambiguity, such that there can be no reasonable doubt over their meaning and effect. Where this is the case, the question of *'interpretation'* by the IAA and/or the Coordination Committee does not arise. It is nonetheless correct for daa to say that it is necessary to assign the 32mppa Conditions an interpretation for the purpose of calculating any associated capacity constraint, such as a PATM seat cap. As described below, we have done so for W24, taking account of our obligations under the Slot Regulation and pending any resolution of the current disagreement, but reiterate that this is the IAA's view based on an interpretation of the 32mppa Conditions that is reasonably open, and appropriate in line with our statutory role under the Slot Regulation. It should not be taken as the IAA purporting to make a determination akin to that which might ultimately be made by a court on the definitive meaning and effect of the 32mppa Conditions.

- 4.40 We reiterate that Article 5(1)(a) of the Slot Regulation obliges the Coordination Committee to provide advice to us on the coordination parameters to be determined. It did not provide advice on any specific PATM seat cap parameter or any other way to take account of the 32mppa Conditions. No member made any proposal on any such parameter. In that regard, it is necessary to correct the inaccurate claim made by daa that it does not ordinarily make a proposal for the coordination parameters to be declared, but rather merely compiles airline wishlist submissions.

- 4.41 The airline wishlist submissions are not coordination parameter proposals. The Coordination Committee is chaired by daa. Ordinarily, daa makes a proposal for the coordination parameters to be declared ahead of each seasonal

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<sup>6</sup> <https://www.dublinairport.com/latest-news/2023/12/04/daa-november-passenger-numbers-at-dublin-airports-take-off> , accessed 30 April 2024.

declaration. This is then considered within the Coordination Committee, sometimes with some variations then proposed by other members, with all of the specific options then subject to vote. daa's proposal for the parameters would have regard to airline wishlist submissions but also other factors such as stand planning, and any specific issues likely to prevail during the season in question. The Coordination Committee advice would then lay out the position of the members on the specific proposal or proposals for parameters. The IAA then makes the final decision, following a short final consultation period.

- 4.42 As we set out in the Draft Decision, daa decided not to do so on this occasion. This led to a situation where the Coordination Committee did not have any specific proposal in respect of amended parameters, including any specific proposal from daa as to how to take account of the 32mppa conditions, notwithstanding daa being the owner of the planning permissions and the committee member who considered it necessary that the parameters would take account of them. Aside from the question of whether or not there was an obligation on daa to make a specific proposal, and/or to ensure, in its role as chair, that the Coordination Committee provided advice on the actual parameters to be determined for W24 as the Coordination Committee was required to do under Article 5(1)(a), it is surprising that daa would maintain that it is necessary for the W24 parameters to take account of the 32mppa Conditions, but not provide a specific proposal on how that should be done in order to assist it, the owner of the planning permissions, to comply with the 32mppa Conditions. While it is correct that Article 6(3) requires the determination of the parameters to be discussed in detail within the Coordination Committee '*with a view to increasing the capacity and number of slots available for allocation*', the fact that an increase in capacity may not be possible due to relevant constraints being taken account of in accordance with Article 6(1) does not, in our view, preclude daa from making specific proposals for the parameters, as it usually does.
- 4.43 In relation to whether we have made the Coordination Committee members aware of the planning history and the views expressed by An Bord Pleanála and FCC, we note that the Coordination Committee is required to provide advice to the IAA on the parameters to be declared (taking account of relevant constraints), rather than the inverse. In any event, we can confirm that daa made the other Coordination Committee members aware of views expressed, including those of FCC, and shared the details with the other members.
- 4.44 On the Aer Lingus submissions, we note that the question of whether or not the 32mppa Conditions are relevant in principle for the purposes of the coordination parameters does not turn on whether they are to be interpreted as a limitation on passenger capacity, or on passenger throughput. Ultimately, a capacity constraint can and will have an impact on passenger throughput as well as capacity, and may prevent increasing non-alignment with any limitation on throughput.
- 4.45 The proposed PATM seat cap is a capacity parameter which is the closest proxy available for a passenger limitation. The purpose of terminal capacity parameters is to estimate the level of actual passenger throughput likely to be generated by a given set of flight operations over a given period, and limit the

extent to which the total level of flight operations could generate a level of passenger throughput in excess of capacity constraints. Any terminal capacity parameter can influence, rather than determine, passenger terminal throughput. It is standard for terminal capacity limits to include load factor assumptions. The established hourly terminal capacity limits already do so. Whether the 32mppa Conditions provide for a limitation on passenger capacity or on passenger throughput, a PATM seat cap limitation will always be higher than an underlying passenger limitation. Our calculations in that regard do not imply that we interpret the 32mppa Conditions to relate to outturn throughput rather than capacity.

- 4.46 While Aer Lingus does not accept that the 32mppa Conditions impose a limit on passenger throughput, it says that if this is the case, the coordination parameters process is not the appropriate mechanism for seeking to enforce such a limit. However, Aer Lingus does not explain the mechanism through which daa should limit the passenger throughput. If daa were to limit actual passenger throughput on the basis that this is required to comply with the 32mppa Conditions, then the PATM seat cap should ultimately transpire to be moot in any case. That is, the only scenario in which the PATM seat cap will have a material impact on the airlines is one in which, in the counterfactual scenario where we do not declare such a limit, passenger capacity and/or throughput is not otherwise limited by daa so as to align with the 32mppa Conditions.
- 4.47 The fact that a constraint is specified on an annual basis such that it is misaligned with the scheduling seasons makes the situation more complex, but does not make the constraint irrelevant or otherwise no longer a constraining factor.
- 4.48 Thus, we do not agree with Aer Lingus that the 32mppa Conditions may not, in principle, fall within the scope of the coordination parameters determined under the Slot Regulation.

### *Specifications of the PATM Seat Cap*

- 4.49 Aer Lingus considers, without prejudice to its overarching views that the 32mppa Conditions do not generate a relevant constraint, that given our obligation under the Slot Regulation to tend towards a maximal rather than minimal declaration of the coordination parameters, we should calculate the PATM seat cap on the basis of the Aer Lingus interpretation of the 32mppa Conditions, which is that they apply to origin-destination passengers only.
- 4.50 Conversely, St. Margaret's the Ward Resident's Group considers that the counting of passengers should follow International Aviation Convention, and they advocate the CSO Aviation Statistics passenger count for assessing compliance with the 32mppa Conditions, and, therefore, for setting the PATM seat cap. The Group refers to the views of FCC in that regard. Accordingly, they advocate a W24 PATM seat cap of 13.67m seats, based on an 81% load factor and a 34.7% W24 seasonal split.
- 4.51 A number of other submissions, generally from local residents, similarly

- advocate the use of the CSO passenger statistics for assessing compliance with the 32mppa Conditions, stating that the CSO method adheres to International Aviation Convention and is acknowledged and used by both FCC and An Bord Pleanála in their deliberations.
- 4.52 daa indicates that an expected loss of transit passengers of 249,000 in 2024 will put downward pressure on the percentage number of passengers not using either terminal by 0.7%, compared with 2023.
- 4.53 That the proposed specification of the PATM seat cap parameter would not encompass General Aviation (GA) operations is welcomed by the Irish Business & General Aviation Association (IBGAA) and European Business Aviation Association (EBAA). They cite the limited materiality in the context of volume of GA passengers, but their overall importance to the Irish economy. This sentiment was shared by the National Business Aviation Association (NBAA).
- 4.54 Aer Lingus further considers the allocation of the available capacity to W24 to be flawed. It suggests that, by basing the seasonal split on a summer season and subsequent winter season, the general upward trend in passenger numbers means that the constraints will not accurately reflect the split between a winter season and subsequent summer season. Consequently, Aer Lingus states, if this approach is carried forward for the S25 capacity declaration, allocated summer capacity will be lower than should be the case.
- 4.55 Overall, we note that, on the one hand, residents consider that we have estimated the seat cap on an overly generous basis, whereas on the other hand, airlines consider that we have estimated it on an overly conservative basis.
- 4.56 We consider that Aer Lingus has set out a relatively limited rationale for its interpretation, which is difficult to reconcile with the objective wording of the 32mppa Conditions, and which has been rejected by the owner of the Planning Permission, daa. daa is not advocating for this interpretation in the ongoing engagement between it and FCC. As pointed out by residents, the premise of this interpretation was also rejected by An Bord Pleanála's inspector in 2020.<sup>7</sup>
- 4.57 In its response, daa implicitly maintains its interpretation of the meaning and effect of the 32mppa Conditions, which we understand to be that they place a limit on the passenger capacity of Terminal 1 and Terminal 2 of 32m passengers per annum, regardless of the type of passenger (i.e. origin/destination, transfer, etc) using that capacity. We note that the CSO figures referenced by the residents are a count of passengers at the entire 'airport'. As such, they include, for example, passengers that used the platinum services terminal rather than Terminal 1 or Terminal 2, or entered the apron via a gatepost rather than the eastern terminals. The An Bord Pleanála inspector's report referenced by the residents expressly did not conclude on the proper manner in which to count passengers for the purposes of the 32mppa

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<sup>7</sup> ABP-305458-19



Conditions, and also stated the following at paragraph 8.3.3:

*‘The Airport and its associated activities, including passenger movements, comprise permitted development. There is no current limit on passenger numbers per annum using the “airport”. Current specified limits apply only to specific areas of the “airport”.’*

- 4.58 In addition, it appears that some respondents believe that passenger numbers at the entire ‘airport’ are counted in the same manner by each of the CSO, daa, and the IAA. That is not the case. For example, on page 25, St Margaret’s the Ward Resident’s Group states that the CSO methodology is the proper way to assess compliance with the 32mppa Conditions, but then refers to the relevant figure being 32.9m in 2019. This is the figure as counted by daa (and the IAA), not the CSO figure. The CSO figure for the entire airport for 2019 is 32.6m.
- 4.59 As to daa’s submission that the loss of a particular transit operation will put downward pressure of 249,000 on passengers not using the relevant terminal capacity from 2023 to 2024, we note the following:
- We are setting the capacity parameters for the W24 season, rather than for a calendar year 2024.
  - daa has identified one change which is likely to put downward pressure on the relative proportion of total airport passengers not using terminal 1 or terminal 2, while holding all else constant. However, other changes, such as a full recovery in transfer passenger volumes, may put upward pressure on it.
  - Similarly, we expect there to be opportunities for daa to maximise the efficient use of the available capacity subject to the constraint, and we expect daa to address this by the W24 season, which would put upward pressure on the proportion of passengers not using the capacity of the relevant terminals. It could do so, for example, by making terminal/pier and/or stand planning operational adjustments to increase pier-only transfers, and/or reduce the number of transfer passengers able to access the capacity of Terminal 1 or Terminal 2. It can also seek to increase demand for transfer operations.
  - The assumption of 4.8% is a high level estimate based on historic data, which will, of course, not exactly match 2024/2025. It has been estimated in advance of any slot allocation having been carried out for W24 (which must necessarily follow the calculation of this parameter).
- 4.60 As regards Aer Lingus’ submissions on the split between summer and winter, we note the following:
- We have, again, used the historic data based on most recent full summer and winter seasons available.
  - Aer Lingus has not proposed a specific alternative approach to consider.
- 4.61 In summary, we consider that none of the above representations provide persuasive arguments to amend the proposal for the PATM seat cap for W24.

As in previous capacity declarations, we consider that we ought to tend towards a possible maximal, rather than minimal, approach, having regard to the terms of the Slot Regulation. Thus, absent sufficiently objectively clear and cogent material and evidence suggesting otherwise, we ought to be slow to make any decision to adjust the parameters for slot allocation in a manner that would result in more restricted capacity and in decreasing the possibilities for accommodating air traffic. In that regard, we note the detailed basis upon which daa, the owner of the relevant planning permissions, considers that compliance with the 32mppa Conditions should be assessed, and consider that the interpretation upon which we based our proposal to be reasonably open. Should it transpire that this is not the correct interpretation, it may then be necessary to adjust the capacity constraint for future seasons.

- 4.62 However, tending towards a maximal rather than minimal capacity declaration, when taking account of relevant constraints in accordance with the Slot Regulation, does not extend to basing the parameters on outcomes which we assess to be unlikely, such as the Aer Lingus interpretation being determined to be the correct interpretation of the 32mppa Conditions.

#### *Application of the PATM Seat Cap*

- 4.63 Aer Lingus considers our explanation of how the PATM seat cap parameter would operate to be unclear, and states that it is therefore difficult to assess how the proposed approach will impact on individual carriers.
- 4.64 Emerald Airlines states that while the Draft Decision claims that the PATM seat cap should accommodate all incoming historic slot entitlements for the W24 season, airlines are still reviewing their Slot Historic Listings (SHL), which could still impact the overall number of historic seats.
- 4.65 Ryanair considers that the proposed approach is inflexible and will needlessly impede competition and harm consumers. The airline is concerned that the PATM seat cap may not permit airlines to redistribute existing historic slot entitlements to different parts of the season based on demand levels, citing (non-exhaustively), periods of peak demand during school holidays, Christmas, and St. Patrick's Day. The issue of harm to consumers is also addressed by Emerald Airlines, which states that the PATM seat cap parameter will drive up fares and decrease consumer choice.
- 4.66 As described in the Draft Decision, the PATM seat cap parameter is a seasonal limit which applies to all passenger services using the capacity of Terminal 1 or Terminal 2. Individual operators are not to be assigned individual quotas, i.e. the total seasonal limit applies to all users. Thus, slots returned to the pool will include the seats assigned to that slot at the time of its return and those seats would then be available to other users, provided that the slot request does not exceed the PATM seat parameter. We note that it is for ACL to allocate slots, subject to the constraints set out in the capacity declaration. In that regard, the further explanation we provide below is based on our understanding of the remaining flexibility available to air carriers in respect of slots allocated to them, and is without prejudice to the ultimate decision of ACL in that regard.

- 4.67 In response to Ryanair, we note that the PATM seat cap parameter is just another capacity constraint and does not change the slot mobility rules or policies to be applied by the Coordinator. Article 8a(1)(a) of the Slot Regulation provides for air carriers to transfer slots from one route or type of service to another route or type of service operated by that same air carrier, while Article 8(2) then provides for the carrier to be entitled to the same slots in the next equivalent period. Re-times are permitted subject to the conditions set out under Article 8(4):

*'Re-timing of series of slots before the allocation of the remaining slots from the pool referred to in Article 10 to the other applicant air carriers shall be accepted only for operational reasons or if slot timings of applicant air carriers would be improved in relation to the timings initially requested. It shall not take effect prior to the express confirmation by the coordinator.'*

- 4.68 The Slot Regulation does not stipulate any restriction on changing slots between the point of allocation and the point at which the coordinator determines the utilisation target for the series held at Historic Baseline Date (HBD), which is 31 January for the summer season and 31 August for the winter seasons. During this period, airlines are able to amend slots and are permitted to move slots as required to match demand. At the point at which the utilisation threshold is set at HBD, any subsequent changes are measured by the historic determination policy of the Coordinator, which is available from ACL. Operators are permitted to continue to make changes, but should they be greater than  $\pm 60$  minutes, and for reasons other than operational (which must be discussed with the Coordinator), they may not count for the 80/20 target. Flexibility for changes post HBD is addressed at paragraph 8.7.1(i) of the Worldwide Airport Slot Guidelines (WASG).<sup>8</sup>
- 4.69 We note the submission from Emerald Airlines pointing out that airlines are still reviewing their Slot Historic Listings (SHLs) issued by the Coordinator, and this may lead to an increase in the incoming historic seat count from W23 above the figure of 14.3m referenced in the Draft Decision. We expect nonetheless that the seat cap of 14.4m should be sufficient so as to not require a withdrawal of historic slot entitlements for W24.

### Other Issues

- 4.70 Respondents address a number of other points which are not directly related to the proposal to put in place a PATM seat cap parameter on a seasonal basis for W24. We consider these submissions below.
- 4.71 daa suggests that reopening the summer 2024 parameters should be considered as an appropriate means of achieving compliance with the 32mppa Conditions, subject to the IAA being satisfied of compliance with the Slot Regulation. It states that Aer Lingus proposed this. It further states that, as the summer season has already begun, the IAA may determine it necessary to re-open the season immediately. It states that the proposed PATM seat cap for W24 is unlikely to achieve compliance with the 32mppa Conditions in 2024 due

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<sup>8</sup> Available here: <https://www.iata.org/en/programs/ops-infra/slots/slot-guidelines/>

to the S24 parameters having already been set, and the use of existing capacity trending above the most recent forecasts. The reopening of the S24 parameters is also encouraged by Sabrina Joyce-Kemper.

- 4.72 Both Aer Lingus and Ryanair emphasise the impact that the PATM seat cap parameter will have on their businesses. Aer Lingus is concerned that it will impact on their planned growth and have an immediate and material impact on ad hoc flight operations. Ryanair highlights that it will reduce competition, damage economic growth, tourism and employment, and states that connectivity and choice for Irish consumers will be reduced. Both are also concerned about the impact of the PATM seat cap on future seasons.
- 4.73 Ryanair and Emerald Airlines consider that the introduction of the PATM seat cap contradicts Ireland's National Aviation Policy, which has goals to enhance Ireland's connectivity, foster the growth of aviation in Ireland, and maximise the contribution of aviation to Ireland's growth and development.
- 4.74 Limerick Chamber considers that the national impact of a reduced number of Dublin Airport routes can be offset by route development at other airports.
- 4.75 Sabrina Joyce-Kemper emphasises that EU rules ensure that all air carriers are granted the same rights and opportunities to access air transport related services and that competition law is in place in order to regulate anti-competitive conduct within the single market. Sabrina Joyce-Kemper states that by potentially breaching planning and environmental regulations, the Coordination Committee, and by extension the IAA, may be seen as breaching EU internal market competition law. Furthermore, Sabrina Joyce-Kemper questions whether any breach of planning or environmental law could be seen as giving state aid to Dublin Airport.
- 4.76 The parameters for the S24 season are not within the scope of this decision. They were set in October 2023, following a consultation period which closed for representations eight months ago, on 21 September 2023. That consultation, in turn, followed receipt of the advice from the Coordination Committee, chaired by daa, in respect of the coordination parameters to be declared for S24. The final decision on the S24 parameters aligned with that advice. daa is fully aware of the timelines and the process through which the seasonal capacity declarations are made, but did not make any proposal or representation in respect of taking account of the 32mppa Conditions for S24. While daa now raises this question as part of the W24 capacity declaration process, perhaps because of higher year-to-date traffic than forecast and/or a better understanding of the timeline involved in seeking to have the 32mppa Conditions amended, it does not explain or provide any legal basis to now reopen the S24 capacity declaration and withdraw, in-season, allocated slots, in these circumstances. We note that daa attributes this suggestion to Aer Lingus. That is, in our view, a misstatement of the position expressed by Aer Lingus within the Coordination Committee meetings and in the advice letter provided to the IAA.
- 4.77 As explained above, whether or not a measure such as the 32mppa Conditions is likely to be a relevant constraint for the purposes of a forward looking capacity

declaration depends significantly on the actions, intentions, and expectations of the owner of the relevant planning permissions, and the submissions and evidence made available to the IAA in that regard. From that perspective, in 2018, we first asked daa to consider whether the 32mppa Conditions might be a relevant constraint for the purposes of upcoming capacity declarations. We were advised that a short-term planning application to amend these conditions would be made in the first instance, with a more substantive, longer-term application made thereafter.<sup>9</sup> We advised, in particular, to avoid a situation where there would be insufficient time to properly consider, and address with the Coordination Committee, how to take account of the 32mppa Conditions ahead of the appropriate capacity declaration, if that were to transpire to be necessary. We note that, over 2020 to 2022, the Covid-19 pandemic then made the question redundant. The recovery in passenger traffic by 2023/2024 was far faster than was anticipated during the pandemic period, rather than the steadier and slower development of passenger traffic levels which was generally observed prior to the pandemic.

- 4.78 The coordination parameters for W24 now take account of the 32mppa Conditions. As noted above, and as recognised by daa in its public statements, if daa considers that further actions are or may be necessary to ensure compliance with the 32mppa Conditions in 2024 or in future years, it is for daa to determine what those actions might be.
- 4.79 In relation to the comments of Sabrina Joyce-Kemper, the IAA is not breaching any planning or environmental regulations. Moreover, as explained above, the IAA is not responsible for compliance with planning conditions owned by daa. The IAA is seeking to appropriately take account of relevant constraints for the W24 seasonal capacity declaration, in accordance with its functions under the Slot Regulation.
- 4.80 We note the submissions from Aer Lingus and Ryanair on the impact the PATM seat cap is expected to have on their operations and on consumers. However, such impacts flow from the 32mppa Conditions themselves, rather than our taking account of them in the W24 capacity declaration. We have no power to amend them. The merits or otherwise of the 32mppa Conditions, and whether full consideration was given to how they could be implemented, is not for the IAA to comment on. We also note that the coordination parameter declaration for the S25 season is not within the scope of this decision.
- 4.81 Finally, Saint Margaret's the Ward Residents Group claims that it is '*astonishing*' that Mott McDonald was appointed as a mediator within the Coordination Committee subgroup tasked with considering how to take account of the 32mppa Conditions, given its prior work with daa. For the avoidance of doubt, Mott MacDonald was appointed by the Coordination Committee subgroup to provide support to it, and was not selected or appointed by the IAA.

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<sup>9</sup> We understand that, indeed, daa applied in 2019 to increase the figure from 32m to 35m, but withdrew this application in 2020.

## **Final Decision on Terminal Capacity Parameters**

- 4.82 As proposed in the Draft Decision, we have decided to roll forward the hourly PTB limits from the W23 season. We also maintain the hourly peak load factor assumption of 85% for scheduled services, and 95% for charter services. We maintain the referral parameters in relation to Terminal 2 check-in desks 1 to 28, and US Preclearance as per the W23 capacity.
- 4.83 We have decided to introduce a full-season PATM seat capacity parameter of 14,405,737 for the W24 season, which we recognise as necessary to take account of the capacity constraint provided for by the 32mppa Conditions. This remains in line with our proposal in the Draft Decision.

## 5. Appendix: Winter 2024 Coordination Parameters

The Irish Aviation Authority has set the following scheduling limits for the Winter 2024 season at Dublin Airport.

### Runway Scheduling Parameters:

Runway Hourly Limits			
Time UTC	Arrivals Limit	Departures Limit	Total Limit
0000	23	23	32
0100	23	23	32
0200	23	23	32
0300	23	23	32
0400	23	23	32
0500	23	25	32
0600	23	35	40
0700	21	35	46
0800	25	24	45
0900	24	25	42
1000	25	25	43
1100	28	28	50
1200	28	28	49
1300	25	28	45
1400	25	25	42
1500	23	27	43
1600	24	26	46
1700	26	28	49
1800	26	27	46
1900	24	25	40
2000	24	24	39
2100	25	23	39
2200	32	23	42
2300	23	23	32
Totals	589	619	970

Maximum number of movements per 10 minute period- Dual runway operations	
Maximum Total	13
Maximum Arrivals	6
Maximum Departures	7

Maximum number of movements per 10 minute period- Single runway operations (2300-0659)	
Maximum Total	9
Maximum Arrivals	6
Maximum Departures	6*
Exception: Maximum Departure Limit is 7 movements at 0600, 0610, 0620, 0630, 0640, 0650	

**Passenger Terminal Parameters (hourly):**

	Departures Hourly Limit	Arrivals Hourly Limit
Terminal 1	3,700	3,550
Terminal 2	3,700	3,050

Notes:

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

**Passenger Terminal Parameters (seasonal):**

	PATM Seat Capacity
Terminal 1 and Terminal 2 combined	14,405,737
Service type codes not using the capacity of Terminal 1 or Terminal 2: General Aviation (D), Special (FAA/Government) (E), Cargo Scheduled (F), Crew Training (other than GABA operators) (K), Air Ambulance (U), Military (W), Technical stop (X).	

Notes:

- 1) A total seasonal limit applies to all service type codes other than those listed above as not using the capacity of Terminal 1 or Terminal 2. An individual airline seasonal quota is not applied.
- 2) Slots returned must include the seats assigned to that slot at the time of return to the pool.
- 3) Slots returned will be made available to other users, provided the slot request does not exceed the PATM seat parameter.

**Stand Parameters:**

	GA	Non-Turnaround		Turnaround Stands									All
				W.A.N	W.A.S	Total	5G	MRO	P1	P2	P3	P4	
Contact						23	11	11	21	9		75	75
Remote	8	16	24	15	6	3					4	28	52
All	8	16	24	15	6	26	11	11	21	9	4	103	127

Note: The table represents NBE stand capacity.

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



**Referral Parameters:**

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

**Coordination Committee Voting Summary**

<b>Member</b>	<b>Votes</b>	<b>Voting Point 1</b>	<b>Voting Point 2</b>	<b>Voting Point 3</b>	<b>Voting Point 4</b>	<b>Voting Point 5</b>	<b>Voting Point 6</b>
Ryanair	449	Agree	Disagree	Disagree	Agree	Agree	Disagree
Delta	9	Agree	Disagree	Disagree	Agree	Agree	Disagree
Air France	10	Agree	Disagree	Disagree	Agree	Agree	Disagree
KLM	15	Agree	Disagree	Disagree	Agree	Agree	Agree
Aer Lingus	275	Agree	Disagree	Disagree	Agree	Agree	Agree
Swiss	8	Agree	Agree	Agree	Agree	Agree	Agree
Emerald	92	Agree	Disagree	Disagree	Agree	Agree	Agree
American Airlines	9	Agree	Disagree	Disagree	Agree	Agree	Agree
United	10	Agree	Disagree	Disagree	Agree	Agree	Agree
British Airways CF	19	Agree	Disagree	Disagree	Agree	Agree	Agree
Air Canada	4	Agree	Disagree	Disagree	Agree	Agree	Agree
City Flyer	15	Agree	Disagree	Disagree	Agree	Agree	Agree
TUI	3	Disagree	Agree	Agree	Agree	Disagree	Agree
Sun Express	1	Abstain	Disagree	Agree	Agree	Agree	Disagree
Luxair	3	Abstain	Abstain	Abstain	Agree	Agree	Agree
UPS	7	Abstain	Abstain	Abstain	Agree	Agree	Abstain
AirNav Ireland	20	Abstain	Abstain	Abstain	Abstain	Agree	Abstain
IATA	10	Agree	Disagree	Disagree	Agree	Agree	Agree
daa	40	Disagree	Agree	Agree	Agree	Disagree	Agree
<b>Result</b>		<b>Agree</b>	<b>Disagree</b>	<b>Disagree</b>	<b>Agree</b>	<b>Agree</b>	<b>Agree</b>
<b>% of total votes</b>		<b>93%</b>	<b>92%</b>	<b>92%</b>	<b>98%</b>	<b>96%</b>	<b>50%</b>