

Submission to the Joint Committee on Transport

Pre-Legislative Scrutiny of the General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026

Submitted by: North Runway Technical Group (NRTG)

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Request for Oral Evidence

NRTG formally requests that the Committee invite it to give oral evidence in public session as part of its pre-legislative scrutiny of this Bill. NRTG delivered a 64-page technical briefing to Committee members in April 2024 and is available at the Committee's convenience. The CEOs of DAA, IAA, and AirNav have been afforded extended public sessions before this Committee; the affected communities have not.

Executive Summary

- The 32 million passenger cap is the sole enforceable proxy for the cumulative environmental impact of Dublin Airport on surrounding communities, controlling noise, wastewater, water demand, road congestion, and air quality through a single measurable metric.
- The General Scheme does not merely remove the current cap: it prohibits any future capacity condition from being imposed, permanently extinguishing a core planning tool and creating a chilling effect on all environmental regulation of the airport.
- Section 3 sets out a head-by-head analysis of the General Scheme. NRTG has identified significant concerns with 10 of the 12 Heads, including a possible freestanding ministerial power to revoke planning conditions without any threshold, assessment, consultation, or Oireachtas oversight (Head 4(6)); environmental assessments that the airport operator can be directed to prepare on itself (Heads 6, 7, 8); and an express exemption from Ireland's climate legislation (Head 12).
- The infrastructure required to support growth beyond 32 million passengers does not yet have planning permission. DAA's omnibus application was returned with 375 material deficiencies and remains incomplete.
- The existing regulatory framework has demonstrably failed: Fingal identified nine categories of planning non-compliance in 2022; enforcement has been attempted on only two, and both enforcement actions were met with High Court challenges or legislation to remove the condition.
- The Committee's information sources on this Bill are not independent of each other: documentary evidence shows the Department of Transport relays daa and AirNav positions under ministerial authority without independent verification (Annex E).

- Airlines for America (A4A) has publicly urged the US Department of Transportation to pressure Ireland into enacting this Bill by end of April 2026, to prevent the CJEU from delivering a binding ruling the aviation industry expects to lose (Annex D). On 10 February 2026, the European Commission found Ireland's process for night flight restrictions at Dublin Airport non-compliant with Regulation 598/2014, treating capacity restrictions as falling within the Regulation's scope (Section 3.3).
- NRTG recommends that the Bill retain the power to set capacity limits, tie any increase to verified infrastructure readiness, remove the climate exemption, require independent environmental assessment, and address existing planning non-compliance before removing the cap (Section 7).

1. Introduction and Standing

1. The North Runway Technical Group (NRTG) is a voluntary group of qualified aviation professionals, including commercial and private pilots, civil engineers, and aviation safety specialists, examining the technical, environmental, and governance aspects of Dublin Airport's North Runway operations since 2022. NRTG's work is publicly available at www.dublin-north-runway.com.
2. NRTG has engaged extensively with this Committee, including a formal proposal in February 2024 (ref. JCTC-i-1112) and a 64-page technical briefing in April 2024. NRTG has also made a detailed submission to An Coimisiun Pleanála on the North Runway Relevant Action.
3. NRTG is entirely voluntary, with no funding, staff, or legal resources. DAA, AirNav Ireland, and the Department of Transport are publicly funded bodies with professional communications teams and legal support. The Committee should bear this asymmetry in mind when weighing the submissions it receives.
4. NRTG does not oppose sustainable growth at Dublin Airport. However, the General Scheme raises fundamental questions about environmental protection, infrastructure readiness, and democratic accountability that the Committee should consider before recommending that the Bill proceed.

2. The Passenger Cap as Environmental Proxy

5. The 32 million passenger cap was imposed as Condition 3 of the 2007 Terminal 2 planning permission (ABP ref. PL 06F.220670, Fingal ref. F06A/1248), mirrored as Condition 2 of the 2008 Terminal 1 extension permission (ABP ref. PL 06F.223469, Fingal ref. F06A/1843). The stated reason for Condition 3 references "capacity constraints (transportation) at the eastern campus." It has been argued on this basis that the cap was solely a traffic management measure and that, if surface access is no longer a constraint, the cap has no remaining purpose.
6. The Committee should treat this argument with caution. The same Board Order that imposed Condition 3 also required surface water monitoring of discharges to a Salmonid River and a European Site (Condition 9), contaminated soil and aquifer protection (Condition 10), air quality

monitoring for six pollutants (Condition 11), and a financial contribution towards foul sewer infrastructure (Condition 29(d)). The Board's overall Reasons and Considerations state that the development "would not result in an unacceptable increase in air emissions and noise over and above the levels that would otherwise occur." The Environmental Impact Statement on which the permission was based assessed traffic, noise, air quality, water supply, wastewater, and ecology at the 32 million passenger scale. ABP refused Phase 2 of the terminal entirely because the road infrastructure was not ready, and set the cap at the level Phase 1 could support across all assessed impacts.

7. Crucially, the condition does not say "unless the traffic problem is solved." It says "unless otherwise authorised by a further grant of planning permission." That mechanism exists because a new planning permission triggers a new Environmental Impact Assessment covering all impacts at the proposed new scale. The Bill bypasses that mechanism entirely.
8. The cap functions as a single, measurable, enforceable proxy for the cumulative environmental impact of the airport. Every environmental consequence (noise, wastewater, water demand, road congestion, air emissions) is a direct derivative of passenger numbers and the flights required to carry them.
9. In 2025, Dublin Airport processed 36.4 million passengers, exceeding the cap by 4.4 million. Each of those passengers consumed water, generated wastewater discharged into a treatment system already in persistent breach of EU directives, and required flights that, according to ANCA's own annual reports, have increased noise exposure over approximately 30,000 residents by 343% against the 2019 baseline (Annex A). Uisce Eireann has warned that housing connections across the Greater Dublin Area will be frozen by 2028 without new drainage infrastructure. The airport's wastewater enters the same system. Removing the cap means authorising unlimited growth on infrastructure that is already insufficient for housing.
10. Removing the cap without first establishing robust, independently enforced alternatives would remove the sole existing brake on environmental degradation in these communities. The question the Bill must answer is: if the Oireachtas removes the power to limit passenger numbers, what mechanism remains to control the cumulative environmental load?
11. Annex A sets out the detailed evidence on wastewater treatment capacity at Ringsend, ANCA noise exposure data, and water supply impacts.

3. Head-by-Head Analysis

12. The following analysis addresses the provisions of the General Scheme that raise the most significant concerns.

3.1 Head 4(3)(b): Retrospective Repeal of Transitional Protections

13. Sections 29 and 30 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 were enacted as transitional provisions to protect existing planning conditions, including the passenger cap, during the transition to the Balanced Approach framework under EU Regulation 598/2014. Head 4(3)(b) repeals those protections retrospectively, removing the legislative guarantee given when the 2019 Act was passed. Communities and their representatives who accepted the 2019 Act on the understanding that existing protections would be preserved are now told, seven years later, that those protections are being removed by a different piece of legislation.

3.2 Head 4(3)(a): Redefinition of "Operating Restriction"

14. Head 4(3)(a) substitutes the definition of "operating restriction" in the 2019 Act with the definition from EU Regulation 598/2014, which is limited to "noise-related" actions. The existing definition in the 2019 Act is broader. This is presented in the Explanatory Note as a technical alignment, but it narrows the category of measures that fall within the protective framework of the Balanced Approach. Any condition that limits operational capacity for reasons other than noise (for example, wastewater, water supply, or road congestion) would fall outside the amended definition and outside the procedural protections of the 2019 Act.

3.3 Head 4(5): Retroactive Declaration of the Cap's Purpose

15. Head 4(5) declares by legislation that the passenger cap was not imposed for noise mitigation, was not imposed having regard to the Balanced Approach, and was not notified to the European Commission as an operating restriction. Whether the cap constitutes an "operating restriction" under Regulation 598/2014 is a matter of law and fact, not legislative declaration. The practical effect is to bypass the procedural protections of the Regulation (noise assessment, public consultation, and Commission notification) that would otherwise apply to its removal.
16. The very existence of Head 4(5) is revealing. If the cap genuinely has no connection to noise or to Regulation 598/2014, there is no need to say so in primary legislation. The Government could simply remove the cap and, if challenged, point to the factual record. The fact that the drafters felt compelled to insert a statutory declaration to this effect suggests they recognised a credible argument that the cap is an operating restriction, and that removing it would trigger the Balanced Approach process they wish to avoid.
17. The Advocate General's opinion in Case C-857/24 (12 February 2026) has now confirmed that the passenger cap is a valid operational constraint under the EU Slot Regulation. Ireland cannot, by domestic legislation, unilaterally determine the classification of a measure under EU law. That classification is a matter for the CJEU. The principle of *effet utile* (practical effectiveness) requires

that member states do not use domestic law to undermine the operation of EU regulations. If Regulation 598/2014 requires certain procedures before measures that restrict airport capacity are removed, a member state cannot re-label the measure by statutory declaration to avoid those procedures. Head 4(5) does not immunise the Bill from scrutiny under 598/2014. It invites it.

18. The Commission's own recent practice confirms this analysis. On 10 February 2026, the European Commission issued Decision C(2026) 919 final concerning An Coimisiun Pleanála's process for adopting night flight operating restrictions at Dublin Airport. The Commission found the process non-compliant with Regulation 598/2014 because it considered only operating restrictions without assessing the other three pillars of the Balanced Approach (land-use planning, noise abatement operational procedures, and reduction of noise at source). The finding was procedural, not substantive: the Commission did not find that the restrictions were wrong, but that the process was incomplete. The Decision is significant for Head 4(5) because the Commission treated the night movement restrictions at Dublin Airport as operating restrictions falling within the scope of Regulation 598/2014. If night movement caps at Dublin Airport are operating restrictions under the Regulation, the argument that a passenger cap at the same airport falls outside the Regulation's scope becomes considerably harder to sustain.
19. The Committee should ask the Department to explain the legal basis on which a national legislature can declare, as a matter of Irish statute, that a planning condition does not fall within a classification governed by EU law, particularly when the CJEU is actively considering that very question.

3.4 Head 4(6): Ministerial Override of Planning Law

20. Head 4(6) provides that the Minister may revoke or amend a planning condition "notwithstanding the provisions set out in Part III of the Act of 2000, section 4 of the Act of 2019 and Part IV of the Act of 2024." This overrides three separate Acts of the Oireachtas. Part III of the 2000 Act and Part IV of the 2024 Act contain the substantive and procedural protections governing planning conditions; section 4 of the 2019 Act designates Fingal County Council (ANCA) as the competent authority for aircraft noise. Head 4(6) transfers planning condition powers from the planning system to a single Minister, outside the institutional framework the Oireachtas has established for both planning and noise regulation.

3.4A Head 4(6): A Freestanding Ministerial Power?

21. The Committee should examine whether Head 4(6) operates as a standalone ministerial power, separate from the order-making process established in Head 5.
22. Head 4(6) states that "notwithstanding the provisions set out in Part III of the Act of 2000, section 4 of the Act of 2019 and Part IV of the Act of 2024, the Minister may revoke or amend a planning condition." Section 3.4 above addresses the override of three Acts. This section addresses a different concern: the power itself.

23. Head 5 creates an order-making mechanism with certain safeguards, however weak: a "serious harm" threshold (Head 5(1)), provision for environmental assessment (Heads 6, 7, 8), discretionary consultation (Head 5(4)), and an Oireachtas annulment power (Head 5(11)). Head 4(6) contains none of these. It imposes no threshold of any kind. It requires no environmental assessment. It requires no consultation. It requires no Oireachtas oversight or laying before the Houses. It is simply a power to revoke or amend.
24. If Head 4(6) is intended to be exercised only through the Head 5 order-making process, the drafting does not say so. The two provisions appear on their face to create parallel routes to the same outcome: one with (limited) procedural safeguards, and one without any safeguards at all. A Minister who wished to avoid the environmental assessment provisions of Heads 6, 7, and 8, or the Oireachtas annulment mechanism of Head 5(11), could argue that Head 4(6) provides an independent legal basis for revoking the condition.
25. The Committee should require the Department to confirm, in writing and on the record, whether Head 4(6) is intended to operate solely through the Head 5 mechanism or whether it is an independent, freestanding power. If the former, the Bill should be amended to make that linkage explicit. If the latter, the Committee should consider the implications of granting a single Minister the power to override planning conditions imposed by An Bord Pleanála after environmental assessment, without any threshold, any assessment, any consultation, or any oversight by the Oireachtas.

3.5 Head 5: Ministerial Power with One-Sided Threshold and Discretionary Consultation

26. Head 5(1) provides that the Minister may make an order where a planning condition is causing or will cause "serious harm" to (i) the international transport connectivity of the State, (ii) the economy including tourism and FDI, or (iii) the State's ability to comply with air transport agreements. This triggering test is framed entirely from the perspective of the aviation industry and the economy. There is no corresponding test requiring the Minister to consider whether growth beyond the cap would cause serious harm to the environment, to the health of affected communities, or to infrastructure that is already operating beyond capacity. The threshold is one-sided by design: it measures only the cost of the constraint, never the cost of removing it.
27. Consultation is discretionary: under Head 5(4), the Minister "may" consult the planning authority, daa, the IAA, and others. The word is "may," not "shall." There is no mandatory requirement to consult affected communities or any environmental body. For a measure that will permanently alter the environmental conditions experienced by approximately 30,000 residents, the absence of mandatory consultation is notable.
28. Head 5(11) provides that even if the Oireachtas annuls the order within 21 sitting days, anything done under the order before annulment remains valid. Once the cap is revoked, tickets are sold and flights scheduled immediately; the annulment power is largely symbolic because the consequences become irreversible before the Oireachtas can act.

3.6 Head 6: Environmental Impact Assessment

29. Head 6 provides for an EIA of "the making of an order" rather than the environmental effects of the growth that follows. While Head 6(20) requires assessment of effects on population, health, biodiversity, land, soil, water, air, and climate, this is still framed as assessing the effects of the administrative act of removing the condition, not the effects of growth to any specific passenger number. Since the order itself does not build terminals or schedule flights, there is a risk that the scope of assessment is interpreted narrowly.
30. Three further concerns arise from the detail of Head 6.
31. First, the process begins with a screening step (Head 6(2)-(3)). If An Coimisiun determines that the making of an order is "not likely to have significant effects on the environment," no full EIA is required at all. Given the framing around the administrative act rather than the consequential growth, there is a real possibility that An Coimisiun could screen out at this stage, bypassing the entire assessment.
32. Second, Head 6(13) provides that the Minister "may direct daa to prepare an environmental impact assessment report." The entity that operates the airport and benefits commercially from removing the cap can be directed to prepare the assessment of that removal. This is a structural conflict of interest. The EIAR should be prepared by an assessor independent of both the Minister and daa.
33. Third, Head 6(24) provides that An Coimisiun "may require" conditions in the order. The word is "may," not "shall." Even where significant adverse effects are identified, An Coimisiun is not obligated to impose conditions. The Committee should consider whether a mandatory obligation to impose conditions where significant effects are found is more appropriate.

3.7 Head 7: Habitats Directive Assessment

34. Head 7 provides for screening and, where required, Appropriate Assessment of effects on European sites. Dublin Airport lies within the catchment of several Natura 2000 sites, including Malahide Estuary SAC/SPA and Baldoyle Bay SAC/SPA. Airport wastewater enters the sewer network that ultimately discharges into Dublin Bay, which encompasses multiple European sites.
35. The same structural issues identified in Head 6 apply here. The screening step (Head 7(1)-(2)) could result in a determination that no Appropriate Assessment is required. Head 7(11) allows the Minister to direct daa to prepare the Natura Impact Statement, the same conflict of interest as with the EIAR. Head 7(26) allows the Minister to override an adverse determination by claiming "imperative reasons of overriding public interest," a derogation under Article 6(4) of the Habitats Directive that the CJEU has interpreted strictly but which is available without independent verification of the Minister's claim.

3.8 Head 8: Water Framework Directive Assessment

36. Head 8 provides for screening and assessment of effects on the status of water bodies. This is the Head that most directly engages the wastewater and water quality evidence set out in Annex A.

Dublin Airport's sewage enters the Ringsend treatment system, which has been in persistent breach of the Urban Wastewater Treatment Directive. Any growth in passenger numbers increases the volume of wastewater discharged into that system.

37. Despite this direct relevance, Head 8 shares the same structural weaknesses as Heads 6 and 7. The screening step (Head 8(1)-(2)) could determine that no assessment is required. The Minister may direct daa to prepare the assessment report (Head 8(12)), creating the same conflict of interest. An Coimisiun "may require" conditions (Head 8(23)), not "shall." The Committee should consider whether the Water Framework Directive assessment should be mandatory rather than subject to screening, given the documented condition of the receiving water infrastructure.

3.9 Head 9: Joint Environmental Assessment

38. Head 9 permits An Coimisiun to carry out the EIA (Head 6), Appropriate Assessment (Head 7), and Water Framework Directive assessment (Head 8) jointly rather than separately. While avoiding duplication is a legitimate objective, combining three assessments governed by different EU directives into a single process risks reducing the depth of scrutiny each receives. The Committee should satisfy itself that a joint assessment would not result in the specific requirements of the Habitats Directive or the Water Framework Directive being subordinated to the broader EIA framework.

3.10 Head 10: Subordination of ANCA

39. Head 10 directs ANCA to "take any order made under Head 5 into account" in its noise action planning. ANCA's function under EU Regulation 598/2014 is to manage noise using the Balanced Approach, including operating restrictions where other measures are insufficient. Head 10 pre-empts that function by requiring ANCA to plan around unlimited growth rather than assess whether growth should be constrained on noise grounds. This raises a compliance question under Regulation 598/2014, which requires the competent authority to act independently. ANCA has achieved zero enforcement outcomes in five years while, according to its own annual reports, noise exposure has increased by 343%.

3.11 Head 11: Restrictions on Access to Justice

40. Head 11 contains one welcome provision: Head 11(20) provides that leave of the High Court is not required to bring judicial review proceedings, which is more permissive than the leave requirement in standard planning judicial review. However, the remaining provisions impose significant restrictions.
41. First, proceedings must commence within 8 weeks (Head 11(5)) rather than the standard three months, an unusually compressed timeline for communities without in-house legal teams. Second, Head 11(17) removes the right of appeal to the Court of Appeal, leaving only the Supreme Court on constitutional grounds under Article 34.5.4, a significantly higher threshold. Third, Head 11(16) limits standing to persons "directly or indirectly materially affected," potentially excluding environmental organisations notwithstanding Ireland's obligations under

the Aarhus Convention to ensure access to justice for the "public concerned." With High Court proceedings costing approximately EUR 10,000 per day, these restrictions would make it significantly more difficult for affected communities to challenge decisions made under the Bill.

3.12 Head 12: Climate Legislation Exemption

42. Head 12 exempts functions under this Bill from section 15 of the Climate Action and Low Carbon Development Act 2015, which requires public bodies to take account of national climate objectives. The General Scheme describes its own purpose as ensuring "the sustainable development of Dublin Airport." It is difficult to reconcile a claim of sustainable development with an express exemption from Ireland's primary climate legislation. Aviation accounts for approximately 10% of Ireland's carbon emissions. Removing the passenger cap, preventing any future cap, and exempting the Bill from climate legislation is difficult to square with Ireland's binding commitments under the Paris Agreement, the European Climate Law, and the Climate Action and Low Carbon Development (Amendment) Act 2021.

4. Infrastructure Readiness

43. The infrastructure required to support passenger numbers above 32 million does not yet have planning permission. In December 2024, DAA lodged an omnibus planning application for 11 major infrastructure projects comprising over 7,500 pages. Fingal County Council returned the application with 375 material deficiencies. Over a year later, DAA has still not supplied all of the information required to address those deficiencies.
44. DAA chose to build the North Runway (at a cost of EUR 370 million of State-owned company funds) before securing planning permission for the supporting terminal, landside, and airside infrastructure. That was DAA's commercial decision, not a State policy commitment. London Gatwick Airport handles over 40 million passengers per annum with a single runway, suggesting a second runway was not a prerequisite for the passenger numbers now being discussed.
45. Removing the passenger cap before this infrastructure exists means authorising growth that the airport's own operator has acknowledged cannot be supported without upgrades that do not have planning permission. The appropriate sequence is infrastructure first, then growth. The Committee should not allow a sunk-cost argument to drive the legislative timetable.
46. Annex B sets out the CSO tourism spending data that bears on the economic case for removing the cap, including evidence that Irish outbound spending exceeds inbound tourism revenue by more than two to one.

5. Prevention of Future Caps and Chilling Effect

47. The most consequential provision of the General Scheme is not the removal of the current cap but the prohibition on any future cap being imposed. Planning conditions are one of the principal tools of democratic oversight over development. Permanently extinguishing the power of

planning authorities to impose capacity conditions prevents any future government from responding to changed circumstances.

48. This prohibition creates a chilling effect that extends beyond the passenger cap. Because passenger numbers correlate directly with every environmental impact, any planning condition, noise restriction, wastewater limit, or traffic management requirement that has the practical effect of constraining passenger throughput could be challenged as a de facto passenger cap prohibited by this legislation.
49. The aviation industry has demonstrated a consistent willingness to litigate against any constraint: DAA obtained a High Court stay against Fingal's night flight enforcement; eight airlines and DAA challenged the IAA's inclusion of the cap in slot coordination; the Government introduced this Bill in response to Fingal's passenger cap enforcement. On this record, a statutory prohibition on capacity conditions would function as a legal shield against any environmental constraint that limits growth.
50. If the current cap is considered too low, the appropriate response is to raise it to a level supported by evidence and infrastructure, not to abolish capacity limits and prohibit their future imposition.
51. Annex C sets out the specific EU directives with which unrestricted growth without effective environmental controls would place Ireland in breach, together with the associated fiscal risk.

6. Unresolved Planning Issues

52. Significant environmental and planning issues at Dublin Airport remain unresolved. These demonstrate the inadequacy of the regulatory framework that would be relied upon to protect communities if the cap is removed.
53. Every departure from the North Runway since August 2022 has breached Condition 1 of the 2007 ABP planning permission, which requires adherence to the Environmental Impact Statement including flight paths. The approved route was straight ahead over reserved agricultural land; actual paths deviate by 30 to 86 degrees, overflying residential communities never consulted or assessed. Analysis shows the actual routes directly overfly 3,115 houses compared to 934 on the approved route, a 335% increase. However, this number does not include that the tracks pass within 3km of the 4000+ houses in the largest town in East Meath (approximately 16,000 residents). NRTG estimates this amounts to be in excess of a quarter of a million flights in breach of planning law (Annex D).
54. Fingal County Council identified nine categories of non-compliance in September 2022. It has enforced on two: night flights and the passenger cap. Both enforcement actions were neutralised. DAA obtained a High Court stay against the night flight notice. The Government introduced this Bill in response to the passenger cap enforcement. The remaining seven categories, including the flight paths affecting 30,000 residents, remain unenforced after three

and a half years. The Office of the Ombudsman has been investigating Fingal's failure to enforce since April 2025 and has found Fingal's responses unsatisfactory (Annex D).

55. The Court of Justice of the European Union is now considering the passenger cap directly: following a High Court challenge by eight airlines and daa against the IAA's inclusion of the cap in slot coordination parameters, Case C-857/24 was referred to the CJEU. On 12 February 2026, the Advocate General issued an opinion supporting the IAA on all points, affirming that the cap is a valid operational constraint and that historic slots "are not property rights" (Annex D).
56. No regulatory body accepts responsibility for these breaches. The IAA, ANCA, the EPA, Meath and Fingal County Councils, the Department of Transport, AirNav Ireland, and DAA each direct complainants elsewhere in a circular accountability vacuum (Annex D).
57. The Committee should also be aware that what appear to be three independent information sources (the Department of Transport, daa, and AirNav Ireland) are in practice a single source. The Department does not employ flight procedure designers or noise modellers; documentary evidence obtained through AIE requests demonstrates verbatim reproduction of daa language in ministerial correspondence, outsourced drafting of ministerial replies by AirNav, and a claim to this Committee about a completed review that never took place (Annex E).
58. This is the regulatory framework that would be the sole protection for affected communities if the cap is removed. The Committee should satisfy itself that it is functional before removing the one condition that Fingal has actually attempted to enforce.

7. Recommendations

Recommendation 1: Retain the Power to Set Capacity Limits

59. The Bill should empower the Minister to revise the passenger cap to a level supported by evidence and infrastructure, but should not prohibit the imposition of future capacity conditions. Planning conditions are a fundamental tool of democratic governance; permanently removing them is disproportionate and unnecessary.

Recommendation 2: Tie Any Cap Increase to Infrastructure Readiness

60. Any increase should be conditional on: (a) the granting of planning permission for necessary supporting infrastructure; (b) commissioning and operational readiness of that infrastructure; and (c) independent verification that the infrastructure can support the proposed passenger numbers.

Recommendation 3: Remove the Head 12 Climate Exemption

61. There is no justification for exempting this Bill from the Climate Action and Low Carbon Development Act 2015. If the Bill's purpose is sustainable development, it should be subject to Ireland's climate legislation, not exempt from it.

Recommendation 4: Require Independent Environmental Assessment with Mandatory Full Assessment

62. The environmental assessments under Heads 6, 7, and 8 should be mandatory, not subject to screening that could bypass them entirely. The assessments should cover the environmental effects of growth to a specified passenger number, not merely the administrative act of removing the cap. Environmental impact assessment reports, Natura Impact Statements, and Water Framework Directive reports should be prepared by assessors independent of both the Minister and daa. Head 6(13), 7(11), and 8(12), which allow the Minister to direct daa to prepare its own assessments, should be removed. Where significant adverse effects are identified, An Coimisiun should be required ("shall") to impose conditions, not merely permitted ("may") to do so.

Recommendation 5: Introduce an Environmental Threshold in Head 5(1)

63. Head 5(1) should require the Minister to consider not only whether the cap is causing serious harm to connectivity, the economy, or air transport agreements, but also whether removing the cap would cause serious harm to the environment, to public health, or to infrastructure serving affected communities. The triggering test should be balanced, not one-sided.

Recommendation 6: Require ANCA Reform Before Cap Removal

64. ANCA has achieved zero enforcement outcomes in five years while, according to its own annual reports, noise exposure has increased by 343%. ANCA should be reformed with genuine independence from Fingal County Council and DAA, adequate resourcing, and enforcement powers before the sole alternative constraint is removed.

Recommendation 7: Address Planning Non-Compliance First

65. It would be incongruous to remove one planning condition by primary legislation while another on the same development remains in knowing breach. The Bill should require compliance with all existing planning conditions as a prerequisite for any order under the Act.

Recommendation 8: Set the Cap at a Level Supported by Evidence

66. If the cap is to be raised, it should be set at a specific number supported by infrastructure capacity assessments, independently verified against wastewater treatment, water supply, and transport capacity.

8. Conclusion

67. The passenger cap is the single enforceable mechanism connecting the scale of Dublin Airport's operations to the capacity of surrounding infrastructure and environment. It controls noise through flight numbers, wastewater through passenger numbers, road congestion through surface access demand, and water consumption through terminal usage.

68. Removing it, and prohibiting its future reimposition, without first establishing independently enforced alternatives would leave approximately 30,000 residents and the shared infrastructure of the Greater Dublin Area without any effective constraint on the airport's growth.
69. NRTG urges the Committee to recommend amendments that retain capacity limits as a planning tool, tie any increase to verified infrastructure, remove the climate exemption, require independent and mandatory environmental assessment, introduce an environmental threshold in the ministerial order-making power, reform ANCA, and address existing non-compliance first.
70. Dublin Airport can and should grow, but sustainably, lawfully, and with genuine accountability to the communities it affects.

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This submission is made in response to the Joint Committee on Transport's call for submissions on the General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026, published 19 February 2026.

Supporting Annexes

The following annexes provide the detailed evidence referenced in the core submission above.

Annex A: Environmental Proxy Detail

Wastewater Treatment Capacity

- A.1. Dublin Airport's sewage enters the same sewer network that serves the communities of North Dublin and parts of Meath, ultimately arriving at the Ringsend Wastewater Treatment Plant for processing. Ringsend is the largest wastewater treatment plant in the State.
- Ringsend was originally designed to serve a population equivalent (PE) of 1.64 million
 - The plant has been persistently overloaded and in breach of the EU Urban Wastewater Treatment Directive
 - An upgrade costing over EUR 500 million of public money is underway, with a target capacity of 2.4 million PE, but full completion is not expected until 2027
 - Ireland has faced EU infringement proceedings over the inadequacy of wastewater treatment at Ringsend
 - In 2025, Dublin Airport processed 36.4 million passengers, 4.4 million in excess of the planning cap
- A.2. Each of those 36.4 million passengers uses toilet facilities, food preparation facilities, and other water-consuming services at Dublin Airport. Sewage includes not only passenger waste but also foul water tanks from inbound aircraft emptied into the airport's sewer connection. The wastewater generated enters the same treatment system that is already operating beyond its design capacity.
- A.3. If the Oireachtas removes the power to limit passenger numbers, no mechanism remains to control the volume of wastewater generated at Dublin Airport and discharged into an already overloaded treatment system. One cannot limit the tonnage of sewage entering the Fingal and Dublin sewer network for treatment at Ringsend if one is forbidden from limiting the number of people using the facilities at Dublin Airport.
- A.4. This has a direct consequence for housing. Uisce Eireann has warned that new housing connections across the Greater Dublin Area will be frozen by 2028 without the Greater Dublin Drainage project, which is not expected to be operational before 2032 at the earliest. Housing developments have already been delayed for lack of wastewater capacity: 1,300 homes were held up due to sewerage constraints, and a planned suburb of 6,000 homes has been described as "in jeopardy" because of insufficient water supply. The airport and housing compete for capacity in the same drainage network. Guaranteeing one facility unlimited access to that network while homes cannot secure connections is a policy choice the Committee should consider explicitly.

Noise Exposure Data

- A.5. Aircraft noise is the most immediately visible environmental impact of the airport, and is a direct derivative of passenger numbers:
- More passengers require more flights
 - More flights mean more noise events over residential communities
 - 36.4 million passengers in 2025 translated to an estimated 250,000+ commercial aircraft movements
 - The North Runway alone generates 300+ departures per day over approximately 30,000 residents of East Meath and North Fingal
- A.6. ANCA (the Aircraft Noise Competent Authority, embedded within Fingal County Council) has published annual reports showing:
- A 343% increase in population exposed to 55dB Lnight since the 2019 baseline
 - A 22% increase in population exposed to 65dB Lden in 2024 alone
 - Zero enforcement actions in its five years of existence
 - Zero new noise mitigation measures implemented
 - daa has refused to submit updated noise modelling to ANCA despite a formal request from ANCA in April 2024, claiming without legal basis that the ABP appeal prevented submission, thereby depriving both the regulator and the public of accurate information on the actual noise impact
- A.7. If the passenger cap is removed and no future cap may be imposed, the only remaining constraint on noise is ANCA, a body that has demonstrably failed to constrain anything.

Water Supply

- A.8. Residents of Swords have experienced reduced water pressure attributed to airport demand. The 32 million passenger cap was calculated with reference to domestic water supply capacity alongside other infrastructure constraints.

Annex B: Tourism Spending Deficit

- B.1. The principal economic argument for removing the cap is that increased airport capacity will bring more tourists and their spending into the Irish economy. The Committee should examine this assumption against the CSO's own data.
- B.2. In 2023, according to the CSO Household Travel Survey, Irish residents spent EUR 12.9 billion on outbound travel. In the same period, overseas visitors to Ireland spent approximately EUR 5.5 billion (CSO Inbound Tourism). For every euro that tourists spent in Ireland, Irish residents spent approximately EUR 2.35 abroad.
- B.3. In 2024, the pattern continued: 62% of departing passengers from Dublin Airport were Irish residents travelling outbound. Ireland's outbound trip volume grew to 13.7 million trips.

- B.4. Increasing airport capacity does not selectively increase inbound tourism. Every additional flight that brings tourists in also takes Irish residents out, and the data shows that outbound spending exceeds inbound revenue by more than two to one. Ireland has, in effect, a tourism spending deficit of approximately EUR 6-7 billion per year.
- B.5. The Committee may wish to consider whether the economic case for removing the cap has been adequately tested against this data. If the objective is to grow tourism revenue in Ireland, the answer may lie in the quality and marketing of the tourism product rather than in the volume of airport throughput. Drilling a bigger hole in a leaking bucket does not fill it faster.

Annex C: EU Law Exposure and Fiscal Risk

- C.1. Unrestricted airport growth without effective environmental controls will place Ireland in breach of multiple EU obligations:
- Directive 2011/92/EU (Environmental Impact Assessment): growth beyond assessed levels without re-assessment
 - Directive 2002/49/EC (Environmental Noise): failure to implement effective noise management measures at the source
 - EU Regulation 598/2014 (Balanced Approach to Aircraft Noise): the absence of an independent, effective noise competent authority
 - Urban Wastewater Treatment Directive: additional load on a treatment plant already in persistent breach
 - The European Climate Law and Ireland's Climate Action and Low Carbon Development Acts, from which Head 12 of this Bill explicitly exempts itself
 - The Aarhus Convention: removal of public participation rights in environmental decision-making affecting communities
- C.2. NRTG is preparing formal communications to the European Commission (DG Environment and DG MOVE), the European Parliament Petitions Committee, and the Aarhus Convention Compliance Committee on Dublin Airport's environmental impacts. Removing the only enforceable environmental constraint, while prohibiting its future reimposition, would significantly strengthen the basis for those complaints.
- C.3. The fiscal consequences of non-compliance with EU environmental law are borne by the Irish taxpayer, not by the airlines or airport operator that benefit from unrestricted growth. EU infringement proceedings are lengthy; by the time fines are levied, the political decision-makers who chose this course will have left office, but the cost will remain.

Annex D: Flight Path Non-Compliance, Enforcement, and Accountability

Flight Path Non-Compliance

- D.1. Every departure from the North Runway since its opening in August 2022 has been in breach of Condition 1 of the 2007 ABP planning permission, which requires adherence to the Environmental Impact Statement including noise footprints and flight paths. With over 300 daily departures from the North Runway, westerly operations (Runway 28R) accounting for the majority of the year, and over three and a half years of operations, NRTG estimates this amounts to in excess of a quarter of a million flights in breach of planning law.
- The approved flight path was straight ahead over 6,000 acres of reserved agricultural land
 - The actual flight paths deviate by 30 to 86 degrees, overflying residential communities never consulted or assessed
 - GIS analysis shows the approved route directly overflies 934 houses (1.5km corridor either side of the SID centreline); the actual turning routes directly overfly 3,115 houses using the same methodology, a 335% increase. Beyond the directly overflown corridor, the turning departures pass immediately adjacent to Ashbourne, the largest town in East Meath, with 4,132 houses (approximately 16,000 residents) all within 3km of SID centreline tracks. The approved straight-ahead route passes over agricultural land with no equivalent population centre. The noise impact is compounded by the aerodynamics of the turning departure: banked turns reduce climb efficiency, keeping aircraft lower over residential areas than a straight-ahead departure would be at the same distance

Enforcement Timeline

- D.2. Fingal County Council issued a Warning Letter (ENF 22/166B) citing 9 categories of non-compliance under Section 152 of the Planning and Development Act in September 2022, including explicitly the flight paths. Of those nine categories, Fingal has issued enforcement notices on two:
- Night flights (July 2023, requiring compliance with the 65-movement limit within six weeks)
 - The passenger cap (June 2025, allowing two years to comply)
- D.3. DAA challenged the night flight enforcement notice in the High Court and obtained a stay. The Government's response to the passenger cap enforcement was to introduce this Bill. The flight path breach and the remaining five categories of non-compliance identified in Fingal's own warning letter remain unenforced after three and a half years.
- D.4. The pattern extends beyond Fingal. When the IAA, in its capacity as slot coordinator, included the 32 million passenger cap in its coordination parameters for Summer 2025 for the first time, eight airlines and daa itself brought a joint High Court challenge ([2024] IEHC 624). The Court stayed the seat cap and referred three questions to the Court of Justice of the European Union (Case C-857/24). On 12 February 2026, the Advocate General issued an opinion supporting the IAA on all

points: the passenger cap is a valid operational constraint under the EU Slot Regulation, and historic slots "are not property rights, but authorisation to use airport infrastructure." The CJEU follows the Advocate General's opinion in approximately four out of five cases.

- D.5. The response of the international aviation industry to the Advocate General's opinion demonstrates the significance the industry attaches to preventing this question from being settled by the CJEU. On 24 February 2026, Airlines for America (A4A), the principal US airline lobby group, publicly urged the US Department of Transportation to pressure Ireland into enacting the Passenger Capacity Bill by the end of April 2026, explicitly so that the High Court could withdraw its CJEU reference before a binding ruling is delivered. A4A told the US Department of Transportation that the Advocate General's opinion, if adopted by the CJEU, "will fundamentally reshape how airlines operate at Dublin and other coordinated airports across the EU and globally" and that "local planning authorities will have the carte blanche authority to reduce airport capacity, revoke historic slots, and block new entrants." A4A has separately accused Ireland of breaching the EU-US Open Skies Agreement and has asked the US Government to impose restrictions on Irish airlines serving US destinations unless the cap is removed. The legislative timetable for this Bill is therefore not being set by domestic policy considerations alone; it is being shaped by an international lobbying campaign whose stated objective is to prevent the CJEU from issuing a ruling that the aviation industry considers adverse to its commercial interests.
- D.6. The High Court challenge was not DAA's first attempt to circumvent the cap. In 2018, DAA applied to ABP under Section 146A to amend the wording of Condition 3 by inserting the words "origin-destination" before "passengers," which would have excluded connecting passengers from the count and raised the effective cap. ABP refused, finding that the alteration "would be material in planning terms" and that greater passenger throughput "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." In 2019, DAA asked Fingal to refer questions to ABP about whether exceeding 32 million passengers even constituted "development." ABP dismissed the referral (ABP-305458-19), finding the questions were about interpreting existing conditions and fell outside Section 5 jurisdiction. The Board overrode its own Inspector's recommendation in doing so.
- D.7. The sequence is clear: redefine "passengers" to exclude connecting travellers (2018, refused by ABP); question whether exceeding the cap is a breach at all (2019, dismissed by ABP); litigate against the IAA for including the cap in slot coordination (2024, Advocate General ruled against DAA); and obtain legislation to remove the cap entirely (2026, this Bill). At no point has DAA applied for a new planning permission at a higher passenger number with a full Environmental Impact Assessment, which is the mechanism Condition 3 itself prescribes.
- D.8. Fingal identified nine areas of non-compliance. It has enforced on two. Both times, the response was to make the enforcement go away: DAA obtained a High Court stay on the night flight notice, and the Government is now legislating to remove the passenger cap condition entirely. The IAA

attempted to account for the cap in slot allocation and was immediately taken to the High Court by eight parties including the State-owned airport operator. The remaining seven categories, including the flight paths that affect 30,000 residents, remain unenforced. The message this sends is that where a State company breaches planning conditions and any body attempts to enforce, either the courts or the Oireachtas will intervene to remove the obstacle rather than require compliance.

Night Flight Breaches

- D.9. In summer 2023, DAA sold over 8,000 night flight slots against a legal limit of 5,980 under Conditions 3(d) and 5 of the planning permission, approximately 2,000 slots in excess of the limit with an estimated commercial value of EUR 1.1 million.
- D.10. Fingal issued an enforcement notice under Section 153 of the Planning and Development Act in July 2023 requiring compliance within six weeks. DAA's response was not to comply but to seek a High Court stay, which was granted in August 2023.

Accountability Vacuum

- D.11. These breaches persist because no regulatory body accepts responsibility:

Body	Position
IAA	Checks safety compliance only; "no public interest mandate." When it did act (including the cap in slot coordination), eight airlines and daa brought a High Court challenge.
ANCA	No authority over flight path design or operation, thus where the noise occurs and the number of people affected by noise
EPA	Claims no role when the environmental source is aviation
Meath County Council	Insists the issue is not its responsibility as the runway is in Fingal
Fingal County Council	Issued warning letter in 2022; enforcement notices on two of nine categories only
Department of Transport	No technical aviation expertise; routes queries to AirNav and/or daa
AirNav Ireland	Chose the route and claims solutions are "complex"
DAA	Legal Aerodrome Operator but claims it "devolved responsibility" to AirNav

- D.12. The circular nature of this accountability void is confirmed by the Ombudsman's own experience. A formal complaint against the Department of Transport for failure to exercise governance

responsibilities (OMB-163546-W7H8X9, filed October 2025) was closed in December 2025. The Ombudsman declined to pursue on every element, citing jurisdictional limits and directing the complainant to ANCA, the EU Commission, and other bodies. Each body directs the complainant elsewhere, and the Ombudsman defers to the same pattern.

- D.13. The Office of the Ombudsman has been investigating Fingal's failure to enforce the remaining breaches since April 2025 and has found Fingal's responses unsatisfactory. Fingal has continued to obstruct: citing "unforeseen circumstances" in January 2026 and "change in staff dealing with the matter" in February 2026.

Annex E: Independence of Information Before the Committee

- E.1. The Department of Transport does not employ flight procedure designers, noise modellers, or aerodrome operations specialists. When the Department responds to this Committee, to parliamentary questions, or to questions from public representatives on aviation matters at Dublin Airport, it is relaying information received from daa and AirNav, not providing independent technical analysis. This is not a criticism of Departmental staff; it is a structural reality. The Department's aviation policy function depends on the regulated entities for its understanding of the subject matter.
- E.2. The documentary record, obtained through official correspondence and Access to Information on the Environment requests, demonstrates that this dependency has resulted in the Committee and the Oireachtas receiving information that originated with daa or AirNav, presented under Departmental or ministerial authority as though it were independent government policy.
- E.3. Three specific instances illustrate the pattern:

Instance 1: Verbatim Reproduction of daa Language

- E.4. On 4 April 2024, daa wrote to this Committee (JCTC-33-1216) regarding the North Runway flight paths. Six days later, on 10 April 2024, the Minister for Transport's Private Secretary responded to a public representative on the same issue. The two documents contain verbatim identical language: "complex proposal in the context of Dublin Airport airspace," "wide range of factors that must be considered," and "structured and coherent manner, and not in isolation." The Minister's response was not an independent assessment; it was daa's position reproduced under ministerial letterhead.

Instance 2: Outsourced Drafting of Ministerial Replies

- E.5. AIE responses from AirNav Ireland (released July 2025) reveal that Department of Transport officials asked AirNav to draft the text of ministerial replies to public complaints about North Runway flight paths. The replies sent to constituents over the Minister's name were composed by the air navigation service provider whose operational decisions were the subject of those complaints.

Instance 3: The False Fiumicino Claim

E.6. In the same April 2024 letter (JCTC-33-1216), daa informed this Committee that AirNav Ireland had "recently completed" a review of procedures at Rome Fiumicino airport and that "its findings have been shared with daa," stating "the output of the review reaffirms that this is a complex proposal." When NRTG subsequently filed an AIE request to AirNav seeking all work products from this claimed review, AirNav responded (7 July 2025) that no modelling, simulations, technical assessments, internal reports, studies, or presentations had been conducted. The only records were an email from daa requesting a review (1 November 2023), an internal email summarising a single meeting with AirNav's subcontractor (5 November 2023), and AirNav's letter to daa (17 November 2023) stating that a proper study would require "considerable resources" and "a significant period of time," and that AirNav would not proceed without formal instruction and funding from daa. daa never gave that instruction. Despite knowing since 17 November 2023 that no review had been or would be conducted, daa informed this Committee five months later that a review had been "recently completed."

Conclusion

- E.7. The effect is that what appears to the Committee to be three independent sources of information (the airport operator, the air navigation service provider, and the Department of Transport) is in practice a single source. daa and AirNav generate the technical narrative; the Department transmits it. The Committee and the Oireachtas have been making decisions, and are now being asked to legislate, on the basis of information that has not been independently verified at any stage.
- E.8. This Bill proposes to give the Minister the power to revoke environmental planning conditions by ministerial order, with discretionary rather than mandatory consultation. If the Minister's understanding of aviation operations at Dublin Airport is derived entirely from the entities that operate the airport and benefit commercially from its growth, the Committee should consider what mechanism exists to ensure that power is exercised on the basis of independent evidence rather than advocacy by the regulated industry.