

# Supplementary Submission #5 to European Commission

Complaint ref: CPLT(2026)00881 Filed: 2 March 2026

To: European Commission, DG Environment (EC-CPLT-ENV@ec.europa.eu) From: Gareth O'Brien BE (Civil) MSc, North Runway Technical Group Date: [7 April 2026] Re: The Baseline Reset: convergent strategies to circumvent the EIA Directive through the Reg 598/2014 process

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Dear Ms Ziane,

I write to file supplementary submission #5 to complaint CPLT(2026)00881.

The population-exposure figures cited in this supplementary (and in earlier submissions) have now been formalised into an independent GIS impact study deposited on Zenodo: O'Brien, G. (2026), *Quantifying Noise Impact of Dublin Airport's North Runway Departure Routes: An EIA-Conformance Gap Analysis*, Version 1.0, North Runway Technical Group, <https://doi.org/10.5281/zenodo.19567671> (Annex S5-G). The study replaces the earlier provisional counts with a documented, reproducible methodology: SID-compliance corridors constructed around published centrelines, widened from the runway to a UK DfT 1.5 km "overflow" and 3 km "affected" swathe (DfT00393 convention); OpenStreetMap residential building footprints; and CSO Small Area 2022 population area-weighted to buildings within each corridor. The headline counts reported below are v1.0 figures. A corridor-width sensitivity sweep across 1.0/1.5/2.0 km (overflow) and 2.5/3.0/3.5 km (affected) half-widths is included in the deposit; point estimates move 10 to 25% across defensible widths, and the order-of-magnitude disparity between the Routes Flown and any EIS-consistent alternative holds across the full matrix. The QGIS project, source GeoPackages, census extracts and georeferenced figures are deposited alongside the PDFs and any independent party with QGIS 3.34 or later can reproduce every number in this submission.

On 12 January 2026, ANCA made a Strategic Environmental Assessment Screening Determination for proposed amendments to the Noise Abatement Objective (NAO) for Dublin Airport, based on a Screening Report by Logika Consultants (report 12128C-01, 6 January 2026). When read alongside daa's Managing Director's testimony of 24 March 2026 (already before the Commission in supplementary #4), these documents establish a convergent strategy to use the Regulation 598/2014 process to circumvent the EIA Directive.

## **1. What ANCA proposes to amend**

The SEA Screening Report describes two proposed amendments to the NAO.

Amendment 1: re-baseline the NAO from 2019 to 2023. The report states: “The key change is to re-baseline the NAO against the noise situation in 2023 rather than in 2019. This change allows the NAO to set outcomes based on how the airport operates in its current form rather than its noise performance prior to the opening of the North Runway in 2022 and substantial fleet modernisation” (Section 2.2.2). The 2023 baseline reflects operations using departure routes never assessed under Directive 2011/92/EU. ANCA’s own data shows a 343% increase in population exposed to 55 dB Lnight between these baselines (1,533 to 6,791 people by 2024).

Amendment 2: remove the 55 dB Lnight and 65 dB Lden criteria. Housing growth “conflicts with the achievement of the current Noise Abatement Objectives linked to 55 dB Lnight” (Section 2.2.2). ANCA’s solution is to remove the metric that documents the breach rather than enforce it.

Source: Annex S5-A (SEA Screening Report, full document, 24 pages).

## **2. The convergence with daa’s stated strategy**

On 24 March 2026, daa Managing Director Gary McLean told the Joint Oireachtas Committee on Transport (already before the Commission in Annex S4-B):

“we were carrying out at the time in good faith that there would be an outcome to the North Runway relevant action, which was to reset the baseline for operations at the airport” (para 76)

“we need a baseline of the North Runway relevant action before we can understand what that baseline is, before we start to understand the impact of different changes” (para 102)

ANCA’s SEA Screening Report uses materially identical language: the 2019 baseline must be replaced with a baseline that reflects “how the airport operates in its current form.” McLean calls this “reset the baseline.” ANCA calls it “re-baseline.”

If both strategies succeed, the 2007 EIS ceases to be the reference point for any regulatory assessment, and the metric quantifying the 343% increase in noise exposure ceases to exist.

## **3. The SEA Screening Report does not mention the EIA Directive**

The SEA Screening Report treats the current departure routes (30-degree turns at 400ft AGL, total deviation up to 86 degrees, 4,008 residential buildings directly overflown, 13,923 residents, per Annex S5-G) as the existing condition. It does not mention:

- (a) that these routes were never assessed under Directive 2011/92/EU (the 2007 EIS assessed straight-ahead departures);
- (b) that the noise situation being “re-baselined” is the product of operations that deviate materially from the assessed development;
- (c) that the 2023 baseline has never been the subject of an EIA.

The report proposes to establish as the regulatory baseline a noise situation that has never been assessed under the EIA Directive, without acknowledging this fact.

## **4. The “permitted” labelling in daa’s noise modelling**

Noise contour charts produced by daa’s consultant Bickerdike Allen Partners (BAP) label the current (unassessed) routes as “permitted” (e.g. drawing A11267\_19\_DR039\_2.0, “Forecast Lday Noise Contours 2035 Permitted Scenario”). BAP refused to explain this label, citing contractual obligations to daa (11 September 2024). daa stated the “permitted” contours are “based on the application of Condition 3d and 5” (Angela Flynn, 2 October 2024), but those conditions concern night-time restrictions (curfew hours, night movement cap), not departure routes. The “permitted” label describes a noise footprint generated by unassessed routes, in documents ANCA relies on to set the noise baseline.

Source: Annex S5-B (Bickerdike exchange, September 2024) and Annex S5-C (Angela Flynn response, 2 October 2024).

## **5. The Department’s role**

The Department adopted daa’s position without independent assessment. On 19 June 2025, the Minister for Transport told NRTG representatives and Deputy Gillian Toole TD that daa “can’t release the noise info while the RA is live.” There is no statutory basis for this proposition. The noise data ANCA formally requested in April 2024 was withheld for 19 months, not supplied until November 2025, despite being available internally by December 2024 at latest. The data withholding delayed the regulatory process while the baseline reset strategy matured and the Passenger Capacity Bill reached committee stage.

Source: Annex S5-D (meeting agenda email chain, June 2025; first-hand account of meeting exchange).

## **6. The Commission Decision C(2026) 919**

The Commission’s Decision of 10 February 2026 found Ireland’s process non-compliant with Regulation 598/2014 (only Pillar 4 assessed). ANCA prepared the underlying assessment.

ANCA's response is not to fix the assessment but to change the objective against which it is measured. The NAO amendments would replace the baseline and remove the metrics before the reassessment required by the Decision takes place, ensuring the reassessment occurs against a baseline that normalises the breach.

## 7. The precedent

If this approach succeeds, the following sequence becomes available to the developer of any project in any Member State where a parallel sectoral regulatory process exists:

- (a) submit a favourable Environmental Impact Statement to obtain planning permission;
- (b) build the infrastructure;
- (c) fundamentally change the operation after construction (different flight routes, different noise footprint, higher emission levels, different effluent composition, different affected population);
- (d) withhold data from the competent authority while the changed operation becomes established;
- (e) use a sectoral regulatory process (in this case, the Balanced Approach under Regulation 598/2014) to retrospectively establish the changed operation as the new environmental baseline;
- (f) amend the Noise Abatement Objective to remove the metrics that quantify the deviation from the assessed operations;
- (g) achieve de facto regularisation of the changed operations without ever conducting an Environmental Impact Assessment, without public consultation, and without admitting the breach.

The EIA Directive ceases to have practical effect for airport developments and may be undermined generally wherever sectoral regulatory processes exist alongside project-level EIA obligations.

This is not theoretical. The strategy has been described by daa's Managing Director on the Oireachtas record. ANCA's SEA Screening Report initiates the regulatory process to implement it. The Department is legislating to remove the last enforceable constraint while declaring in primary legislation that Regulation 598/2014 does not apply (Head 4(5) of the Passenger Capacity Bill 2026).

While ANCA proposes to remove the metrics that quantify the breach, the IAA is simultaneously increasing the airport's coordination parameters by 32 movements per day without referencing the Noise Action Plan, the strategic noise maps, or any environmental data (IAA Draft Decision on Winter 2026 Coordination Parameters, 8 April 2026; NRTG consultation response annexed as S5-E). Article 6(1) of the Slot Regulation requires the parameter determination to take account of "all relevant technical, operational and environmental constraints." The Draft Decision addresses the first two limbs across 21

pages of modelling and analysis. The environmental limb is not addressed at all. The Draft Decision's own record of the three Coordination Committee meetings held on 19 February, 12 March and 24 March 2026 (pages 5 to 7 of the Draft Decision) confirms the absence: discussion was confined to planning-condition enforceability, simulation modelling, operational performance, Judicial Review proceedings, and EU Presidency arrangements. No reference to the Environmental Noise Directive, no reference to the strategic noise maps, no Lden or Lnight values, and no input from the Aircraft Noise Competent Authority is recorded at any of the three meetings. The Noise Action Plan 2024-2028, published by Fingal County Council in December 2024, shows population exposed above 55 dB Lnight increased 191% between 2019 and 2023; it is not referenced. The environmental baseline is being erased from below while the capacity ceiling is raised from above.

## **8. Zero Pollution Action Plan**

The proposed re-baselining is inconsistent with the Zero Pollution Action Plan target of a 30% reduction in people chronically disturbed by transport noise by 2030. ANCA's own data shows the opposite trajectory: a 343% increase in population exposed to 55 dB Lnight between 2019 and 2024. ANCA's response is not to reverse the increase but to remove the metric that measures it. If the 55 dB Lnight criterion is deleted from the NAO, Ireland will have no regulatory mechanism that tracks progress against the Zero Pollution target at Dublin Airport.

## **9. Request**

We respectfully request:

- (a) that the Commission obtain and examine the SEA Screening Report (annexed as S5-A) as part of its preliminary assessment;
- (b) that the Commission consider whether the proposed NAO amendments, if adopted, would render the EIA Directive inapplicable in practice at Dublin Airport;
- (c) that the Commission consider whether the use of the Regulation 598/2014 process to establish an unassessed noise baseline is consistent with Article 2(1) of Directive 2011/92/EU;
- (d) that the Commission communicate its preliminary position to Ireland before the NAO amendments are adopted, given that adoption would create a fait accompli that is significantly harder to reverse.

Yours faithfully,

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## Evidence update, 14 April 2026: ANCA admission that the NAO amendment process is live

Since this supplementary was drafted, ANCA has placed the NAO amendment process on the record in two letters to NRTG dated 14 April 2026.

In Ref FCC-2026-037856-M8X3M, ANCA confirms:

- (a) the F23A/0781 noise assessment is “at an advanced stage”;
- (b) the Noise Abatement Objective will be “defined, restated or amended” and opened to public consultation;
- (c) the public consultation will run for 14 weeks at the end of the assessment process;
- (d) the Planning and Development Act gives daa, as airport authority, a statutory 4-week period in which to submit counter-proposals on ANCA’s draft regulatory decision. ANCA asserts this right “does not affect the independence of ANCA in the making of a draft regulatory decision.”

In Ref FCC-2026-037859-T5B6R, ANCA confirms Fingal County Council received notification of Commission Decision C(2026) 919 on 20 February 2026, declines to comment on matters “under consideration” by An Coimisiún Pleanála, and deflects questions on the Passenger Capacity Bill 2026 to the Department of Transport. ANCA makes no statement that the F23A/0781 assessment has been reopened or rescoped to address the Commission’s finding.

These responses convert the baseline-reset strategy described at Sections 1 to 3 above from a documentary inference drawn from ANCA’s SEA Screening Report into a contemporaneous admission by the competent authority. ANCA’s three-option formulation (“defined, restated or amended”) expressly preserves the option of simply restating the existing NAO, without assessment against Pillars 1 to 3 of the Balanced Approach; that outcome would repeat the defect identified by the Commission in C(2026) 919. The structure of the consultation, a 14-week public window opening only after the assessment is substantively complete, running alongside a statutory 4-week counter-proposal right for the regulated operator, is the concrete operational form of the participation failure alleged under Article 6 of the Aarhus Convention.

Source: Annex S5-F (ANCA letters, 14 April 2026, Refs FCC-2026-037856-M8X3M and FCC-2026-037859-T5B6R).

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## Annexes

- S5-A: ANCA SEA Screening Report (Logika Consultants, 12128C-01, 6 January 2026, 24 pages). Source: [fingal.ie/aircraftnoise](https://fingal.ie/aircraftnoise). SEA Screening Determination dated 12 January 2026, public notice 13 January 2026.

- S5-B: Bickerdike Allen Partners exchange (11 and 24 September 2024). Questions on noise contour “permitted” labelling and asymmetry; BAP refused to engage.
- S5-C: Angela Flynn (daa) response (2 October 2024). Confirms BAP contractual restriction; defines “permitted” by reference to night-time conditions, not departure routes.
- S5-D: Meeting with Minister O’Brien (19 June 2025). Email chain (agenda sent in advance); first-hand account of Minister repeating daa’s position on noise data.
- S5-E: NRTG consultation response to IAA Draft Decision on Winter 2026 Coordination Parameters (9 April 2026). Demonstrates the simultaneous absence of environmental assessment in the slot coordination process.
- S5-G: O’Brien, G. (2026), *Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis*, Version 1.0, North Runway Technical Group. Deposited on Zenodo, <https://doi.org/10.5281/zenodo.19567671>. Independent reproducible GIS quantification of the population exposed under the Routes Flown and under two EIS-consistent counterfactuals, with corridor-width sensitivity analysis and companion Reproducibility and Figures archives.
- S5-F: ANCA letters to NRTG, 14 April 2026. Ref FCC-2026-037856-M8X3M (scope of forthcoming review and public consultation; confirms “advanced stage”, NAO “defined, restated or amended”, 14-week consultation, statutory 4-week daa counter-proposal right). Ref FCC-2026-037859-T5B6R (timeline; confirms receipt of C(2026) 919 on 20 February 2026; declines comment on ACP process; deflects Bill questions to DoT). Source: [correspondence/anca/75416](#) ANCA Response RE scope of review.eml, [correspondence/anca/75417](#) ANCA Response RE timeline Balanced Approach.eml.