

Supplementary Submission #7 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: [10 May 2026]
Re: Ministerial adoption of the doctrine on which complaint CPLT(2026)00881 rests, on the Dáil record on 30 April 2026

Dear Ms Ziane,

I write to file supplementary submission #7 to complaint CPLT(2026)00881, in advance of the preliminary assessment expected by approximately 12 May 2026.

The doctrine on which this complaint rests is that the Irish State has structurally placed flight paths at Dublin Airport outside planning law, and that the State's combined regulatory architecture produces no body that examines whether the routes flown comply with the 2007 Environmental Impact Statement on which planning permission was granted. Earlier supplementaries traced that doctrine as the position of daa, mirrored by the Aircraft Noise Competent Authority (ANCA) and the Department of Transport. On 30 April 2026, the Minister for Transport adopted that doctrine in writing, on the Dáil record, in answer to seven Parliamentary Questions tabled by Deputy Gillian Toole and three by Deputy Roderic O'Gorman. This supplementary brings six concessions from those replies to the Commission's attention before the preliminary assessment closes.

Annex S7-A reproduces all ten replies verbatim, with the as-tabled text restored where the public Dáil record carries "(details supplied)".

1. Ministerial adoption of the “no planning permission for flight paths” doctrine

Supplementary #4 (§1 and Annex S4-A) placed before the Commission daa Managing Director Gary McLean's statement to the Joint Oireachtas Committee on Transport on 24 March 2026 that “there is no such thing as planning permission for flight paths,” and that the routes assessed in the 2007 EIS were “indicative”. That submission characterised the McLean position as a misleading representation by the airport operator.

The Minister for Transport has now adopted that position in writing, three times, in his replies of 30 April 2026:

“I would like to again clarify that flight paths are not a condition of planning at Dublin Airport.” (PQ 248, 31820/26)

“It is important to note that flight paths are not a condition of planning at Dublin Airport.” (PQ 251, 31825/26)

“I would like to clarify from the outset that flight paths are not a condition of planning at Dublin airport.” (PQ 252, 31827/26)

PQ 252 expressly asked whether the Minister agreed with McLean's 24 March 2026 statement and whether that statement is consistent with Article 2(1) of Directive 2011/92/EU. The reply restates the McLean position as the Department's own. On the Article 2(1) consistency sub-question the Minister says only: "I can confirm the project at Dublin Airport was subject to an Environmental Impact Assessment." On the related sub-questions about An Bord Pleanála's 2007 unanimous override of its Senior Planning Inspector, and the basis for that override given daa's later "indicative" characterisation of the EIS routes, he replies: "this is a matter for An Coimisiún Pleanála (ACP) rather than my Department." The reply does not engage with whether the routes flown today are within the scope of the 2007 EIA, which is the Article 2(1) question.

The position flagged at supplementary #4 as a misrepresentation requiring independent Commission verification is now the Minister's stated position. The State has confirmed in writing the doctrine on which this complaint rests.

The same replies that adopt the doctrine reserve, in the same paragraph, the determination of what falls within a planning consent to the planning authority. PQ 248 (verbatim, single paragraph):

"Monitoring compliance with planning permission conditions is matter for the relevant Council that granted those permissions, and enforcement of planning conditions is a matter for the relevant planning authorities. However, to reiterate, flight paths are not a condition of planning at Dublin Airport."

PQ 251 (verbatim, single paragraph):

"Monitoring compliance with planning permission conditions is matter for the relevant Council that granted those permissions, and enforcement of planning conditions is a matter for the relevant planning authorities. It is important to note that flight paths are not a condition of planning at Dublin Airport."

The first sentence reserves the determination of what falls within a particular planning consent to the planning authority, on appeal An Coimisiún Pleanála, and on judicial review the High Court. The second sentence is itself a determination of what falls within the planning consent for the Dublin Airport North Runway project (An Bord Pleanála reference PL06F.217429, 23 August 2007). Determining whether departure routes are or are not "a condition of planning" at Dublin Airport is the substance of an enforcement-stage planning question. The Minister for Transport has no statutory role under the Planning and Development Act 2000 in that determination. The accompanying disclaimer in PQs 248 and 251, "it is not open to me as Minister, to intervene on matters which are the responsibility of these independent authorities," addresses the same subject-matter the Minister has just determined.

Two limbs follow, and each engages EU law.

- (a) If the Minister's "flight paths are not a condition of planning at Dublin Airport" line is offered as a description of the legal position, with no determinative effect, the State cannot rely on it. The Department in fact relies on it. PQ 252 expressly asked the Minister on what basis the Department has continued to rely on daa's

“no planning permission for flight paths” position in its dealings with the Oireachtas and in the preparation of the Dublin Airport (Passenger Capacity) Bill 2026. The reply does not deny the reliance. The Bill, on which the Oireachtas is to legislate, is therefore framed in part on a position of the Department’s own that, on this limb, has no legal weight.

- (b) If the line is offered as a determination, with effect, the Minister has exercised a planning-authority role in the same paragraph in which he disclaims that role. An executive determination of the scope of a planning consent, made outside the consenting body, by ministerial declaration on the Dáil record, with no antecedent Environmental Impact Assessment, no public participation step, and no judicially reviewable decision-record, is a substitution of executive declaration for the consent process. Article 2(1) of Directive 2011/92/EU requires that consent be granted only after an assessment of the project’s likely significant effects, and necessarily that the scope of what was consented to be set by that assessment and by the consenting body. An executive redefinition of consent scope after consent, by a Minister disclaiming the very role he is exercising, defeats the scope-setting function of Article 2(1). It also defeats Article 9(3) and (4) of the Aarhus Convention, by placing the determination outside any administrative or judicial process residents could challenge.

The structural feature is that there is no third limb. The State has placed the determination of what is and is not a condition of planning at Dublin Airport on the Dáil record, three times, by the Minister for Transport, while the same replies reserve that determination to actors who have not made it.

The textual mechanism that allows the contradiction to coexist warrants the Commission’s attention. The 2007 grant of permission (An Bord Pleanála reference PL06F.217429) contains express conditions on runway use that operate as part of the consent today: 28L is preferred for arrivals on westerly operations; 10R is preferred for departures on easterly operations; the new (north) runway, 10L-28R, is not used for take-off or landing between 23:00 and 07:00. Those conditions are honoured. The same 2007 grant rests on an Environmental Impact Statement that assessed straight-out departure routes from 28R as the routing on which the noise, air-quality and community-impact assessments were founded. The Minister’s stated position is that those EIS-assessed routes are “indicative”, and not a condition of planning. The reading that distinguishes the two halves of the consent is that the express conditions are honoured because they are enumerated, while the EIS-assessed routing is dismissed because its findings are not separately re-enumerated as a condition.

The differential treatment is not justified by operational cost. The express easterly-departure preference for 10R confines departure operations to a single runway for approximately 25 to 30 per cent of the year (the easterly-wind period), capping the airport’s schedulable departure capacity at the easterly-day single-runway throughput, since a hub schedule cannot be predicated on a particular wind direction. The 23:00 to 07:00 north-runway curfew similarly removes a substantial portion of the operational day from new-runway use. The State accepts those EIS-rooted express conditions as binding notwithstanding the operational cost. The EIS-assessed straight-out departure-route

geometry from 28R, by contrast, would impose little operational cost: the assessed routing is achievable using the existing fleet and existing procedures, and NRTG has demonstrated the technical feasibility of preserving independent runway operations under that assessed geometry in technical presentations made to daa, the Irish Aviation Authority, and the Minister, and in publicly available material. The asymmetry is therefore not between costly conditions that are dismissed and cheap conditions that are kept; it is between EIS-rooted protections that are honoured at significant operational cost (those limiting overflight in the approach and easterly-departure corridors east of the airport) and EIS-rooted protections that are dismissed even when honouring them would be operationally trivial (those that would constrain the geometry of westerly departures to the north and west of the airport).

The reading is irreconcilable with Article 2(1) of Directive 2011/92/EU and with the case law of the Court of Justice on the relationship between the Environmental Impact Assessment and the consent founded upon it. The EIS is not, in EU law, indicative material that the consenting body or the responsible Minister may sever from the operative consent at the discretion of the project promoter or of the State. Article 2(1) requires that consent be given only after the project's likely significant effects have been assessed; the assessment fixes the project's scope. A consent that is read as containing only the express conditions, with the assessed routing severed at the discretion of the operator and ratified by the responsible Minister, defeats the scope-setting function of Article 2(1), and defeats the practical effect of public participation under Article 6 of the Aarhus Convention, which depends on the public being able to rely, after the fact, on the EIS the public participated in.

2. Ministerial ratification of the regulated entity controlling the timing of statutory data

Supplementary #5 §5 placed before the Commission daa's 19-month withholding of noise data formally requested by ANCA in April 2024 (and not supplied until November 2025), and noted the Minister's reported statement at a meeting of 19 June 2025 that daa "can't release the noise info while the RA is live." Supplementary #5 characterised the withholding as the regulated entity controlling the timing of the data on which the regulator's assessment depends.

The Minister's PQ 250 reply (31824/26, 30 April 2026) confirms both the withholding and its conditioning on the regulatory outcome:

"I can confirm that I am aware of the timing of the request from ANCA for 'noise data from daa plc in April 2024 for the purpose of the noise assessment required under Regulation (EU) 598/2014', and I can clarify that the request was issued by ANCA in March 2024, rather than in April 2024. Furthermore, it is my understanding that the requested data was subsequently provided by daa to ANCA in November 2025."

"With regard to the North Runway Relevant Action (NRRRA), it is my understanding that the daa's stated position is that it needed a decision on the

NRRA application before providing the requested data to ANCA in order to ensure the information provided was as robust and accurate as possible.”

“It is my opinion that the timing of the provision of information does not materially interfere with the independence of the process.”

Three points follow.

- (a) The Minister’s correction extends the withholding period from 19 to 20 months: ANCA requested the data in March 2024; daa supplied it in November 2025.
- (b) The Minister confirms, in writing, that daa’s express basis for withholding the data was the status of an unrelated planning proceeding before An Coimisiún Pleanála. Section 9(10)(a) of the Aircraft Noise (Dublin Airport) Regulation Act 2019 empowers ANCA to direct the airport authority to provide information; no statutory or regulatory provision is identified, by the Minister, daa, or ANCA, as the basis on which the supply of statutory data was lawfully conditional on the NRRA outcome. The withholding was contractual or strategic; the regulator did not exercise its statutory power to compel.
- (c) The Minister’s reply ratifies that pattern: the conclusion that “the timing of the provision of information does not materially interfere with the independence of the process” approves the regulated entity’s control of the timing of statutory data on which the competent authority’s regulatory output depends.

Article 3(2) of Regulation (EU) 598/2014 provides that “the competent authorities shall be independent of any organisation which could be affected by noise-related action,” and that “that independence may be achieved through a functional separation.” Recital 13 elaborates that the competent authority “should be independent of any organisation involved in the airport’s operation, air transport or air navigation service provision, or representing the interests thereof and of the residents living in the vicinity of the airport,” qualified with the statement that “this should not be understood as requiring Member States to modify their administrative structures or decision-making procedures.”

The Recital 13 qualifier protects the State’s choice of administrative form: the State may designate an existing structure rather than create a new one, and the form of separation may be functional rather than institutional. The qualifier does not protect a designated authority that fails the substantive independence test in Article 3(2). daa is on any reading “an organisation which could be affected by noise-related action”: noise-related operating restrictions on Dublin Airport directly affect daa’s revenues and operating envelope. A competent authority that takes 20 months to acquire the data on which its statutory function depends, because daa withholds it for the duration of an unrelated planning proceeding, and a Minister who endorses that pattern as not materially interfering with the independence of the process, fail the substantive Article 3(2) test regardless of the form of separation chosen.

3. Ministerial confirmation of the Aircraft Noise Competent Authority's institutional unity with Fingal County Council

PQ 247 (31818/26) put to the Minister the records released under Fingal FOI decisions FOI/2026/071 and FOI/2026/072 (20 April 2026), which establish (i) that the Director of ANCA attends meetings of the Fingal County Council Executive Management Team as an equal-level Director of Services, and (ii) that the Chief Executive holds quarterly meetings with the Director of ANCA at which ANCA's public correspondence, Freedom of Information handling, finance, procurement, planning applications, Noise Action Plan and daa Section 19 compliance reporting are reviewed.

The Minister's reply confirms the records:

"Regarding points raised in relation to records released under Fingal FOI decisions FOI/2026/071 and FOI/2026/072, I understand that they are factually correct."

The same reply describes the working structure of ANCA:

"ANCA is headed at a senior level by a Director of Service, who is supported by a core executive team and specialist service providers."

"Specialist service providers" confirms that the substantive work of ANCA is performed by external contractors. Read with the FOI 071 and 072 confirmations, the structure is: a single delegated officer of Fingal County Council, embedded in that Council's executive management team, supervised quarterly by the Council's Chief Executive on the matters that constitute ANCA's regulatory output, supported by external contractors. The Recital 13 qualifier protects the choice of administrative form, but Article 3(2) still requires independence in substance "from any organisation which could be affected by noise-related action". daa, which pays the levy that funds ANCA under section 5 of the 2019 Act and whose airport's operating envelope is directly affected by ANCA's regulatory output, is such an organisation. The independence required by Article 3(2) is, on the structure the Minister has now described, a matter of statutory declaration in section 3 of the 2019 Act; it is not corroborated by the institutional architecture in which ANCA in fact sits.

4. Departmental non-engagement with the air-navigation service provider's complaint-referral process

Supplementary #4 §4 and supplementary #6 §5(iv) addressed Article 9 of the Aarhus Convention. The PQ 249 reply (31822/26) adds an Article 5 admission. Article 5 requires public authorities to collect environmental information and make it effectively accessible.

PQ 249 asked whether the Department had at any point enquired of AirNav Ireland about the operation of the noise-complaint referral process. The Minister:

“I can confirm that my department has not engaged with AirNav Ireland regarding the aforementioned referral process.”

AirNav Ireland is a wholly State-owned designated activity company under the aegis of the Department. The Department has not engaged with it on the operation of the channel through which residents’ noise complaints are routed for substantive response. The reply also confirms that the operational data PQ 249 sought (number of substantive responses to residents in 2024 and 2025; median referral-to-response time) is not held by the Department; the Minister has referred those sub-parts to AirNav Ireland and to daa for direct response within ten working days, an obligation falling due on or about 14 May 2026.

That is the structural content of an Article 5 failure: the State holds the channel, does not enquire whether it operates, and does not hold the data that would establish whether it operates.

5. Public record redaction and the Aarhus Convention dimension

Annex S7-A reveals a separate Article 5 and Article 6 Aarhus dimension. Seven of the ten Parliamentary Questions in the cluster were redacted on the public Dáil record by the Oireachtas Bills Office, with substantive material replaced by the marker “(details supplied)”. The Bills Office is not the tabling Deputy and not the Department; it operates under the Ceann Comhairle. The Minister’s private office receives the as-tabled text in full and replies on the basis of the unredacted question.

NRTG has audited each redacted sub-part against the Minister’s reply (Annex S7-C). In four of the seven redacted PQs (refs 31625/26, 31820/26, 31825/26 and 31827/26), the redacted material was both removed from the public record and left unaddressed in the reply. In a fifth (ref 31824/26), the redacted material includes the description of a meeting in the Minister’s own office on 19 June 2025 attended by the tabling Deputy and members of NRTG, at which the Minister is reported to have stated that daa “can’t release the noise info because of the Relevant Action”; the reply neither confirms nor denies the meeting. The cluster of questions was effectively neutralised on the public record by the cumulative effect of the redactions.

The constitutional function of a Parliamentary Question in Ireland is the public scrutiny of the Executive: the Minister either answers on the public Dáil record or is seen on that record to have failed to answer. Both halves of that function depend on the public being able to read what was asked. If the question is reduced from a precise multi-part inquiry to a generic formulation, the public cannot tell whether the answer is responsive or evasive. By modifying the question on the public record, the redactor removes the comparator against which the answer would be measured, and the accountability mechanism the Parliamentary Question was designed to serve is defeated.

That is the harm before the Aarhus harm. The Aarhus harm is on top of it. The public is denied access to (i) the substance of what the Deputy actually asked the Minister,

on matters of EU environmental law; (ii) the substance of the State's engagement (or non-engagement) with those questions; and (iii) the comparator that would allow any external reader, including the Commission, to assess the Irish State's responsiveness on matters within the scope of CPLT(2026)00881. That is the practical content of an Article 5 dissemination failure read with the Article 6 participation requirement in respect of decisions on activities listed in Annex I of the Aarhus Convention.

6. Concessions on the Dublin Airport (Passenger Capacity) Bill 2026

Supplementary #5 §7 warned that the Passenger Capacity Bill represents the legislative completion of the baseline-reset strategy: removing the only enforceable constraint on movement growth while ANCA proposes to remove the metrics that would document the resulting environmental harm. The 30 April replies add two ministerial admissions on the Bill's preparation.

Reply to PQ 230 (31621/26):

"While no assessments were carried out prior to the preparation of the Bill, I have included provisions that require me to engage with An Coimisiún Pleanála (ACP) in advance of making any order to amend or revoke the passenger cap. ACP will have the ability to screen for and if necessary, carry out a full Environmental Impact Assessment, an assessment under the Habitats Directive and an assessment under the Water Framework Directive."

Reply to PQ 231 (31623/26):

"I have received a significant amount of legal advice in relation to using a legislative solution to address the passenger cap. This advice has been provided through the office of the Attorney General and included advice in relation to an exemption from the Climate Action and Low Carbon Development Act 2015."

The Minister concedes that no assessment was made of the Bill's compatibility with the Environmental Noise Directive (2002/49/EC), the EIA Directive (2011/92/EU), Regulation (EU) 598/2014 on the Balanced Approach, the EU Effort Sharing Regulation, or the Aarhus Convention before the Bill was brought to Cabinet, and that the Section 15 disapplication of the Climate Action and Low Carbon Development Act 2015 at Head 12 was advised through the Office of the Attorney General. Compliance with EU obligations is to be assessed by An Coimisiún Pleanála ex post, after the Minister has made an order under the Bill, on a screening that is at ACP's own discretion. There is therefore an asymmetry between the timing of the legislative removal of the constraint and the timing of the assessment meant to test that removal against EU law.

The PQ 252 reply, while declining substantive comment on complaint CPLT(2026)00881 because the parallel matter before An Coimisiún Pleanála is an "open case", recites the Commission's Decision C(2026) 919 of 10 February 2026 in some detail. It is the

second occasion on the public Dáil record on which a Minister of the State has affirmed the Commission's adverse Balanced-Approach finding, the first being his reply to PQ 422 of 21 April 2026, noted at supplementary #6 §5(iv).

7. The operational completion: IAA Final Decision of 30 April 2026

On 30 April 2026, the same day on which the Minister adopted the McLean doctrine three times in writing, the Irish Aviation Authority published its Final Decision on Winter 2026 Coordination Parameters at Dublin Airport (Annex S7-D), declaring an additional 32 aircraft movements per day from 25 October 2026. The decision is the operational counterpart to the legislative completion described at Section 6: the Passenger Capacity Bill removes the constraint, the IAA decision adds the movements within it, and neither is preceded by an assessment of the resulting environmental harm.

NRTG made a written submission to the IAA on the Draft Decision, summarised at paragraphs 3.53 to 3.57 of the Final Decision. The submission asked the IAA to identify the environmental constraints taken into account in the determination, as required by Article 6(1) of Regulation (EEC) 95/93 (the Slot Regulation), which requires the parameter determination to take account of "all relevant technical, operational and environmental constraints", and Article 2(m), which defines coordination parameters as the expression of capacity "reflecting all technical, operational and environmental factors". The submission identified the Noise Action Plan 2024-2028, prepared under Directive 2002/49/EC, as the current authoritative document on Dublin Airport's environmental position. The IAA's response at paragraphs 3.59 to 3.65, read with the framing the IAA itself supplies at paragraph 3.42, contains four concessions of structural importance to CPLT(2026)00881.

- (a) Paragraph 3.59: NRTG's submission is "based on a misunderstanding of the nature of the Slot Regulation", which "advocate[s] that the IAA should take upon itself the role of noise regulator under the 2014 Regulation, when the IAA is instead carrying the function of setting coordination parameters under the Slot Regulation. The IAA has no jurisdiction to do so." The slot-allocation authority is on the public record disclaiming the environmental limb of its own enabling Regulation. Read with the records confirmed by the Minister at Section 3 above (ANCA's institutional unity with Fingal County Council; ANCA's dependence on data supplied by daa) and the Department's PQ 249 confirmation at Section 4 (no engagement with the air-navigation service provider on its complaint-referral process), the disclaim chain is closed: no Irish body discharges the Article 6(1) environmental limb in respect of capacity at Dublin Airport.
- (b) Paragraph 3.62: "it is already long past the point that any new Operating Restriction from any upcoming review by ANCA ... could be a relevant constraint in time for W26", and "there is no basis to understate capacity for W26 for fear that such review by ANCA might possibly lead to a future requirement to reduce slots below the level of historic entitlements." Article 8(1) of Regulation (EU) 598/2014

requires six months' notice of operating restrictions, ending two months before the determination of coordination parameters. On the IAA's own account the slot cycle (every six months) and the 2019 Act review process (no statutory timing obligation; promised by ANCA since March 2024) are in structural mismatch, and the additional capacity granted in each cycle becomes protected as historic entitlement under Article 8(2) before any environmental assessment can take effect.

- (c) Paragraph 3.65: future Operating Restrictions will trigger "similarly extensive analysis ... once any such constraint is actually operative in sufficient time". The structural gap is therefore on the State's letterhead: until An Coimisiún Pleanála completes a Balanced Approach assessment consistent with Decision C(2026) 919, and ANCA introduces a notified Operating Restriction at least eight months before a coordination determination, the environmental limb of the Slot Regulation is, on the IAA's own account, empty.
- (d) Paragraph 3.42: "the European Commission's review of notified Operating Restrictions is not limited to procedural issues, but also ... encompasses a substantive review of whether the Balanced Approach has been correctly applied". The IAA cites the Commission's 2025 Schiphol decision, in which the Netherlands "ought to have further considered the potential of fleet renewal to reduce aircraft noise, as well as potential improvements to flight procedures (i.e. flightpaths and airspace design), before resorting to the proposed Operating Restrictions." This is corroboration, on the State's own letterhead, of the breadth of the Commission's review power under Regulation (EU) 598/2014.

The structural significance is that the asymmetric statutory deadlines pattern is converted from inference to admission. The capacity ratchet at Dublin Airport operates outside the environmental architecture: the Minister's "flight paths are not a condition of planning" doctrine (Section 1) closes the planning channel; ANCA's institutional dependence on Fingal County Council and on daa-supplied data (Sections 2 and 3) makes the noise channel substantively dependent on the regulated entity; the Department's non-engagement with AirNav Ireland (Section 4) closes the operational-feedback channel; and the IAA's "no jurisdiction" disclaimer (above) closes the slot-allocation channel. Each season's coordination determination locks in the additional capacity through Article 8(2) historic precedence before any environmental assessment can take effect.

8. The doctrine the Minister has adopted is structural, not site-specific

The Minister's stated position, repeated three times, is that "flight paths are not a condition of planning at Dublin Airport". The qualifier "at Dublin Airport" is offered as if the position were specific to a particular runway or departure procedure. By the Minister's own logic, that is not what the position is.

If flight paths are not a condition of the planning permission for the Dublin Airport project, the choice of departure routing for any runway at the airport sits outside the planning system as a matter of regulatory architecture, irrespective of whether any specific change

is currently planned. The corollaries of the Minister's stated position, on the regulatory architecture he sets out in his replies, are propositions of law that operate today:

- (a) the introduction or amendment of a departure route from any runway at the airport does not of itself engage any planning consent of Fingal County Council, Dublin City Council or South Dublin County Council;
- (b) such an introduction or amendment does not of itself require an Environmental Impact Assessment under Council Directive 2011/92/EU;
- (c) such an introduction or amendment does not of itself require public consultation in any newly affected area;
- (d) residents of any newly overflowed area have no statutory consultation entitlement, no statutory right of objection, and no statutory remedy other than a private application under section 160 of the Planning and Development Act 2000;
- (e) the only check on such an introduction or amendment before it takes effect is the Irish Aviation Authority's safety approval, and ANCA has no power to prevent or qualify it in advance: its role is confined to receiving and publishing, after the fact, the noise measurements that daa itself is responsible for collecting and supplying under sections 9(10) and 19 of the 2019 Act.

That position places the routes flown out of an airport beyond the reach of the project-level EIA Directive, on the very airport for which an EIS was prepared and on the basis of which planning consent was granted. It is the structural completion of the precedent identified in supplementary #5 §7. The complaint is no longer about a single departure from the EIS at one runway. It is about a doctrine of general application that the State has adopted at Cabinet level.

9. Request

NRTG respectfully requests:

- (a) that the Commission consider the matters described in Sections 1 to 8 above as part of its preliminary assessment of complaint CPLT(2026)00881, expected by approximately 12 May 2026, with particular regard to the ministerial confirmations that strengthen the matters previously placed before the Commission at supplementaries #4 (§1 and Annex S4-A), #5 §5 and §7, and #6 §5(iv);
- (b) that the Commission consider whether the position adopted by the Minister for Transport on the Dáil record at PQs 248, 251 and 252 of 30 April 2026, that "flight paths are not a condition of planning at Dublin Airport," (i) is consistent with Article 2(1) of Directive 2011/92/EU read with Annex II point 7(b) of the consolidated Directive (changes or extensions of airports), and with Article 6 of the Aarhus Convention on public participation; and (ii) constitutes, on the same Dáil record on which the Minister reserves the determination of what falls within a planning consent to the planning authority, an executive redefinition of consent scope outside the planning system, which defeats the scope-setting function of Article 2(1) of Di-

rective 2011/92/EU and the access-to-justice requirement of Article 9(3) and (4) of the Aarhus Convention; and that the Commission further consider whether the Department's continued reliance on that position in the preparation of the Dublin Airport (Passenger Capacity) Bill 2026 (PQ 252, expressly questioned, not denied) is, on either the descriptive or determinative limb of the position, a defective basis on which to fix the relevant operating envelope under EU environmental law;

- (c) that the Commission consider whether the ministerial endorsement at PQ 250 of the regulated entity controlling the timing of statutory data supplied to the competent authority over a period of 20 months is consistent with Article 3(2) of Regulation (EU) 598/2014 read with Recital 13;
- (d) that the Commission consider whether the ministerial confirmation at PQ 247 of the records released under Fingal FOI decisions 2026/071 and 2026/072 (the Director of ANCA attending Fingal County Council Executive Management Team meetings; the Chief Executive's quarterly review of ANCA's regulatory output) is consistent with Article 3(2) of Regulation (EU) 598/2014;
- (e) that the Commission consider whether the ministerial confirmation at PQ 249 that the Department of Transport has not engaged with AirNav Ireland on the noise-complaint referral process is consistent with Article 5 of the Aarhus Convention as transposed by Regulation (EC) 1367/2006 and Directive 2003/35/EC;
- (f) that the Commission consider, in the light of the audit at Annex S7-C, whether the redaction practice operated by the Oireachtas Bills Office across this cluster, by which substantive sub-parts of Parliamentary Questions on EU-law-touching matters were removed from the public Dáil record while remaining unanswered in the Minister's reply on those same sub-parts, (i) defeats the public-scrutiny function of the Parliamentary Question by removing from the public record the comparator against which a Minister's answer (or non-answer) would otherwise be measured; and (ii) is consistent with the obligations of public authorities under Article 5 of the Aarhus Convention to disseminate environmental information held by them, and with the public participation obligations under Article 6 of the Convention in respect of decisions on activities listed in Annex I;
- (g) that the Commission take note of the ministerial admissions at PQs 230 and 231 that no assessments of the Bill against Ireland's obligations under the EIA Directive, the Environmental Noise Directive, Regulation (EU) 598/2014, the Effort Sharing Regulation, or the Aarhus Convention were carried out prior to the Bill's preparation, and that the Climate Action and Low Carbon Development Act 2015 disapplication at Head 12 was advised through the Office of the Attorney General; and consider whether the legislative completion of the baseline-reset strategy identified at supplementary #5 §7 alters the urgency of communicating the Commission's preliminary position to Ireland before further steps are taken;
- (h) that the Commission take note of the Final Decision of the Irish Aviation Authority of 30 April 2026 on the Winter 2026 coordination parameters at Dublin Airport (Annex S7-D), in particular paragraphs 3.59, 3.62 and 3.65, in which

the slot-allocation authority disclaims jurisdiction over the environmental limb of the Slot Regulation and confirms that the slot-determination cycle of Regulation (EEC) 95/93 and the operating-restriction notification cycle of Regulation (EU) 598/2014 are in structural mismatch in the Irish regulatory architecture; and consider whether that disclaimer, read with the matters at Sections 1 to 6 above, completes the absence on the State's own letterhead of any Irish body discharging the environmental limb of Article 6(1) of Regulation (EEC) 95/93 in respect of capacity at Dublin Airport;

- (i) that the Commission take note that the doctrine identified at Section 8 above is structural, that the State has adopted it at Cabinet level and operationalised it on 30 April 2026 in both legislative and slot-allocation form on the same day, and that the gravity of the EIA Directive, Aarhus Convention, and Regulation (EU) 598/2014 grounds in CPLT(2026)00881 has correspondingly reframed;
- (j) that the Commission consider whether the State's reading of the 2007 grant of permission (An Bord Pleanála reference PL06F.217429), as containing only the express conditions while treating the Environmental Impact Statement on which the consent was founded as "indicative", is consistent with Article 2(1) of Directive 2011/92/EU read with the case law of the Court of Justice on the relationship between the EIS and the consent founded upon it; and whether the State's selective adherence, by which EIS-rooted protections to the east of the airport (preferential 28L arrivals on westerly operations, preferential 10R departures on easterly operations, the 23:00 to 07:00 north-runway curfew) are honoured at substantial operational cost while the EIS-assessed 28R departure-route geometry to the north and west is dismissed at no operational cost, can be reconciled with the scope-setting function of the EIS in EU environmental law and with the public-participation requirement under Article 6 of the Aarhus Convention.

The original complaint, supplementaries #1 to #6, the Zenodo-deposited GIS evidence at supplementary #5 Annex S5-G, and the developer-and-provider-competence evidence at supplementary #6 are already on file at CPLT(2026)00881.

For the avoidance of doubt: the recital of Regulation (EU) 598/2014 cited in the original complaint dossier of 2 March 2026 (Section 5.1, "Applicable Provisions") as "Recital 12" is in fact Recital 13 of the published Regulation (Official Journal L 173/66 of 12 June 2014). The text quoted in the original dossier was verbatim correct; only the recital number requires correction. This supplementary uses the correct citation.

Yours faithfully,

Gareth O'Brien BE (Civil), MSc North Runway Technical Group 24 White Ash Park, Ashbourne, Co Meath, A84 H563 gareth.obrien@dublin-north-runway.com +353-87-277-9281 www.dublin-north-runway.com