
Submission to the Aircraft Noise Consultation: the updated Noise Abatement Objective, the Draft Regulatory Decision, and the Strategic Environmental Assessment

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North Runway Technical Group

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Submission of the North Runway Technical Group

Our ref: NRTG/2026/qfb

- 1 The North Runway Technical Group (NRTG) is a voluntary group of qualified aviation professionals and affected residents, working on the North Runway departure-route and noise issues at Dublin Airport since 2022. Its members include engineers and serving commercial pilots who hold Airline Transport Pilot Licences, among them training captains. It is signed by its author, Gareth O'Brien, a civil engineer and private pilot with an MSc in computing and information systems, the only member named. The group's serving pilots are not identified by deliberate choice: their employment could be put at risk by being named in a submission critical of the airport and its regulators.

Executive summary

- 2 NRTG asks Fingal, acting as the Aircraft Noise Competent Authority, not to adopt the updated Noise Abatement Objective, the Draft Regulatory Decision or the Strategic Environmental Assessment Environmental Reports as they stand. Three questions are logically prior to everything the consultation puts out for comment, and each must be answered before any finding of compliance, or of no significant effect, can be made: whether the deciding body is the independent competent authority Regulation 598/2014 requires; whether there is a lawful baseline to measure from; and whether the departure routes that produce the noise problem may be placed outside the scope of the decision. Part A answers each of them, no. What follows in Part B is advanced strictly in the alternative, on the four documents' own terms, and concedes none of them. This summary states the case in outline; it does not limit the submission that follows, and where the two differ the full text governs.
- 3 This submission responds to all four consultation documents, the updated Noise Abatement Objective, the Draft Regulatory Decision, the two Strategic Environmental Assessment Environmental Reports, and the Appropriate Assessment screenings, and it is in two parts. Part A is the primary objection and rests on three grounds that are independent of one another, cumulative, and logically prior to anything the consultation asks. Both parts require a reasoned response: the duty to take this submission into account and to give reasons attaches to the whole of it, under Articles 8 and 9 of the SEA

Directive, Article 6 of the Aarhus Convention, and Article 5(2)(e) of Regulation 598/2014.¹ A response that sets it aside as beyond scope, without answering the questions at the end of this submission, will be relied on as evidence of that failure in the statutory appeal, in judicial review, and before the European Commission and the Aarhus Convention Compliance Committee.

- 4 The first Part A ground is that the deciding body is not the independent competent authority Regulation 598/2014 requires. The noise function is a division inside Fingal County Council which the draft decision itself describes as discharging the Council's own functions; its costs are met by a levy on the airport operator, with a statutory duty to keep them low and no floor beneath them; one chief executive performs both that function and the planning function for the airport whose conditions it polices; and the Oireachtas Joint Committee on Transport has found, in its own voice, that the structure breaches the functional independence the Regulation requires. The strict test of staffing, reporting, accountability and funding that disqualified the Irish Aviation Authority from this role in 2017 has never, on any public record, been applied to the body designated in its place.
- 5 The second ground is that the routing flown since 2022 is an unassessed material change to the assessed project, so there is no lawful 2023 noise climate available to serve as a baseline, and no process this Authority conducts can regularise it. The third is that the proposition that the routes are not a matter of the planning permission is a scope error, and the Authority cannot escape on either answer: if the routes are a matter of the permission, the deviation is unassessed and the assessed route must be restored; if they are not, they fall wholly within the noise remit, where the standalone duty over them has never been exercised.
- 6 Part B, strictly in the alternative and without prejudice to Part A, addresses the four documents on their own terms; NRTG participates under protest, and nothing in Part B concedes that the decision-maker is entitled to proceed, or that this process is an effective remedy for the purposes of European Union law or Articles 6 and 9 of the Aarhus Convention.
- 7 Within Part B, one move carries into all four documents. Fingal moved the noise baseline from 2019, the year its own statutory directions twice fixed, to 2023, the year of the highest population exposure of any reported under the Regulations and the first to contain the deviated post-2022 departure routes. That one change makes an unassessed route change and an eight-million-passenger expansion read

¹Directive 2001/42/EC (SEA Directive), Articles 8 and 9(1)(b); Aarhus Convention, Articles 6(8) and 6(9); Regulation (EU) No 598/2014, Article 5(2)(e).

as compliant: measured from 2023 the deterioration is never counted, and the route relief residents seek converts into headroom for growth. The same instrument compounds the move by demoting the one binding outcome, the duty that the population above 55 dB L_{night} and 65 dB L_{den} “shall be reduced,” to an untargeted tracking indicator, so even the figure that would record the harm carries no duty to reduce it.² It is not the only defect, and the recurring moves are tabulated at the start of this submission, but it is the one that runs through all four.

- 8 The Act requires Fingal, acting as ANCA, to identify the measures available “to reduce the noise impact” and to introduce those it selects.³ Those powers, set out in B.2.1 and B.2.6, run to operating restrictions and to the choice of a lower-noise route; the package uses neither. A lower-population routing costs the airport’s capacity, connectivity and growth nothing, because the throughput the present geometry serves is carried by the divergence and the redesign NRTG has put to the responsible bodies preserves that divergence by moving it onto the missed approach; no responsible body has assessed it. Within the 1.5 km half-width corridor the UK Department for Transport applies, the routes now in use newly overfly approximately 13,923 residents against roughly 1,000 under a departure consistent with the assessed Environmental Impact Statement route, and about 30,186 against 1,164 on the 3 km half-width.⁴ Neither count includes anyone already within the same corridor about the legacy South Runway tracks; both are populations the route change brought under a departure track for the first time.
- 9 What the package offers instead is insulation for dwellings at or above 60 dB L_{den}, while Fingal’s own report recites the World Health Organization’s recommendation to reduce aircraft noise below 45 dB L_{den} as the level above which it “is associated with adverse health effects”, and Fingal’s own appendix counts 14,350 people in the 55 to 60 dB band immediately below the line. The objective adopts no limit on the discrete loud overflight at all.⁵ The Authority has taken no enforcement action of any kind under the 2019 Act between 2019 and April 2026; the authority France designates under the same Regulation issued 637 sanctions in 2023 alone.⁶ The package accommodates growth; it does not reduce

²NAO Report, p. 3; SEA Report (NAO), p. 17.

³Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(2)(b) and s.9(2)(g).

⁴G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>: an estimated 13,923 residents newly overflowed under the Routes Flown, against 998 under a Strict 5 NM EIS-consistent departure and 1,008 under the Designed variant, within a corridor of 1.5 km each side of the track. These are newly-overflowed counts, net of the legacy 28L corridor.

⁵Draft Regulatory Decision (F23A/0781), p. 10; DRD Report, p. 28 (World Health Organization recommendation); DRD Report, Appendix J, p. 15 (Table 5-1).

⁶Annex F, sections 1 and 2; ACNUSA, Rapport d’activités des services 2023, 637 sanctions totalling €11,694,500.

disturbance.

10 NRTG therefore asks Fingal, acting as ANCA:

1. not to adopt the updated Noise Abatement Objective, the Draft Regulatory Decision or the Strategic Environmental Assessment Environmental Reports as they stand;
2. not to adopt the deviated post-2022 routing, or the 2023 noise climate it produced, as the base-line against which compliance is measured;
3. if it proceeds notwithstanding Part A, to use the noise powers it holds to reduce the disturbance, beginning with the departure route that affects the fewest people; and
4. to answer each of the questions set out at the end of this submission, in terms, in the statement of reasons its decision must publish.

Terminology and the nature of the evidence

- 11** Four terms recur throughout this submission and the public discussion of the North Runway routes, routinely run together in a way that makes an unassessed change appear compliant. They are kept apart here as follows; their conflation is documented in the Appendix.

Term	What it is
EIS Route	The straight-ahead departure assessed in the 2004 and 2005 Environmental Impact Statement, the Statement the permission incorporates and was granted on.
Runway 28R SID	The published instrument flight procedure (Standard Instrument Departure), which the IAA approves on safety grounds alone; it implements whichever route is chosen and does not determine it.
Routes Flown	The actual tracks in place since February 2023: a turn close to the runway end, followed for most departures by a further turn at the waypoint DW128.

Term	What it is
Noise Preferential Route (NPR)	Internationally, a noise-minimising route set before the procedure is designed; daa uses the term for a corridor it draws around the chosen route after the fact.

- 12 A statement that departures are “SID compliant” or “NPR compliant” answers a question about track-keeping against a corridor daa drew, not the matter this submission turns on, whether the Routes Flown match the EIS Route assessed and permitted. They do not, and the Minister for Transport has conceded it: at Second Stage of the Dublin Airport (Passenger Capacity) Bill 2026 he accepted that there are cases “where flight paths and planning permissions have been granted and they have not seen those flight paths operate as they were approved,” said “that is not acceptable,” and committed the State to carry out an independent assessment of those flight paths.⁷
- 13 Where this submission relies on quantitative analysis, that analysis is built from daa’s own correlated noise-monitor measurements released under AIE 2611, on residential building footprints from Open-StreetMap and populations from the CSO’s 2022 Census small-area statistics, and set out in the annexed exhibits.⁸ NRTG carried it out because the bodies with the duty, the data and resources did not. Acting as ANCA, Fingal twice directed daa to produce the route-attributable assessment, the segregated operating-mode contours and the comparison against the 2019 baseline (Annex A). The route comparison was never carried out at all: asked in 2026 for its comparison of the routes flown against the assessed EIS routes, daa answered that it holds no such record. The route attribution that daa’s earlier returns to those directions did carry was absent from the returns that followed. No step to enforce either direction appears on any record released, and the draft decision is built around the very gap the directions were meant to close. NRTG has reconstructed the missing analysis, published openly with full reproducibility packages, QGIS projects and source data, so that any competent party can rerun it. That the objector had to supply it is not a weakness in the analysis but the measure of the authorities’ default: to argue that it should carry less weight because NRTG produced it, rather

⁷Dublin Airport (Passenger Capacity) Bill 2026, Second Stage, Dáil Éireann, 23 June 2026 (Minister for Transport, closing reply).

⁸Method and data sources are set out in G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>; daa correlated noise-monitor measurements released under AIE 2611.

than daa or Fingal, is to concede that the bodies holding the duty, the data and the resources left the assessment to residents to perform.

- 14 The reply we anticipate, that this is unreviewed analysis by the objector, therefore answers itself, and NRTG makes the point first rather than wait for it: the provenance of the analysis is an indictment of those who owed it, not a discount on its weight.
- 15 The limitations the exhibits state are a further instance of the same thing, and they are stated openly rather than left to be found. The analysis covers departures and not arrivals, because the dataset released covers departures. It attributes noise to named routes for 2023 but not for the most recent year, because the route identifier present in the earlier release was absent from the later one. It is confined to monitors in service for a full year, because the release does not support annualising the rest. Each limitation is a property of what was disclosed, not of how the work was done. They can all be removed, and only by the party that holds the data: NRTG has asked daa for the unfiltered monitoring dataset, and that request is pending.
- 16 That places the objection and its remedy in the same hands. It is not open to daa or to Fingal both to withhold the complete data and to rely on the incompleteness of analysis built from the part of it released. If either says the exhibits are limited, the answer is that the limits were set by the disclosure and can be lifted by it. Two courses only are therefore open to Fingal, daa or the Department in response: produce the route-attributable assessment they owed and never carried out, or release the underlying data in full and reproduce our analysis, identifying where it is wrong.

The pattern: one authority, one operation

- 17 The defects below are one operation by one authority, not separate complaints: the same recurring moves, listed in the table, shift the measurement, with the result that the expansion is recorded as compliant. Each runs across more than one of the four documents, and the first runs across all four, so a defect answered in one cannot be cured while it stands in the others.

Recurring defect	NAO	DRD	SEA (NAO)	SEA (DRD) and AA
The baseline moved off the 2019 its own directions twice fixed	spine, B.1.1	B.2.1	B.3.1	B.4.1
The quieter route left unassessed against the EIS Route, and unenforced	B.1.4	B.2.6	B.3.1	-
Noise reduction conditioned on an economic-benefit test not in the Act	B.1.4	B.2.1	B.3.1	-
The single loud overflight (LAm _{ax}) left unmeasured	B.1.3	-	-	B.4.2
The full combination of measures never costed	-	B.2.1	B.3.1	-
The route change screened out at the noise-problem threshold	-	B.2.6, pattern	B.3.1	-
Mitigated dwellings reclassified out of the affected count	pattern	B.2.5	-	-

- 18** The documents assume good-faith compliance by daa that the record does not support: the comparison between the routes now flown and the routes the Environmental Impact Statements assessed has never been carried out, daa having confirmed in 2026 that it holds no such record (Annex A); daa sits outside the Freedom of Information Act 2014 and the jurisdiction of the Ombudsman, and demonstrates a pattern of frustrating the Access to Information on the Environment process.⁹ The European Commission has found the related operating-restriction process at this airport non-compliant with the Balanced Approach.¹⁰ An instrument addressed to such a party cannot rest on voluntary adher-

⁹The pattern comprises seven templated Article 7(2)(b) extension notices issued by daa between 26 April and 29 May 2026; daa's written statement of 28 May 2026 that it invoked the volume of records as its reason for extending while confirming that volume had "not yet ... fully established"; and the resulting deemed refusals, notified to and now before the Commissioner for Environmental Information.

¹⁰Commission Decision (EU) 2026/836 of 10 February 2026 (notified under document C(2026) 919), OJ L, 13.4.2026; on daa's exclusion from the Freedom of Information Act 2014 and the jurisdiction of the Ombudsman, see the NRTG personal-

ence: the measurement, the eligibility line and the compliance reporting must be placed beyond daa's control and on the public record, and any measure must be enforceable. The documented pattern, including representations daa has made to the public and the Oireachtas that the records it invokes do not support, is set out at Annex F. In each instance the source is the named body's own document, not NRTG's characterisation:

- the competent authority has taken no enforcement action of any kind under the 2019 Act since its establishment in 2019: it directed daa under section 9(10) to supply the information underpinning this application, was still awaiting that information nine months later, and did not issue an enforcement notice, the only enforcement instrument the Act gives it;
- an authority designated under the same European Regulation imposed roughly €11.7 million in fines across 637 sanctions in 2023 alone, so the enforcement powers are real, and their non-use here is not a limitation of the framework;
- daa told a parliamentary committee that AirNav Ireland had “recently completed” a review of the residents’ proposal, while daa had held, for nearly five months, AirNav’s written answer that no such assessment had been carried out;
- daa’s Managing Director of Dublin Airport told that committee that a new environmental impact assessment of the departure routes had been carried out, when daa’s own access-to-information decision records that “no additional record corresponding to a separate ‘new environmental impact assessment’ has been identified”;
- where daa determines that an aircraft left the corridor it calls the Noise Preferential Route, its template letter tells the complainant that the flight event “will be shared to AirNav ... for further investigation”, when the two bodies’ own decisions record an automated bulk flag and a tag, no governing procedure, no record authorising the wording, and no record of any investigation or of any outcome reaching a complainant;
- daa described a named resident’s correspondence, to the officials he was lobbying, as containing “several serious falsehoods”, omitting him from the recipients; the matters it so described are borne out by the record set out in this submission, including daa’s own confirmation that it holds no comparison of the routes flown against those assessed and the Minister’s acceptance that flight paths here have not operated “as they were approved”, and NRTG wrote to the same

notice letter of 17 May 2026.

officials in May 2026 setting daa's statements against daa's own records;

- daa's board answered a formal governance approach under the Companies Act 2014, and a conflict-of-interest concern, with one-line refusals copied to the same officials and a formal notice that there would be "no further engagement" with the group; and
- daa has made resolution of the acknowledged routing problem wait on a 2023 baseline being settled first, a baseline the 2019 Act does not permit the relevant action to set, in a sequence that converts noise relief into headroom for growth.¹¹

19 The measurement choices that make the expansion read as compliant were not Fingal's alone: the regulated party supplied them, and Fingal adopted them. Completing the screening proforma Fingal uses to decide whether a change gives rise to a noise problem, daa answered that the development changes neither the runways nor the airspace and that the routes are unaltered, and that "EU Reg598 does not apply" to the cost-effectiveness and Balanced Approach questions; Fingal's consultant then recorded the runway and airspace factors as unchanged and "removed from further assessment."¹² In its observation on the draft decision daa asked that a mitigated dwelling not be counted as adversely affected for monitoring (Remedy 9), endorsed the insulation-only remedy with one observation and no counterproposal (B.2.5), and so authored the very measurement, scope and eligibility choices the documents adopt. That the party the instrument must regulate framed how compliance is measured is a distinct vice from its unwillingness to comply: it means the assessment was conducted on the regulated party's own terms. The exhibits are reproduced from Fingal's and daa's own documents at Annex G.

The record is incomplete because the parties withhold it, and NRTG reserves its position on the materials now on appeal

20 The materials that would establish how, and whether, the North Runway departure routes were designed, assessed for safety, and assessed for noise against the assessed Environmental Impact State-

¹¹Annex F.

¹²Draft Regulatory Decision Report (May 2026), Appendix G, completed Aircraft Noise Change Considerations Proforma (Appendix A1) and §5.4 (reproduced at Annex G.3).

ment route are withheld by the bodies that hold them. NRTG has put the question to each body that could hold the answer, daa, AirNav Ireland, the Irish Aviation Authority and the Department of Transport, and what has come back is refusals, nil returns and deemed refusals, now increasingly on appeal to the Commissioner for Environmental Information; the principal requests and their status are set out at Annex I. Three things follow, and NRTG puts each on the record before this consultation closes.

- 21** First, the bodies have treated the outer statutory time limits as the target rather than the limit, contrary to the duty in Article 7(2)(a) of the AIE Regulations to make environmental information available “as soon as possible”, not merely by the one-month or extended two-month long-stop.¹³ The request for the one safety assessment of the departure design that daa admits it holds (AIE 2613) was made on 17 April 2026, extended to the two-month maximum, decided on the last day of that extended period, and, on internal review, decided again at 19:44 on the last day of the review month, only to withhold the record under a public-security exception. The pattern is general: standardised template extensions across requests, and, from AirNav Ireland, a run of requests on its own design responsibility left to deemed refusal at both statutory stages (Annex I). On 18 August 2026 the Commissioner for Environmental Information annulled AirNav Ireland’s deemed refusals in four of those appeals, recorded that its conduct “is unacceptable”, and directed it to decide by 28 August 2026, combining the four into a single decision “for the purposes of expediting these appeals in line with the advancing public consultation deadline”, which is this consultation’s. AirNav Ireland had by then acknowledged its failure to respond and had committed to the Commissioner to respond on all four by 14 August 2026, and the Commissioner records that as at 18 August nothing had issued.¹⁴
- 22** Annex I quantifies the delay: counting only the days each request sat with the authority under an active obligation to act, the design and assessment records have been withheld for more than a thousand days in aggregate across the sixteen requests tabled there, two of those counts still rising; no request was answered in under a month. Records bearing directly on this consultation have therefore been withheld across the whole of the period in which the public was to consider it, and anything released at the end of that period arrives too late to inform the participation it exists to inform: not the effective participation within reasonable time-frames that Article 6 of the Aarhus Convention requires.

¹³European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), article 7(2)(a); Directive 2003/4/EC.

¹⁴Commissioner for Environmental Information, combined decision in OCE-352506-F3M4R4, OCE-352509-H1F2R9, OCE-352491-L8T8Y6 and OCE-352492-Y4L4S5, 18 August 2026.

The pace is a choice, and the State has demonstrated its other speed: the statute taking the passenger cap out of the planning system passed from Second Stage in the Dáil to the President's signature in twenty-three days, while the central requests await the Commissioner.^{15 16}

- 23** The obligation to put that material before the public is not a courtroom rule that awaits litigation; it binds the Authority in this procedure. Article 6(6) of the Aarhus Convention requires the competent public authorities to give the public concerned access, free of charge and as soon as it becomes available, to “all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure”, including at least a description of the significant effects of the proposed activity and of the measures envisaged to prevent or reduce them. That duty is expressed without prejudice to the right to refuse disclosure in accordance with Article 4(3) and (4), which preserves valid refusals; it does not preserve silence. The withholdings Annex I records are, in the main, deemed refusals in which no exemption was asserted at all, and where one was asserted it is under appeal, so a qualifier permitting reasoned refusal does not reach a failure to decide.¹⁷ Regulation 598/2014 requires in the same vein that stakeholders be consulted on the intended actions “in a transparent way”. The Authority is not being invited to volunteer more than the law asks of it: it is being asked to do now, during participation, what these provisions already require, and any position that openness of this kind is owed only once a court is seised would have to be stated in terms and defended.
- 24** The Authority has operated that standard itself, and has departed from it on this application. For the relevant action it published its entire assessment file on its own website: sixty-five documents, from its first Direction and the fifty-nine-page schedule of requests behind it through every tranche of daa's further-information responses, its consultants' technical memoranda, the screening determination, the draft decision and the environmental reports, so that the public could read the regulator's questions, the applicant's answers, and the assessment built on them.¹⁸ For the Infrastructure Application now under consultation, the Authority's corresponding register page published, as at 22 August 2026, three documents: the Direction to provide information of 1 March 2024, the Notice to Planning Authority, and the January 2026 screening determination. The consultation documents themselves

¹⁵Dublin Airport (Passenger Capacity) Act 2026, signed 16 July 2026.

¹⁶Aarhus Convention, Article 6(3).

¹⁷Aarhus Convention, Article 6(6).

¹⁸ANCA document register for planning reference F20A/0668, fingal.ie/aircraftnoiseca/noise-assessment-documents-f20a0668 and fingal.ie/aircraftnoiseca/documents-f20a0668 (65 documents, as downloaded 22 July 2026).

are published separately; what is missing is the evidential exchange behind them.¹⁹ daa's responses to that Direction, whose review-of-application table alone runs to forty-seven items, are not among them: daa proposed to defer its response behind the relevant action (its letter of 29 November 2024), the data was provided only in November 2025 on the Minister's own account, and none of the evidential exchange behind the Draft Regulatory Decision has been published while the public is asked to comment on it.²⁰ On the earlier application the public could test the reasoning; on this one it cannot.

- 25** Second, because the record is incomplete through no default of NRTG's, this submission is made on the record as it stands, and NRTG expressly reserves its position on the withheld materials. It reserves the right to rely, in the statutory appeal, in judicial review, and before the European Commission and the Aarhus Convention Compliance Committee, on any of the records identified at Annex I if and when they are disclosed, and on any argument arising from them; the absence of that material from this submission is the product of the withholding and the appeals timetable, not a waiver of any point and not a failure to raise it. The Authority is asked not to treat the reservation, or the incompleteness of the record, as a concession on any matter, and not to proceed as though the record were complete when the parties' own withholding has kept it from being so. Were it to adopt these instruments on that footing, and were the withheld materials later to bear out what this submission anticipates, the decision would stand to be shown to have been taken on a record the regulated parties controlled by withholding it.
- 26** NRTG made its requests within the framework the Authority itself set. On 14 April 2026, declining to give information on the noise assessment while the work was under way, the Authority told NRTG that a public consultation would be scheduled "to commence in the coming months", that the issues NRTG had raised "will be addressed in the documentation that will be available from the beginning of the process of consultation", and that the consultation would be open "for fourteen weeks to facilitate inclusive and comprehensive participation".²¹ One of the issues NRTG had raised was whether the departure routes in use since February 2023 would be assessed or treated as a fixed input, and, if they were not to be compared against the routes assessed in the Environmental Impact Statement, why

¹⁹ANCA consultation page for planning reference F23A/0781, fingal.ie/aircraftnoiseca/F23A0781, as captured 30 July and 22 August 2026.

²⁰daa (Head of Planning) to the Authority, 29 November 2024.

²¹Aircraft Noise Competent Authority, Fingal County Council, to NRTG, 14 April 2026, reference FCC-2026-037856-M8X3M, replying to NRTG's correspondence of 1 April 2026 on the scope of the forthcoming review and public consultation.

not. The documentation adopts the fixed-input treatment without addressing the question. NRTG made four requests now before the Commissioner between 17 April and 1 May 2026, in the weeks after that letter and before the consultation opened on 28 May. The consultation has run almost its full fourteen weeks, the Commissioner has had to direct decisions on the material, and none of it was produced until the closing weeks. The Authority had itself, on 6 May 2026, refused NRTG two categories of record under Article 9(2)(c) on the stated basis that they should be maintained as confidential until the expected regulatory decisions were published for public consultation within eight weeks, and affirmed that reasoning on internal review on 13 May 2026, the reviewer putting it as “maintained as confidential until the expected regulatory decisions are published for public consultation within 8 weeks from 6 May 2026”.²² Those decisions were published for public consultation on 28 May 2026; the records have not followed, and the refusal is before the Commissioner.

27 NRTG held this submission back until 29 August 2026, the day after the Commissioner’s compliance date, in order to establish whether his direction had been met. As at that date decisions had issued in two of the four appeals, one on 18 August and one on 28 August 2026; no decision had issued in the other two, including the request for the aeronautical study of the departure design. Each of the two granted access, and neither is complete: in one, records the schedule lists as released were not produced; in both, records listed as released in full carry redactions for which no exception is stated. NRTG is appealing both to the Commissioner, and does not incorporate the records released with those decisions in this submission, for the reason that follows. A direction to decide is not disclosure in any event: a decision may refuse access on stated exceptions, or grant it incompletely, and in either case falls to be appealed in a separate process before the Commissioner that could not conclude before this consultation closes. Nor could material arriving at that point be absorbed into this submission. It and its annexes run to some eighty thousand words, built across those fourteen weeks, and reopening their analysis, cross-references and numbering in the days before the consultation closes would put the integrity of the whole at risk. NRTG accordingly reserves the right to make a supplementary submission should the directed decisions produce material bearing on the matters raised here, and asks the Authority to confirm that it will receive one.

28 Third, NRTG distinguishes between what it asserts and what it infers, and asks the Authority to hold

²²Fingal County Council, decision on access-to-information request AIE/2026/012, 6 May 2026, and internal review decision of 13 May 2026 affirming it. NRTG’s appeal against that refusal is before the Commissioner for Environmental Information as OCE-352475-D3Y5J1.

each to its proper standard. Every factual proposition in this submission and its annexes is traced to an identified source: a document published by a public body, a record released under the access-to-information regime, a statement on the Oireachtas record, or NRTG's own analysis with its inputs and method set out so that a reader can check it and, if it is wrong, correct it. Where the submission instead reasons from the absence of a record, it identifies the request made and the answer given; reasoning of that kind is provisional by necessity, because only the body holding the record can settle it. Should such an inference later be contradicted by a document that a public body held while this consultation was open and did not release during it, the contradiction will itself establish that material capable of informing participation was withheld from the participation it should have informed. NRTG would accept the correction without reservation. It does not accept, and asks the Authority to record now that it does not accept, that the resulting error would be NRTG's, or that it would bear on the reliability of the propositions this submission does source. The way to prevent inferences being drawn from gaps is to close the gaps, and that lies in the gift of the bodies holding the records.

- 29** None of this asks the Authority to make a finding against the applicant, and NRTG does not invite one. It asks the Authority to apply the standard the Act sets for its own satisfaction: section 9(11) permits a draft regulatory decision to be made only “after having ensured that the Balanced Approach has been applied”, and section 9(12) requires the accompanying report to state the reasons and to include a summary of the data examined, the measures considered, an evaluation of their cost-effectiveness, and the application of the Balanced Approach.²³ To have ensured something is to have satisfied oneself of it on material, not to have received an assurance about it from the party whose application is under assessment. Where the material the Authority itself identified as necessary has not been produced, or does not exist, the Authority has not ensured and cannot; the deficiency is in the state of its satisfaction, and no conclusion about the applicant's conduct is required to reach it.
- 30** A gap therefore does not resolve in favour of proceeding. The Authority accepts this reasoning elsewhere in the same decision, because it must: on the Appropriate Assessment limb the authorisation criterion “integrates the precautionary principle” and permits a competent authority to act only where “no reasonable scientific doubt remains”, so uncertainty precludes rather than permits.²⁴ The Balanced Approach limb cannot take the opposite rule, and the case for applying it consistently is

²³Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(11) and s.9(12).

²⁴Case C-127/02 Landelijke Vereniging tot Behoud van de Waddenzee, judgment of 7 September 2004, operative part 4.

stronger here, not weaker: the missing material is not the residue of scientific uncertainty about the natural world but the specific analysis the Authority itself directed the applicant to produce, missing because it was not produced. An authority that proceeds regardless has not resolved the doubt; it has decided to act notwithstanding it, which is a different thing and must be stated as such if it is done.

Part A: Primary objection

- 31** Part A is advanced as the submission's primary ground. Nothing in Part B, the alternative that follows, is a concession on any matter in Part A: Part B is made strictly in the alternative, and without prejudice to this objection, should the Authority proceed notwithstanding it. The three questions Part A raises, whether the decision-maker is the independent authority the Regulation requires (A.1), whether there is a lawful baseline (A.2), and whether the decision may treat the routes that produce the noise problem as outside its scope (A.3), are logically prior to every issue this consultation puts out for comment: each must be resolved before any finding of compliance, or of no significant effect, can be made, so each is squarely within the scope of a consultation on whether to adopt these instruments, and not a matter for some other forum. They cannot be deferred without leaving the decision itself unsafe. The grounds are independent and cumulative, and none is advanced in acceptance of the body's legitimacy: A.3 in particular does not assume a lawfully constituted authority, it shows that even one lawfully constituted would have had to take the departure route as the first measure considered, because the geography to which every other measure is calibrated, the contours, the eligibility lines and the baseline itself, depends on where the routes place the noise.

A.1 The Authority is not the independent competent authority Regulation 598/2014 requires, and on the Act's own terms is not a separate body at all

- 32** Fingal County Council, acting as the Aircraft Noise Competent Authority, is not independent of daa within the meaning of Article 3(2) of Regulation 598/2014, and cannot cure that defect by the form of

the designation. Article 3(2) requires the competent authority to be “independent of any organisation which could be affected by noise-related action.”²⁵ daa is on any reading such an organisation: an operating restriction, or any other measure of the Balanced Approach, bears directly on its revenues and its operating envelope. Independence from daa is therefore the precondition the Regulation attaches to the very function this consultation performs.

- 33** The draft decision itself concedes the structure in the act of asserting the contrary. It describes the Authority as “an independent division” that Fingal County Council created “to fulfil their function with regard noise management” and “which discharges FCC’s functions” under the Regulation and the 2019 Act.²⁶ The description is not of a body separated from the Council but of one performing its functions: the instrument under consultation asserts the independence and describes its absence in the same sentence. At its sharpest, there is no separate authority whose independence can be tested, because on the Act’s own terms the Authority is not a separate body. The 2019 Act designates Fingal County Council itself as the competent authority, provides that the functions are performed by the Council’s chief executive, and treats them as an executive function of the Council, in structural parallel to its planning function;²⁷ the independence conferred by section 3(4) runs from the elected councillors, not between the chief executive’s own functions, so the same chief executive performs both the Council’s planning function and its noise function.²⁸ The competent authority has no separate legal personality from Fingal County Council: it is a Director-of-Services seat in the Council’s Executive, alongside the Director-of-Services seat in the same Executive that is the planning authority for the airport whose conditions the noise function is to police. The Council’s own records, released under the Freedom of Information Act, confirm the configuration: the Director of the noise function sits on the Council’s Executive Management Team with the Director of Planning, and meets the chief executive quarterly on a standing agenda that includes daa’s section 19 compliance reporting; the Minister for Transport has confirmed those records to be factually correct.²⁹
- 34** The answer the designation invites, that Article 3(2) permits independence to “be achieved through a functional separation,” does not save this. Functional separation is a permitted form, not a lower

²⁵Regulation (EU) No 598/2014, Article 3(2).

²⁶Draft Regulatory Decision (F23A/0781), p. 3.

²⁷Aircraft Noise (Dublin Airport) Regulation Act 2019, s.3(1), s.3(2)(a) and s.3(3) (executive function within s.149 of the Local Government Act 2001).

²⁸Aircraft Noise (Dublin Airport) Regulation Act 2019, s.3(4) and s.3(5).

²⁹Annex F, section 1.

standard: it must still deliver actual independence from the organisation that noise-related action would affect, and Recital 13's assurance that a Member State need not "modify their administrative structures or decision-making procedures" protects the choice of form, not a designated authority that fails the substantive test.³⁰ On the arrangement just described there is no functional separation to test: a separation that runs through a single chief executive who performs both functions, whose noise director and planning director sit on one management team, and who reviews the noise output on a standing agenda carrying the regulated party's own compliance reporting, is not a separation at all.

- 35** The financial dependence compounds it: the incentive to keep the operator's levy low and to protect the rate income that operator generates bears on the whole council, including the chief executive who performs the noise function, and no internal separation reaches an incentive that runs through the entire organisation.³¹ The functional-separation answer does not hold: the body is independent of daa in neither form nor substance. The Act's single independence guarantee, moreover, runs the wrong way. Article 3(2) requires independence from the organisation that noise-related action would affect, which is the operator; the only independence the 2019 Act confers, in section 3(4), insulates the chief executive from the elected councillors, the community's own representatives, while leaving the authority dependent on daa for its funding and its data.³² To read that arrangement as satisfying Article 3(2) is to read the independence requirement as shielding the airport from the public rather than the regulatory process from the airport, which is the opposite of what the Regulation protects.
- 36** The authority is also funded by the party it regulates. Its costs are met by a levy on the airport operator under section 5 of the 2019 Act, and the Act directs it to keep those costs "to a minimum and are not excessive"; the same council draws a large share of its commercial rates from the airport's own area.³³ The section's architecture runs one way throughout. The competent authority prescribes its own levy by regulations; the amount "shall not exceed those sums necessary" to fund its functions; and any surplus is either carried against the following year or "returned to the airport authority".³⁴ A ceiling, a duty of minimisation and a refund of the unspent balance to the regulated party, and no floor: neither the Act nor Article 3 of the Regulation, which addresses designation and independence and is silent on

³⁰Regulation (EU) No 598/2014, Article 3(2) and recital 13.

³¹Aircraft Noise (Dublin Airport) Regulation Act 2019, s.5 and s.5(8); Annex F, section 1.

³²Aircraft Noise (Dublin Airport) Regulation Act 2019, s.3(4) and s.3(5).

³³Aircraft Noise (Dublin Airport) Regulation Act 2019, s.5 and s.5(8); Annex F, section 1.

³⁴Aircraft Noise (Dublin Airport) Regulation Act 2019, s.5(4) to s.5(6).

resources, obliges the authority to be resourced sufficiently to perform the assessment the Balanced Approach requires.

- 37** A duty to avoid excessive cost is ordinary in a levy-funded regulator; what is missing is its counterpart, whether an adequacy standard, an independent determination of the budget, or any obligation running the other way. Under-resourcing is therefore not an innocent explanation for what this assessment omits, because the resourcing level is an output of the scheme rather than an accident of administration. A body funded by the regulated operator, housed in the local authority that profits from the airport, and instructed by statute to stay cheap is not walled off from the interest that noise-related action would affect.
- 38** The dependence is technical as well as financial: the Minister has confirmed the Authority holds no technical staff of its own, only “specialist service providers,” and has confirmed the fact, stated to the Oireachtas, that the noise data is captured by daa and is not held by his Department.³⁵ Whether that outsourced expertise is itself independent of the bodies noise-related action would affect has never been tested: asked, the Authority confirmed in an access-to-information decision that “No record exists” of whether any of its contractors also work for daa, AirNav Ireland or the Irish Aviation Authority, or of any conflict-of-interest or independence assessment of them.³⁶
- 39** This is not only NRTG’s reading. The Oireachtas Joint Committee on Transport, a cross-party committee chaired by a Government TD, reached the same conclusion in its own voice. In its pre-legislative-scrutiny report on the Dublin Airport (Passenger Capacity) Bill 2026, the Committee recommended that ANCA “should be restructured as a genuinely independent body along the lines of the French ACNUSA model,” appointed at national rather than local-authority level, self-funding through fines, with mandatory sanctioning powers and its own in-house technical expertise; and it found, as its own recommendation and not as a witness submission it merely recorded, that “the current structure ... breaches the functional independence requirement of EU Regulation 598/2014,” the structure being one “whereby ANCA is a department within Fingal County Council and is 100% funded by the daa.”³⁷ The defect A.1 identifies is therefore one the State’s own parliamentary scrutiny has already named, and the Oireachtas, enacting that Bill as the Dublin Airport (Passenger Capacity) Act 2026, declined to

³⁵PQ 247 [31818/26] and PQ 246 [31817/26], 30 April 2026.

³⁶Fingal County Council (ANCA), decision on AIE-2026-016, 3 June 2026, Items 2 and 3.

³⁷Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026).

fix: the Act leaves ANCA's independence, funding and powers untouched.

- 40** The non-independence was, moreover, a choice, not an accident of drafting. When the Government first set out how it would give effect to Regulation 598/2014, the competent authority was to be a national aviation body: the Department's own First Progress Report on the National Aviation Policy, in November 2016, recorded that the new regime would "establish an independent competent authority, a role to be taken by the Irish Aviation Authority, to deal with airport noise issues."³⁸ The role was then moved: the Second Progress Report, in February 2019, recorded that "A Government Decision was taken in January 2018 to designate Fingal County Council as the Competent Authority with An Bord Pleanála as the independent Appeals Body."³⁹ The point is narrow and does not turn on the merits of either candidate: the State expressly recognised, in 2016, that the competent authority had to be independent, and by a Government Decision in January 2018 it placed the role in the local authority that is the planning authority for the airport's own area, the configuration Article 3(2) forbids. The independence defect this section identifies is therefore not latent in the 2019 Act's drafting; it is the product of a decision to house the noise regulator where its independence could not hold.
- 41** The record of that decision shows the State's own benchmark applied once, to one candidate only. Explaining in October 2017 why the Irish Aviation Authority had been dropped, the Minister told the Dáil that, on the advice of senior counsel engaged by the Office of the Attorney General, European case law now required "a more strict interpretation of what constitutes functional independence within an organisation", and that the "staffing, reporting, accountability and funding arrangements required to meet the new benchmark of functional independence" meant the IAA "was no longer a viable option".⁴⁰ No published record shows that benchmark applied to Fingal County Council. Introducing the Bill, the Minister met the conflict question with an assertion, "Fingal is not conflicted";⁴¹ at pre-legislative scrutiny the Department described the selection as elimination under time pressure, "we did not have much time for an extended beauty contest", and gave the outcome in its own words: "The Government has decided it is the only game in town."⁴² The disqualifying formula stated for the IAA, "a commercial interest in traffic levels at the airport", a body that regulates while it "has skin in the

³⁸National Aviation Policy for Ireland, First Progress Report (November 2016).

³⁹National Aviation Policy for Ireland, Second Progress Report (February 2019).

⁴⁰Dáil Éireann, Question No. 9 (oral), 11 October 2017.

⁴¹Dáil Éireann, Aircraft Noise (Dublin Airport) Regulation Bill 2018, Second Stage, 12 December 2018.

⁴²Joint Committee on Transport, Tourism and Sport, pre-legislative scrutiny of the General Scheme of the Aircraft Noise (Dublin Airport) Regulation Bill, 3 October 2018.

game in the development of the airport”, describes the designated council’s own position, quantified by the Department itself in the same evidence: airport rates are “approximately 15% of Fingal County Council’s total rates income”, about 8 per cent of all its income, “not an insignificant amount”.⁴³ The answer offered, that councils “have existing systems to ensure there are no undue influences or conflicts”, is the internal-arrangements reasoning the benchmark had rejected for the IAA a year earlier.⁴⁴ A strict test of staffing, reporting, accountability and funding was applied to the candidate that was rejected, and never, on any public record, to the candidate that was designated, in which the same disqualifying features recur.

- 42** Nor does the stated justification for the choice survive the Authority’s own correspondence. The public case for selecting Fingal County Council rests on planning: introducing the Bill, the Minister told the Dáil that the examination of the Regulation had shown “a significant overlap between the EU regulation, the planning process and environmental protection requirements”, and that the council’s “extensive experience in planning and development, land use planning and management, appropriate assessment, environmental impact assessment and managing large public consultations” made it “well suited for the job”.⁴⁵ In operation, the Authority disclaims the overlap. Acknowledging a member of the public’s correspondence on the north runway in February 2024, it wrote that “Complaints have been made to the planning authority that the use of this runway does not comply with the grant of permission and that authority is currently investigating those complaints”, and that “Updates on this process may be obtained from that authority at planning.enforcement@fingal.ie”: the noise authority referring a correspondent to its own council as though to a different organisation.⁴⁶ Three weeks later, replying to the same correspondent, it wrote that “Queries on these matters should be addressed to the daa directly as ANCA does not have a role in the design of the flight paths or management of aircraft at Dublin Airport”, and that “The planning authority of Fingal County Council is the enforcement authority for planning conditions”, above a signature block reading “Aircraft Noise Competent Authority (ANCA) Fingal County Council”.⁴⁷ The two positions cannot both stand.

- 43** If the overlap between the Regulation and the planning process is real, as A.3 shows it is, it is the de-

⁴³ Joint Committee on Transport, Tourism and Sport, pre-legislative scrutiny of the General Scheme of the Aircraft Noise (Dublin Airport) Regulation Bill, 3 October 2018.

⁴⁴ Joint Committee on Transport, Tourism and Sport, pre-legislative scrutiny of the General Scheme of the Aircraft Noise (Dublin Airport) Regulation Bill, 3 October 2018.

⁴⁵ Dáil Éireann, Aircraft Noise (Dublin Airport) Regulation Bill 2018, Second Stage, 12 December 2018.

⁴⁶ ANCA response, Ref 2024/57, 9 February 2024.

⁴⁷ ANCA response, Ref 2024/90, 28 February 2024.

pendence Article 3(2) exists to prevent; if planning is genuinely no part of the Authority's role, the sole stated justification for placing that role in the planning authority falls away. Either way the designation reasoning fails, on the record of the body the designation created.

- 44** The one check the Act places on that arrangement is overdue on the public record, and is already being described, to the industry, as something wider. Section 3(9)(a) requires the Minister, not less than once before the seventh anniversary of the section's commencement, to appoint a person to review "the performance by the competent authority of its functions as the competent authority".⁴⁸ Section 3 commenced on 14 June 2019, so that seventh anniversary passed on 14 June 2026; as at 13 August 2026, no appointment under section 3(9)(a) has been published or announced. The consequence sits inside this consultation: the Authority is deciding the noise regime for the airport's expansion from 32 to 40 million passengers without the independent assessment of its first seven years' performance that the Act required to have been commissioned by then. The Department's note of the Minister's meeting with the chief executive of Aer Lingus on 27 March 2026 records the Minister referencing "the statutory review of the Aircraft Noise Competent Authority which will inform the broader consideration of the appropriate future planning framework for Dublin Airport, including the interaction between aircraft noise regulation and the planning process".⁴⁹ NRTG makes no allegation about how the review will be conducted. The record states two narrower facts: a review whose statutory subject is the authority's performance is described as informing a reconsideration of the planning framework itself; and the forum in which that was set out was a private meeting with an airline.
- 45** The contradiction runs to the executive: the Minister for Transport, defending the same structure, asserts that the 2019 Act provides "a wholly independent aircraft noise regulation process," and treats the operator funding the regulator as unremarkable, "it is not unusual for regulatory bodies to be funded by the regulated entity in the form of a levy or charge on that entity," the very features the Committee found breach Article 3(2).⁵⁰ The Committee, in the same voice, separately recommended that the complaints process and the noise data "should be made independent of the daa," observing that "no other regulated industry allows the offender to collect the data on which the regulator

⁴⁸Aircraft Noise (Dublin Airport) Regulation Act 2019, s.3(9)(a).

⁴⁹Department of Transport, note of the Minister's meeting with Aer Lingus, 27 March 2026, released under FOI 2026-0118 (Record 10).

⁵⁰PQ 250 [31824/26] and PQ 247 [31818/26], 30 April 2026.

relies.”⁵¹

- 46 The consequence reaches the public’s practical avenue of complaint: on the route question the only non-judicial forum to which a resident is directed is the planning authority, in the same Executive, under the same chief executive, so every path short of litigation ends at a desk of the body complained of. And the powers this configuration holds have gone wholly unused: from its establishment in 2019 to April 2026 the Authority took no enforcement action of any kind under the 2019 Act, and declined even the section 23 enforcement notice available to it when daa failed to answer the very section 9 request that underpins this application (Annex F). Under the same Regulation, France’s designated competent authority is walled off from the operator by statute, is not housed within a local authority that profits from the airport, and is funded by no levy on any airport operator, and it imposes several hundred sanctions a year under its own statute (B.2.1). The difference lies in the structure of each authority, not in the vigour with which it acts.
- 47 The lawful course is that the decision now consulted on be taken by, or its independence be secured through, a body actually independent of daa; taken by Fingal in its present configuration, it is taken by a body that is not the independent competent authority the Regulation requires. On this record the statutory structure places the regulation of the operator’s noise in a body structurally unable and financially disinclined to constrain it, and so operates, in practice, in a manner inconsistent with the independence Article 3(2) requires; a decision taken by that body as presently constituted cannot discharge the Regulation’s requirements.

A.2 The post-2022 routing is an unassessed material change: there is no lawful 2023 baseline, and this process cannot regularise it

- 48 The Authority must not adopt the deviated post-2022 routing as the baseline against which it judges compliance, because that routing is an unassessed material change to the assessed project and adopting it as the neutral reference normalises the change EU law requires to be assessed. The lawful reference is the straight-ahead departure the 2004 and 2005 Environmental Impact Statement assessed and the permission was granted on; the deviation to the Routes Flown, in place since February 2023,

⁵¹ Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026), Recommendation 10.

is the material change, not the status quo. To take the 2023 noise climate that deviation produced as the baseline is to attempt, through a noise-regulation decision, the retrospective regularisation the EIA Directive forbids here. This ground is referred to below as the spine, because it runs through all four documents under consultation: the objective is set against that baseline, the draft decision assesses measures against it, and both environmental reports and the screenings carry it forward.

- 49** The prohibition is settled. Article 2(1) of the EIA Directive requires that consent and the environmental assessment precede the works, and the Court of Justice has held that retrospective regularisation is confined to exceptional cases and is not a general fallback (*Commission v Ireland*).⁵² Where an assessment was omitted, the Member State and its authorities must nullify the unlawful consequences of the breach, each within its competence, and where domestic law allows must revoke or suspend the consent so the project can be assessed (*Wells*).⁵³ Ex-post assessment is permitted only on strict conditions: that the national rules give no opportunity to circumvent EU law, and that the assessment measures the impact from the time the change was made, not merely its future impact (*Corridonia*).⁵⁴ A measure that operates as inextricably linked to physical works forms a single project to be assessed as a whole (*Inter-Environnement Wallonie*), and a Member State may be penalised for failing to regularise an unauthorised development compatibly with EU law (*Derrybrien*).⁵⁵
- 50** Adopting 2023 as the baseline does the opposite of each. It takes the unassessed change as the neutral reference; it hands the parties precisely the circumvention *Corridonia* forbids; it leaves the effect from the time of the change, the climb the section 9 directions required to be measured against 2019, unmeasured; and it relicenses at roughly 40 million passengers on top of the breach rather than nullifying its consequences as *Wells* requires.
- 51** The deferral that sustains this has no terminus, and that is what makes it a mechanism rather than a delay. The reason given for postponing any correction of the routing is that a baseline must first be settled by the relevant action. That reason did not exhaust itself when the relevant action was decided. An *Coimisiún Pleanála* decided it on 16 July 2025, as the Authority's own report for this decision records.⁵⁶ The deferral was nonetheless restated through 2026, to the Oireachtas by the operator

⁵²*Commission v Ireland* (Case C-215/06).

⁵³*Wells* (Case C-201/02).

⁵⁴*Comune di Corridonia and Others* (Joined Cases C-196/16 and C-197/16).

⁵⁵*Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen* (Case C-411/17).

⁵⁶DRD Report, pp. 74 and 127 (recording the decision of An *Coimisiún Pleanála* on PL06F.314485, 16 July 2025).

and in writing by the Department (B.2.6). Either that decision settled the baseline, in which case the condition had been met before the parties relying on it said the work could not begin, or the baseline awaits the introduction of the measures the decision permits, which turns on Ireland's response to the Commission and on An Coimisiún Pleanála's response to it, neither of them a step the deferring parties control.⁵⁷ The sequence that follows repeats it: the infrastructure application is assessed on the operations as they are then flown, and whatever succeeds it will be assessed on the operations current at that time. Nothing in the rationale identifies the point at which correction becomes possible, because the rationale renews itself at every stage.

- 52** Assessment staged in that way is what the Court of Justice addressed in the first limb of *Abraham and Others*, directing that where a consent forms part of “a procedure carried out in several stages involving a principal decision and implementing decisions”, it is necessary to consider whether “account is to be taken of the cumulative effect of several projects whose impact on the environment must be assessed globally.”⁵⁸ As with the reference-year point below, *Abraham* is applied here by analogy and not as direct authority on the sequencing of a noise decision; but a series of applications each appraised against the state of affairs the previous one left behind is the opposite of a global appraisal, and the effect the successive decisions carry forward is the same effect throughout.
- 53** Nor is the postponement neutral while it runs. Each year the uncorrected routing operates, the exposure it produces is recorded as the existing situation and carried forward as the reference against which the next change is measured, so that delay does not merely defer the remedy but converts the breach into the entitlement, in the manner B.1.1 sets out. Stated at its lowest, and on the parties' own account rather than on any characterisation of NRTG's, the position is that the departure routing cannot be brought into conformity with what was assessed until the applications founded on its non-conformity have succeeded.
- 54** Whether that is a tenable position for the applicant is not a matter for this Authority. Whether it is a tenable basis for a regulatory decision is. Fingal is not a bystander to the sequencing, because the baseline is the instrument through which it works: adopting 2023 is the step that converts a deferral into a settled reference point, and no other party can take that step. An authority asked to supply it is being asked to complete the mechanism. Fingal should therefore state, in the report section 9(12)

⁵⁷DRD Report, pp. 18 and 74.

⁵⁸*Abraham and Others* (Case C-2/07), operative part 1.

requires it to publish with its decision, whether it accepts that the correction of an unassessed change may be deferred until the consents that depend on that change have been obtained, and if it does not accept that proposition, what in this decision is inconsistent with it.⁵⁹

- 55** Nor was the Authority unwarned. In March 2024 the author asked it directly whether its assessment was starting from the status quo, and warned in writing that “If daa is to be allowed set the starting point of ANCA’s investigation by simply flouting the conditions of their planning permission, would that not fundamentally undermine ANCA in addition to the planning process?”; the Authority replied that its correspondence “should not be interpreted as indicating a predetermined starting point or outcome.”⁶⁰ The draft decision now consulted on adopts precisely that starting point. The disclaimer and the outcome cannot both stand. A body warned in the exact terms of the mechanism, which denied a predetermined outcome in writing and then gave that mechanism effect two years later, and whose engagement with the affected community narrowed over the same period to consolidated replies and then to a standing notice that a correspondent “may not receive a response” (the conduct set out in full at Annex F), cannot now present the 2023 reference year as a neutral technical choice.⁶¹ The objection does not rest on any finding of bad faith, which it does not require: the reference year cannot be defended as the product of an open technical judgment when the body that chose it was warned against the choice, disclaimed it, and made it.
- 56** Ireland’s own law points the same way: Part XA of the Planning and Development Act 2000, the substitute-consent regime enacted to satisfy *Commission v Ireland*, confines retrospective consent to “exceptional circumstances” and requires a remedial environmental impact assessment.⁶² The State that enacted Part XA cannot let a noise-regulation decision achieve by re-baselining the very normalisation of an unassessed change that Part XA confines to exceptional circumstances and a remedial assessment. The lawful course is to treat the deviation as the material change it is and require its assessment against the assessed routes before any relicensing.
- 57** Fingal, acting as ANCA, moved the noise baseline from 2019 to 2023, with the effect that the expansion is treated as compliant. The choice of 2019 was not one it was free to revisit: its own statutory directions had twice fixed it. Because every finding of compliance, and every finding of “no significant

⁵⁹Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(12).

⁶⁰NRTG to ANCA, 13 March 2024; ANCA response, Ref 2024/124, 14 March 2024.

⁶¹Annex F, section 6.

⁶²Planning and Development Act 2000, s.177A(1).

effect,” is measured against the baseline, this single move carries into all four documents at once.

- 58** Two directions, of 4 September 2023 and 1 March 2024, both under section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 and signed by the same officer acting as ANCA, required that the number of people exposed to aircraft noise be “assessed against the population exposed to aircraft noise in 2019.”⁶³ Both fixed 2019 as the correct pre-expansion baseline for the North Runway and the route changes that followed.
- 59** In the instruments now before consultation Fingal re-baselined to 2023. The updated objective records that “the expected outcomes are re-baselined against the noise situation in 2023 rather than 2019,”⁶⁴ on the basis that 2023 is “representative of the airport in its current form following the opening of its North Runway in 2022,” while 2021, distorted by the pandemic, was “not considered representative of the current noise climate at Dublin Airport.”⁶⁵ But a baseline exists to capture the change the expansion causes, and the expansion the objective regulates is the growth in airport use, not any single facility within it. That growth is one programme: the North Runway opened in 2022, the routes moved in 2023, and the application now before the planning authority would carry it toward roughly 40 million passengers. The baseline must therefore sit before that growth, at the 2019 Fingal’s own directions set; that the works in contemplation post-date the runway is no answer, because what must be assessed is the increased operation they enable.
- 60** The same principle governs the reference year. In *Abraham and Others* the Court of Justice held that a competent authority must “take account of the projected increase in the activity of an airport when examining the environmental effect of modifications made to its infrastructure with a view to accommodating that increase in activity.”⁶⁶ *Abraham* concerned the assessment of infrastructure works rather than the choice of baseline in a noise objective, so it is applied here by analogy and not as a direct authority on the reference year; but the principle it states, that the appraisal must capture the increase in activity the project enables rather than exclude it, applies with at least equal force to the baseline against which that increase is measured. A reference year chosen because it already contains the North Runway, the dominant new noise source, excludes the very increase the baseline

⁶³Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(10); directions of 4 September 2023 and 1 March 2024 (daa response to AIE 2611, Records 3 and 6).

⁶⁴Noise Abatement Objective Report (May 2026) (“the NAO Report”), p. 2.

⁶⁵NAO Report, pp. 2 and 19.

⁶⁶*Abraham and Others* (Case C-2/07).

exists to measure: the representativeness rationale describes the move, it does not justify it. And the year selected is the worst on record: 2023 carries the highest population exposure to aircraft noise of any year reported under the Regulations.⁶⁷ The representativeness rationale fails on a further and independent ground, developed at B.1.5: 2023 is not a stable representation of the airport in any event, but a transient, sub-design state in which departures run off a single runway, the simultaneous dual-departure operation the North Runway was built to enable having been cancelled with immediate effect in September 2023 and not since reinstated.⁶⁸

- 61** Fingal’s own noise-problem report documents that peak across every reporting round under the Regulations. Its Tables 4 and 5 carry the rounds of 2006, 2011, 2016 and 2021, and add 2023; 2019 is not among the years reported there. They are reproduced here in the exposure bands that bear on this submission:⁶⁹

Population exposed	2006	2011	2016	2021	2023
55 to 59.9 dB Lden	13,000	11,900	18,500	12,600	28,200
60 to 64.9 dB Lden	1,200	300	1,500	700	8,900
50 to 54.9 dB Lnight	1,800	1,200	6,200	3,300	18,300
55 to 59.9 dB Lnight	200	200	400	300	4,300
Annual movements	183,400	159,000	207,520	85,433	240,638

- 62** Two features of Fingal’s own table bear directly on the choice of reference year. The 60 to 64.9 dB Lden band, the band in which the draft decision sets its insulation floor (B.2.2), holds 8,900 people in 2023, against 1,500 in 2016 and 700 in 2021: the reference year is set at the moment that band stands at nearly six times its highest level in any earlier round. Growth in traffic does not account for it: 2023 movements exceed 2016 movements by about 16 per cent while the population in that band is nearly six times larger, an increase of a kind movement growth alone cannot produce. The night-time bands move the same way: 18,300 people at 50 to 54.9 dB Lnight against 6,200 in 2016, and 4,300 at 55 to

⁶⁷Draft Regulatory Decision Report, Appendix G (May 2026) (“the DRD Report”), p. 24.

⁶⁸AIP Ireland, Supplement 018/2022; NOTAM A2669/23, 25 September 2023.

⁶⁹Draft Regulatory Decision Report (May 2026), Appendix G, Tables 4 and 5, p. 23 (population exposed in noise contour areas, Lden and Lnight, reporting rounds 2006, 2011, 2016, 2021 and 2023, with annual movements).

59.9 dB against 400. The report reads its own table the same way: “The NAP recognises the increase in daytime and night-time noise over the period 2006 to 2023, highlighting that the population exposed to level of 55 dB Lden and 50 dB Lnight or above had increased significantly over this period.”⁷⁰ The year the instruments adopt as the neutral reference is documented in the decision-maker’s own tables as the high-water mark of the series.

- 63** The move also banks an improvement already achieved. The report records that the population highly annoyed and highly sleep disturbed “decreased by over 30%” between 2019 and 2023,⁷¹ that “most of this occurred over the period 2019 to 2023 due to the opening of the North Runway, changes in associated flight paths and fleet modernisation,”⁷² and that the airport was “on track to comfortably meet the 30% reduction outcome set by the 2022 NAO for 2030.”⁷³ Having all but met the 2019 target, Fingal reset the reference year to 2023 and set fresh targets from there, “recognising the 30% improvement that has already occurred between 2019 and 2023.”⁷⁴
- 64** That attribution obscures a windfall Fingal banks as merit. The reduction credited to “changes in associated flight paths” came from moving departures off the South Runway, 28L, onto the North Runway, 28R, off the historic corridor; it did not come from the change this submission challenges, the deviation from the EIS Route to the Routes Flown, which capped the reduction rather than causing it. The runway move made a large reduction available, and the route chosen decided how much was captured: an EIS-consistent straight departure would have cut the overflowed population against the South Runway baseline by 86%, where the Routes Flown cut it by only 31%, a shortfall of roughly 11,000 people.⁷⁵ The 30% fall Fingal banks as its headline achievement is thus the most the deviated routing could deliver, and fixing 2023 as the baseline locks that forfeited relief out: the objective is

⁷⁰Draft Regulatory Decision Report (May 2026), Appendix G, p. 23 (text following Tables 4 and 5).

⁷¹NAO Report, p. 21.

⁷²NAO Report, p. 22.

⁷³NAO Report, p. 22.

⁷⁴NAO Report, p. 22.

⁷⁵G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>. Within a track-keeping corridor of 1.5 km each side of the track (the UK Department for Transport overflight swathe, DfT00393), the study counts an estimated 13,923 residents overflowed under the Routes Flown, against 4,772 under a Strict 5 NM EIS-consistent departure (the straight-segment convention carried over from the legacy South Runway SID) and 2,888 under a Designed EIS-consistent variant that adds 1.5 NM of straight flight before the turn to avoid direct overflight. Both alternatives are realisable at standard 15-degree bank and 250 knots, the study identifying no geometric or procedure-design constraint that would preclude them. The two EIS-consistent options differ by 39% in total overflowed population from that single design decision, so the lower figure reflects the population-avoidance design a noise assessment exists to produce rather than a favourable choice of comparator; the study also models, and rejects on the resulting distribution, the objection that an alternative routing merely displaces the burden onto another population.

declared met from the post-relocation state, and the relief the routing forfeited is never owed to the people who lost it, whether or not the routes are later moved.

- 65 That elevated baseline embeds exposure the deviation itself created. The Routes Flown overfly an estimated 13,923 residents in total within the 1.5 km half-width corridor, against roughly 2,900 in total under an EIS-consistent routing; because the Routes Flown corridor does not overlap the legacy South Runway tracks at all, all 13,923 are newly overflown, where the assessed route would newly overfly only about 1,000 (the thirteen-fold disparity of B.2.6), and some 11,000 of those the Routes Flown overfly sit within the 2023 noise climate the baseline now fixes only because the assessed routing was not flown.⁷⁶ Fixing 2023 as the baseline therefore takes, as the neutral reference against which compliance is judged, a state the very deviation under challenge produced: the conduct the objective declines to remedy sets the level by which its own consequences are measured. A reference year the regulated party's deviation from the assessed routing helped to inflate is not the pre-expansion baseline the section 9 directions required, and a measure should not take as its starting point an advantageous state of affairs of the regulated party's own making.
- 66 The 2023 baseline changes what a future route fix will buy. Measured from 2023, relocating departures off the routes does not reduce the regulated noise; it frees headroom beneath a ceiling set at the worst year, which an expanding airport fills with movements until exposure climbs back to the 2023 line. Measured from 2019 the route change delivers relief; measured from 2023 the same change delivers unregulated capacity: growth into the band whose reduction target the objective removed. The sequence is not hypothetical: daa has told the Joint Committee on Transport that its flight-path review "hasn't advanced because we need a baseline ... before we start to understand the impact of different changes," and that it "can't move that on" until that baseline is finalised, evidence given eight months after the relevant action was decided.⁷⁷ The route fix is thus deferred until a post-expansion baseline is set, then applied on top of it. The deferral is now the Government's own: the Minister for Transport committed to the Dáil on 23 and 30 June 2026, without condition, that "an independent assessment of flight paths will happen", and his Department's written answer of 8 July 2026 re-timed that commitment to "the appropriate time", "most likely ... when a final decision is made regarding

⁷⁶G. O'Brien, GIS study (2026), Zenodo DOI 10.5281/zenodo.19567671: 13,923 residents overflown under the Routes Flown against 2,888 under the Designed EIS-consistent alternative, within the same 1.5 km half-width corridor; method and alternatives at the first citation above.

⁷⁷The Managing Director of Dublin Airport, in evidence to the Joint Committee on Transport, 24 March 2026.

the North Runway Relevant Action”, adopting daa’s baseline-first sequencing as the State’s.⁷⁸ Once applied, the route change can be presented as the relief residents were promised while, measured from 2023, it registers as no reduction the airport must answer for; the residual exposure concentrates on the smaller population still beneath the routes, whom the objective then records as carrying no exceedance left to remedy.

The route change manufactured an 11,000-person band, banked it into the 2023 baseline, and the same band is now available as growth headroom

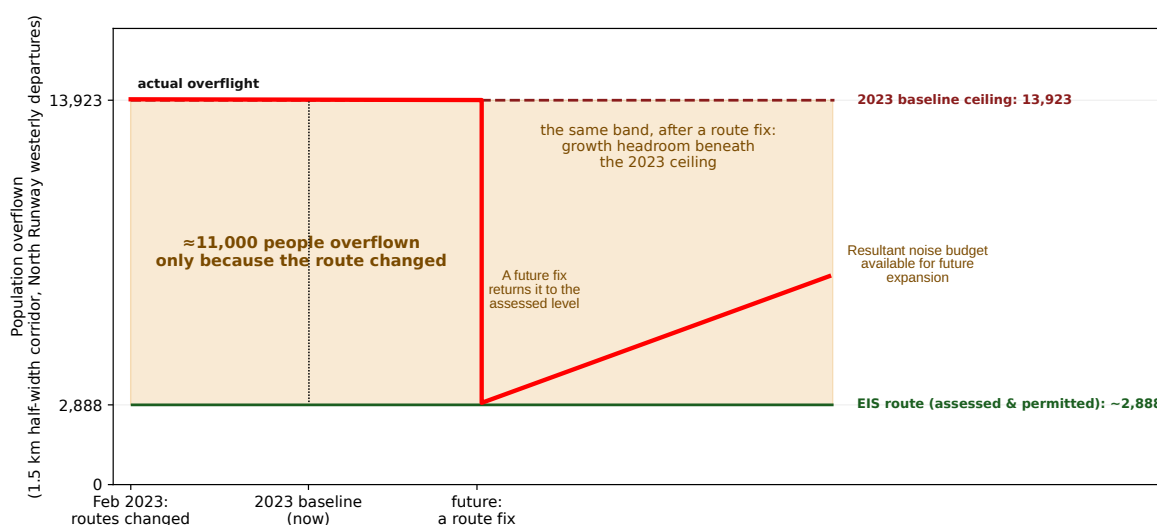


Figure 1: The route change measured against the assessed route, within the 1.5 km half-width corridor. The Routes Flown overfly an estimated 13,923 residents; the EIS Route the permission was granted on would overfly about 2,900. The route change fixed the 2023 baseline ceiling roughly 11,000 people above the assessed level. A later route fix returns actual overflight to the assessed level, but the 2023 ceiling persists, so the same 11,000-person band becomes capacity to refill: growth headroom beneath the ceiling, not relief. Source: NRTG GIS study, Zenodo DOI 10.5281/zenodo.19567671.

- 67 The political commitment now meets the consultation. In the same Second Stage reply in which the Minister for Transport called the as-flown routes “not acceptable” and committed the State to an independent flight-path assessment, he pointed to the ANCA draft decision now under consultation as the measure that “will allow” the insulation scheme to expand.⁷⁹ An assessment that moves the routes

⁷⁸Dáil Éireann, 23 and 30 June 2026; PQ 50 [52104/26] and PQ 51 [52106/26], 8 July 2026; Seanad Éireann, Committee and Remaining Stages, 8 July 2026.

⁷⁹Dublin Airport (Passenger Capacity) Bill 2026, Second Stage, Dáil Éireann, 23 June 2026 (Minister for Transport, closing reply).

after this objective fixes 2023 as the baseline would deliver that relief as growth headroom; the same assessment, measured against 2019, delivers it to residents. The reference year decides which: that is why restoring 2019 (Remedy 1) is the substance, not a formality.

68 Fingal calls the 2026 outcomes “more stringent” than those they replace,⁸⁰ but stringency measured from 2023, after the night-time population above 55 dB Lnight had risen into the thousands, is measured from the wrong starting point: the climb from the pre-expansion baseline to that peak, which the 2019 comparison Fingal’s directions required would have captured, disappears from the target architecture, and an aggregate that improves while the newly overflowed population carries a sharply higher burden is the distributional shift the re-baseline conceals. The reference year is not neutral in a further sense: the Joint Committee on Transport’s report records that the Noise Abatement Objective “has been breached continually since 2022,” Fingal having issued a warning letter that September setting out nine criteria “of which only two have ever been enforced.” Fixing the baseline at 2023 fixes it inside a subsisting and unenforced breach.⁸¹

69 In the 2022 objective the population above 65 dB Lden and 55 dB Lnight was a binding outcome: it “shall be reduced compared to” 2019.⁸² In the updated objective that outcome is “replaced by a requirement to monitor the number of dwellings, schools and hospitals exposed to noise above 65 dB Lden and 55 dB Lnight, with the expectation that measures will be used to mitigate and/or limit the number,” tracked against 2023, with no reduction target attached.⁸³ An “expectation” that measures will be used, against no target and under no duty to enforce, is no constraint on a party whose conduct record at Annex F is one of acting, in the main, on what it is compelled to do. The demotion also relocates the obligation. In the 2022 objective the duty to secure the reduction rested with the authority that adopted it; in the updated objective the work passes to the operator, which is to receive the monitoring information in the expectation that it will act on it. This is a transfer of responsibility from the regulator to the regulated party, with a dilution in transit from duty to discretion: what the authority was bound to secure, the operator is now merely expected to mitigate or limit. The effect is on the face of the instrument: if the exposed population rises again, no obligation is breached, no failure is identified, and no body answers for it. The mechanism is demote-and-rebase: the figure still appears

⁸⁰NAO Report, p. 3.

⁸¹Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026).

⁸²SEA Environmental Report for the Noise Abatement Objective (May 2026) (“the SEA Report (NAO)”), p. 17.

⁸³NAO Report, p. 3; SEA Report (NAO), p. 17.

on the page, so a claim that the metric was “removed” would be rebuttable, but the sharp night-time rise a 2019 comparison would have measured, the night population above 55 dB Lnight growing from 305 in 2021 to 4,465 in 2023, has no reduction target to answer to.⁸⁴

- 70 The erasure on the cause side completes the picture. Fingal twice directed daa to investigate the westerly North Runway departure routes against the objective’s metrics, and to support its forecasts with the underlying route and operational records; daa confirmed under AIE 2611 that it holds no record of any comparison between the Routes Flown and the 2004 and 2005 Environmental Impact Statement Routes, the report it relies on “does not include noise level comparison.”⁸⁵ The comparison that would have quantified the change in routing is absent on the cause side, and the baseline that would have measured its effect is moved on the effect side. What Fingal’s directions demanded, and what daa supplied, is at Annex A; the reconstruction daa admits it never made is at Annex C.
- 71 The routes now proposed as the baseline are, moreover, ones no competent hand is shown to have designed. The Department of Transport told the Oireachtas that daa, the party legally “responsible for the design and maintenance of flight paths,” “obviously does not have expertise in the design of flight paths,” so AirNav Ireland “carries out the design function on behalf of” daa, and the Irish Aviation Authority approves the procedure “from a safety perspective” only.⁸⁶ The delegate’s own account to the Department is the same: AirNav Ireland’s briefing note records that daa, “as the Aerodrome Operator, holds primary responsibility for ensuring that flight procedures are designed and maintained in line with regulatory requirements”, and that “AIRNAV Ireland’s role is technical and facilitative, rather than regulatory”.⁸⁷ The regulator confirmed the limit in its own submission to An Bord Pleanála: it “assessed the IFPs which were submitted to it and, finding that they did comply with safety requirements, approved them”, but that this “should not be confused with any suggestion that these specific IFPs were required by the IAA, or that the IAA thinks that they are the optimal flightpaths”.⁸⁸ The design duty under Regulation 139/2014 (ADR.OR.C.005) rests on daa and cannot be transferred; yet daa holds no commissioning document, design brief or study for the deviation, AirNav subcontracted the coding to a certified organisation confined to implementing a route already chosen, and no body in

⁸⁴SEA Environmental Report for the Draft Regulatory Decision (May 2026) (“the SEA Report (DRD)”), p. 25.

⁸⁵daa response to AIE 2611, Item 3 (‘no record’ admission) and Records 3 and 6 (section 9 directions).

⁸⁶Joint Committee on Transport, 4 March 2026.

⁸⁷AirNav Ireland briefing note to the Department of Transport, 13 May 2025 (FOI 2025.122).

⁸⁸Irish Aviation Authority submission to An Bord Pleanála, case ABP-314485-22.

the chain holds any aeronautical study of the design at all (B.2.6).⁸⁹

- 72** daa’s own Managing Director of Dublin Airport attributed the design to that organisation and called the assessed EIS routes merely “indicative,” while the Department’s Assistant Secretary for Aviation, who serves as Ireland’s Director General of Civil Aviation and as its member of the EASA Management Board, put the competence gap on the record;⁹⁰ the two accounts cannot both stand, and between them the decision that abandoned the assessed routes has, on the documentary record, no author, no study, and no qualified hand on it.⁹¹ The word “indicative” is daa’s and not the Statement’s. The Statement never applies it to a flight track, and the Addendum’s own variable is the runway rather than the track: every use of “preferential” in it is a preference between runways, and the figures illustrating the mode are titled “Preferential Use of Parallel Runways”.
- 73** daa’s own contemporaneous account confirms the design fell into that gap and was never reconciled with the permission. In a December 2022 briefing to the Department of Transport on responsibility for the flight procedures, daa recorded that the design of the North Runway procedures “did not take these assumptions into consideration and instead were designed based on the relevant safety objectives”, so that they “were not aligned to modelling assumptions included in our planning submissions”, a divergence that “only became apparent following commencement of flight operations”.⁹² The same note records that responsibility for the procedures was not settled but disputed: the air navigation service provider had written in December 2020 seeking to transfer it to daa, and while daa and the safety regulation division of the IAA took the responsibility to sit with the service provider, “the IAA ANSP does not hold this view”.⁹³
- 74** The organisation daa named will not claim the design either. On 9 July 2026 NRTG put daa’s attribution to ASAP s.r.o. in writing, on notice that these proceedings would treat it as undisputed unless corrected, asking whether ASAP made the decision to place the required divergence on the departures rather than on the missed approach, what qualification and reasons stood behind that choice, and whether it conducted, or advised its client to conduct, the aeronautical study ICAO Doc 8168 strongly recommends. The company replied twice on 10 July 2026. Its first reply stated that it did not under-

⁸⁹Regulation (EU) No 139/2014, ADR.OR.C.005(b)(2); AirNav Ireland briefing note to the Department of Transport, 13 May 2025 (FOI 2025.122).

⁹⁰European Union Aviation Safety Agency, Management Board, Irish members.

⁹¹Joint Committee on Transport, 24 March 2026.

⁹²daa, Briefing Note for the Department of Transport, December 2022, released under FOI.

⁹³daa, Briefing Note for the Department of Transport, December 2022, released under FOI.

stand the letter and asked for it in Slovak; served with a full Slovak translation that morning, it replied in Slovak within the hour that questions concerning the departure routes or the design of flight procedures at Dublin airport should be put to AirNav Ireland and daa as, in translation, “the competent organisations to answer your questions.” It did not dispute the attribution and answered none of the three questions.⁹⁴ The referral closes the circle in the parties’ own words: daa attributes the design to ASAP; ASAP refers questions on the design to daa and AirNav Ireland; AirNav states that instrument flight procedure design “is undertaken by certified IFP design organisations,” and ASAP is the only such organisation in the chain. Each points at the others, and none claims the decision.⁹⁵

A.2.1 No identifiable post, no stated competence, no professional sign-off, and an empty apex above them

- 75** The body to which Ireland’s Director General of Civil Aviation attributes the design function will not answer for it, and no entity in the chain will name the qualification of whoever made the engineering decision to place the divergence on the departures rather than on the missed approach. Asked under the European environmental information regime, on 25 May 2026, to identify the post within it that held design authority over the Runway 28R departures, the professional competence that post required, and whether a Chartered Engineer or any other professionally qualified person reviewed or signed off the turn design, AirNav Ireland answered on 22 July 2026, by a document styled an original decision issued nearly a month after the period for one had expired, and named none of them: it stated that the authority to undertake and approve flight procedure design “resides within the approved regulatory and organisational framework ... and is exercised by appropriately qualified and authorised personnel operating within that framework”, and confirmed that it “has not identified any record indicating that approval of the Runway 28R SID was contingent upon review, validation, sign-off or approval by an individual holding a particular professional engineering designation, such as Chartered Engineer status”. NRTG has appealed that decision to the Commissioner for Environmental Information.⁹⁶

- 76** The silence on the related requests is selective, not general. Three of NRTG’s requests to AirNav Ireland

⁹⁴NRTG/2026/esb to ASAP s.r.o., 9 July 2026, and ASAP’s replies of 10 and 11 July 2026.

⁹⁵AirNav Ireland decision on the aeronautical-study information request, 20 May 2026 (no records held, items 1 to 4).

⁹⁶NRTG information request to AirNav Ireland, 25 May 2026 (design-authority post, competency requirements, professional sign-off), and AirNav Ireland’s decision of 22 July 2026; Annex I.

on the design of these routes, for the design rationale and trade-offs, for its tasking brief to the certified design organisation, and for its design-phase coordination with daa, have each been refused by silence at both statutory stages, and all three were appealed to the Commissioner for Environmental Information; in the same weeks the same authority issued decisions from the same mailbox on requests that did not touch its own design responsibility. Two of the three were decided only after the Commissioner annulled the refusals and directed decisions by a fixed date, and the third, the tasking brief to the certified design organisation, was not decided even then.⁹⁷ ASAP, asked directly what qualification was held by the designer who signed off the choice, referred the question to daa and Air Nav Ireland. daa, which holds no commissioning document, design brief or analysis of the decision, or will not produce them, has produced nothing from which an answer could be constructed. On every record the three will produce, the turn that placed the departures over the towns was made by no identifiable post, under no stated competence, and with no professional sign-off of the engineering decision not to align the departure procedures with the route assessed and permitted.⁹⁸

- 77 That the routes changed at all is not only NRTG's reading: An Bord Pleanála's own inspector, on the file for the relevant-action process, recorded that "the flight patterns submitted in the applicant's supplementary information ... differ to those submitted in the original EIS."⁹⁹ And the body that approves the procedure could not have stopped a poor one: the Joint Committee's pre-legislative scrutiny report on the Dublin Airport (Passenger Capacity) Bill 2026 records that "the IAA confirmed it has no public interest mandate and cannot reject a flight procedure submission simply because it is a bad design."¹⁰⁰
- 78 The oversight apex is empty on the same point. The Department that should supervise the sector holds no aviation competence of its own: its Aviation Division is 49 staff in general Civil Service grades, holding no record of any aviation qualification, competency framework or training programme and directing the requester instead to the capability framework for generalist grades; it has never conducted the periodic review of its in-house aviation expertise recommended by the Air Accident Investigation Unit (Safety Recommendation IRLD2021029, Rescue 116); and asked for its own position on respon-

⁹⁷Annex I (turn-design, ASAP-tasking and airfield-design coordination requests, deemed refused at both stages; appeals OCE-352491, OCE-352492 and OCE-352506).

⁹⁸ASAP s.r.o. reply, 10 July 2026; daa responses to AIE 2620 and 2613 (no records held).

⁹⁹An Bord Pleanála, Inspector's Report PL06F.314485 (29 May 2024), section 12.6.75.

¹⁰⁰Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026), paragraph 63.

sibility for flight-path design, it holds no record of one and can point only to the Oireachtas answers just described.¹⁰¹ Nor is the gap bought in from outside: the Department's own schedule of every engagement of external aviation expertise since 2020, released under the Freedom of Information Act, lists engagements concerning its safety regulator alone, appeal panellists, the statutory examination of the Irish Aviation Authority, a review of the State's arrangements for overseeing that authority, and drafting for search-and-rescue oversight legislation; not one engagement concerns daa, AirNav Ireland or ANCA, the departure routes, or the verification of any representation those bodies have made to it.¹⁰² And on the one recorded occasion such verification was proposed, the Department declined it: asked in April 2023, by the Minister's own office, to have daa and Irish Aviation Authority claims on flight-path compliance independently assessed, the Department replied that "it would not be appropriate that the Minister or department would seek to by-pass the IAA and seek separate independent advice on this issue."¹⁰³ So the route is unowned at every tier: undesignated by any shown competence, unregulated by an independent body (A.1), and unsupervised at the apex, where the expertise to supervise has neither been held, nor procured, nor permitted when the Minister's own office asked for it. That is why these instruments cannot rest on the good-faith compliance they assume.

- 79** The vacuum is measured by the State's own international yardstick. Ireland answers to ICAO, through the office of the Director General of Civil Aviation, held by the same Assistant Secretary, for implementing the eight critical elements of a State safety oversight system.¹⁰⁴ Critical element 4 requires "the establishment of minimum qualification requirements for the technical personnel performing safety-related functions" and directs that "States shall implement a system for the maintenance of training records for technical personnel"; the division housing that office holds no record that any aviation qualification, competency framework or training programme exists.¹⁰⁵ Critical element 8 requires "a documented process to take appropriate actions, up to and including enforcement measures, to resolve identified safety issues" operating "in a timely manner through a system which monitors and records progress", and lists among those issues "results (including safety recommendations) of aircraft accident and incident investigations"; the accident investigator's recommendation that the De-

¹⁰¹Department of Transport FOI decision TRA-FOI-2025-0121 (30 June 2025).

¹⁰²Department of Transport FOI decision TRA-FOI-2026-0085 (6 May 2026), Part 1 schedule.

¹⁰³Department of Transport FOI decision TRA-FOI-2025-0110 (24 July 2025), Record 16 (26 April 2023).

¹⁰⁴ICAO Doc 9734, Safety Oversight Manual, Part A (3rd ed, 2017), the eight critical elements.

¹⁰⁵ICAO Doc 9734, Part A (3rd ed, 2017), critical element 4; Department of Transport FOI decision TRA-FOI-2025-0121 (30 June 2025).

partment periodically review its in-house aviation expertise has never been implemented, and no documented process has resolved the question of the aeronautical study missing from the February 2023 route deviation, which every body in the chain has now confirmed it does not hold.¹⁰⁶ And ICAO's Annex 19 permits a State to delegate safety functions while recording that "States retain responsibility" for whatever is delegated; the Department's position that it relies on its independent regulator for technical expertise and advice delegates the expertise, not the responsibility.¹⁰⁷

- 80 The published description of the apex post itself moved when the gap was put on the record. From October 2022 until at least 11 March 2026, the Department's own description of the Assistant Secretary role stated the officeholder's personal responsibility, including "ensuring that aviation operates in a safe, competitive and sustainable manner" and "oversight of the relevant State bodies". The page now carries the stamp "Last updated on: 19 March 2026", fifteen days after the competence admission quoted above, and assigns the responsibilities to the Division rather than the officeholder; safety survives only as an attribute of "access responsive to the needs of business, tourism and consumers", the word "sustainable" no longer appears, and the oversight is now "corporate governance oversight". The rewrite is prospective only: throughout the period in which these routes were adopted, flown and defended, the Department's published position was that a named senior official was personally responsible for ensuring aviation operated safely and sustainably.¹⁰⁸ No one has been identified as having directed that change. NRTG asked the Minister for Transport in writing on 11 July 2026 who directed the revision between 11 and 19 March 2026, and on what basis the officeholder's responsibility for ensuring aviation operates safely was removed; the answer returned by the Minister's office on 23 July 2026 was "N/A question".¹⁰⁹ The revision is recorded on the Department's own published page and in the archived captures of it, so the question is one of documented fact and it is answerable. It has not been answered.

¹⁰⁶ICAO Doc 9734, Part A (3rd ed, 2017), critical element 8.

¹⁰⁷ICAO Annex 19 (2nd ed, 2016), State Safety Programme.

¹⁰⁸Department of Transport, Assistant Secretary (Aviation) role page, gov.ie, as captured on 25 April 2025 and 11 March 2026 (Internet Archive) and as published subsequently.

¹⁰⁹NRTG/2026/khe to the Minister for Transport, 11 July 2026, question 5; reply TTAS-MO-03646-2026, 23 July 2026.

A.2.2 Pauline Fitzpatrick, the 2007 Inspector, vindicated three times over

- 81** An Bord Pleanála’s own inspector was right about this in 2007, and the Board was wrong to grant permission over her. Recommending refusal of the North Runway, Inspector Pauline Fitzpatrick found that the applicant’s repeated failure to adequately address these matters was, in her word, “fatal,” and warned that deviations from the environmental corridors “will continue, notwithstanding any restrictions which may be imposed in the planning process.”¹¹⁰ Nearly two decades on, the record has proved her right in every particular: what she identified as fatal to the application was built, flown and defended; the deviations she foresaw are flown daily and are now put before this consultation as the neutral baseline; and every protection the Board substituted for her judgment has failed. The evidence follows.
- 82** Deciding not to accept her recommendation to refuse, the Board considered that “sufficient information had been submitted in the Environmental Impact Statement, in further information submitted both to the planning authority and the Board and at the oral hearing to enable it to make an assessment of the significant impacts of the proposed development on the environment”. It granted permission over her recommendation, holding that the deficiencies in information the Inspector identified were “not so significant as to warrant a refusal of permission and could be addressed by way of condition,” and granting on the strength of three protections it expected to hold: the “Option 7b operating mode” detailed in the EIS Addendum; its consequent finding that “there would be no significant deterioration in noise conditions at night,” secured by that mode and a condition that night movements “shall not exceed 65/night”; and Dublin’s coming under the “regime introduced under the EU Environmental Noise Directive 2002/49/EC.”¹¹¹
- 83** Every one has failed. The first, Option 7b and its straight-ahead assumption, was abandoned when the routes first deviated in 2022 (above). The configuration it carries forward was chosen on a population criterion. The Environmental Impact Statement selected Runway 28R as the main take-off runway because that “minimises the over-flight of highly populated areas such as Portmarnock”, rejecting the alternative segregated mode because it “would fly more aircraft over populated areas”, and the Addendum built Option 7b on that choice, putting 60.8 per cent of 2025 westerly departures on 28R.¹¹²

¹¹⁰An Bord Pleanála, Inspector’s Report PL06F.217429 (2007).

¹¹¹An Bord Pleanála, Board Direction PL06F.217429 (2007).

¹¹²Environmental Impact Statement, December 2004, section 16.1.4.3, selecting Option 2b, segregated mode with Runway

On the routes flown the population newly overflowed beneath the departure track is some thirteen times that under the assessed route (B.2.6), so the criterion by which the permitted configuration was chosen now tells against the operation conducted under it. The second, the no-deterioration finding resting on that mode and on the 65-movement condition, fails on both of its limbs on Fingal's own figures, and the movement limb fails on the very 92-day summer basis the condition itself prescribes. Fingal's Draft Regulatory Decision Report records that of the 240,638 movements at Dublin Airport in 2023, 33,507 fell in the night-time period, "approximately 92 movements per night over the 2023 calendar year."¹¹³ Fingal's statutory Noise Action Plan measures the position on the summer window the condition specifies, 16 June to 15 September, the same 92-day period over which the 65-movement average is set: 10,069 night movements across those 92 nights, an average of 109 a night, the Plan finding in its own words that in 2023 "annual average and summer night-time movements ... were significantly higher than 65 movements per night" as the condition requires.¹¹⁴

- 84** Fingal itself has treated that breach as enforceable, in its planning capacity: in July 2023 the planning authority issued an enforcement notice related to Condition 5, as Fingal's own statutory Noise Action Plan records.¹¹⁵ The notice matters here for what it proves and for what it did not change. It proves the knowledge: when Fingal, acting as ANCA, selected 2023 as the reference year, its own planning department had already served an enforcement notice against the night-movement breach running through that same year. And the record shows it changed nothing: the summer window the condition prescribes, with the notice month inside it, still averaged 109 movements a night on the statutory Plan's own figures. The same legal person (A.1) enforced against the 2023 night regime at its planning desk and adopted that regime as the neutral baseline at its noise desk. The zero-enforcement record at Annex F is not qualified by this notice: that record concerns the noise authority's own powers under Part 4 of the 2019 Act, which remain unused. What the stayed enforcement was worth is quantified in the applicant's own forecast tables: enforced, the 2007 night conditions would hold the night population above 55 dB L_{night} to 279 people with the development, against 5,542 under the regime

28R as the main take-off runway, as "the most environmentally friendly mode of operation", and section 16.1.4.4, rejecting Option 3b, segregated mode with Runway 28L as the main take-off runway. Condition 3 of the North Runway permission requires the runways to be operated in accordance with the Option 7b mode detailed in Section 16 of the Environmental Impact Statement Addendum of 9 August 2005, as the Authority's own Draft Regulatory Decision Report records at its Appendix E.

¹¹³DRD Report, p. 63 (Table 9-1).

¹¹⁴Noise Action Plan for Dublin Airport 2024-2028, Table 5-5.

¹¹⁵Noise Action Plan for Dublin Airport 2024-2028, recording the enforcement notice of July 2023 related to Condition 5.

now proposed, while still delivering the applicant's full 40 million passengers about three years later (B.2.1).

- 85 And the finding of no night-time deterioration has not held: the population above 55 dB Lnight rose from 305 in 2021 to 4,465 in 2023, and the Joint Committee on Transport found the same population to have risen from 1,533 in 2019 to 6,791 by 2024, “a 343% breach of ANCA’s own night-time noise abatement criteria.”¹¹⁶ And the noise regime the Board trusted did not exist until the 2019 Act created the ANCA function, twelve years after the grant, and no enforcement action has been taken in the years since.
- 86 Nineteen years on, the same developer repeats the same failure the Inspector called fatal to the application, declining to supply the section 9 information the noise authority has twice directed (Annex A). Her concern was not cured by condition; it was vindicated three times over.

A.3 The “flight paths are not a condition of planning” doctrine is a scope error, and on either reading the Authority cannot escape it

- 87 This consultation is not a free-standing noise exercise into which planning matters intrude; it is Fingal’s regulatory decision (acting as ANCA) on a planning application. Under section 34B of the Planning and Development Act 2000, inserted by the 2019 Act, the planning authority referred daa’s Infrastructure Application F23A/0781, the application to grow Dublin Airport from 32 to 40 million passengers, to ANCA to apply the Balanced Approach; ANCA then found, on 22 January 2026, that “a noise problem would arise from the carrying out of the development as proposed through the Infrastructure Application.” The departure routes, and the reference year against which their noise is measured, are features of that application. A body assessing the noise problem that arises from a planning application cannot place the application’s own assessed routing, and the baseline that measures it, outside its scope. Fingal has itself treated the boundary as porous, disclaiming reduction of noise at source as “a matter for the IA rather than the DRD”; it cannot invoke the Infrastructure Application to narrow this

¹¹⁶SEA Report (DRD), p. 25; Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026).

decision and then put that application's routing beyond it, the less so because, as A.1 shows, Fingal is the planning authority on F23A/0781 as well as the noise authority now deciding it.¹¹⁷

- 88** Land-use planning and management, in the sense this Act uses the term, is a Planning and Development Act concept, and it is not confined to zoning maps. Section 11 of the 2019 Act inserted sections 34A to 34C into the Act of 2000, and section 34A(2) provides that in sections 34B and 34C “noise mitigation measures” includes “land-use planning and management measures, measures to reduce noise at source and noise abatement operational measures (other than operating restrictions) that do not restrict the capacity of the airport”.¹¹⁸ Three of the four Balanced Approach measures are thus written into the planning code itself, in the sections that govern a planning application at this airport, and written inclusively rather than exhaustively. Two things follow for this decision. The land-use measure reaches the consent, the conditions attached to it and the assessment that fixed them, not merely the noise zones drawn afterwards; and an operational measure that does not restrict the capacity of the airport is expressly a noise mitigation measure, which is what the departure-route measure sought in this submission is and all that it is.
- 89** The proposition advanced on the State's behalf, that the departure routes are not a matter of the planning permission at all, is rejected. It is an error about the scope of what was assessed and consented: Article 2(1) of the EIA Directive requires the scope of the consent to be fixed by the assessment, and the assessment fixed on the straight-ahead departures. A doctrine that removes the routes from the planning permission removes from assessment the very feature whose environmental effect the Environmental Impact Statement measured, which is the scope error Article 2(1) forbids, not a boundary of the permission.¹¹⁹
- 90** Condition 3 of the permission defeats the proposition on the instrument's own face, without reference to what the Statement assumed about tracks. That condition requires the runways to be operated in accordance with the Option 7b mode, which carries forward the Statement's choice of Runway 28R as the main take-off runway, made because that “minimises the over-flight of highly populated areas such as Portmarnock” and preferred on that ground alone to the alternative segregated mode (A.2).¹²⁰

¹¹⁷SEA Report (DRD), p. 5.

¹¹⁸Aircraft Noise (Dublin Airport) Regulation Act 2019, s.11; Planning and Development Act 2000, s.34B.

¹¹⁹Commission v Ireland (Case C-215/06).

¹²⁰Environmental Impact Statement, December 2004, section 16.1.4.3, selecting Option 2b, segregated mode with Runway 28R as the main take-off runway, as “the most environmentally friendly mode of operation”, and section 16.1.4.4, rejecting Option 3b, segregated mode with Runway 28L as the main take-off runway. Condition 3 of the North Runway

Over-flight is a function of where an aircraft goes after it leaves the runway and not of the runway alone: a mode selected to reduce over-flight of a named place reduces it only if the routes flown under that mode avoid it. A condition imposed to reduce over-flight is therefore route-dependent in its operation, and routes cannot be immaterial to a permission that contains it.

- 91** Nor did the Statement leave the routing of the procedures to unconstrained discretion. Twice, among its recommended mitigation measures, it states that “SIDs and STARs should be routed by the responsible organisation so that they do not overfly residential areas as far as this is reasonably practicable”; of the procedures it names, the departures at issue here are governed by the SIDs, the arrival counterpart that brings aircraft low over housing being the approach procedure rather than the STAR.¹²¹ The recommendation sits in the Statement’s third-party risk chapter and is expressed as good practice rather than as a modelled input, so it does not itself fix the geometry. What it establishes is that the Statement addressed the routing of these procedures, assigned it to the responsible organisation, and attached to it a residential-overflight constraint that the Routes Flown do not observe.
- 92** The point is a dilemma, and it holds whichever way the State characterises the routes. Either the routes are a matter of the planning permission, in which case the deviation is an unlawful and unassessed change to the consented project and the assessed route must be restored (A.2); or the routes are not a matter of the permission, as daa’s Managing Director of Dublin Airport told the Joint Committee on Transport, “Flight paths were not part of that planning permission,” in which case they fall wholly within the noise remit and the competent-authority function carries a standalone statutory duty over them that has never been exercised (limb (b), B.2.6). That duty attaches to the function, whoever lawfully holds it (A.1), and its exercise begins with the route: every other measure is calibrated to where the routes place the noise, so a body that understood its noise power would take the route change as the first measure to be considered, not the one measure never assessed.¹²²
- 93** The State now asserts both limbs of the dilemma itself, and on 8 July 2026 it asserted them in both Houses on the same day. The Minister for Transport told the Dáil on 23 June 2026, committing to an

permission requires the runways to be operated in accordance with the Option 7b mode detailed in Section 16 of the Environmental Impact Statement Addendum of 9 August 2005, as the Authority’s own Draft Regulatory Decision Report records at its Appendix E.

¹²¹ Environmental Impact Statement, December 2004, section 17.6.1.1 (Third Party Risk Mitigation) and section 17.7.1.3, where the same recommendation is repeated among the measures recommended to mitigate third-party risk.

¹²² Joint Committee on Transport, 24 March 2026.

independent assessment of the flight paths, that “[t]here have been issues for residents where flight paths and planning permissions have been granted and they have not seen those flight paths operate as they were approved. That is not acceptable. A retention application went in on that”, and on 30 June that residents “saw applications made for certain flight paths that were granted and were not adhered to”; his Department’s written answer of 8 July 2026 then declared that “it is important to clarify that flight paths are not a condition of planning at Dublin Airport.”¹²³ In the Seanad the same day the Minister said, in his own voice, that “[a] number of residents have been affected where flight paths for which planning was approved have not been adhered to, with the authority then seeking approval for retention”, and that what he sought was “adherence to the granted flight paths”.¹²⁴ The Minister’s statements in both Houses are limb (a): routes granted under the permission, not operated as approved, not acceptable, and the subject of what he twice told the Dáil was a retention application. No retention application concerning the routes appears on the planning register, and the characterisation is recorded here as the Minister’s own; that the Minister believed a regularisation application had been made when none exists is itself a measure of the vacuum this Part describes.¹²⁵ The Department’s written answer is limb (b). The State cannot escape on either characterisation: the routing is either an assessed feature unlawfully changed, or an unassessed noise matter squarely for the noise authority. On either characterisation a public body must act, and none has. NRTG runs no inconsistent case in putting the dilemma this way: its primary position is that the routes are an assessed feature of the permission unlawfully changed, pleaded in A.2, and limb (b) is advanced strictly in the alternative, on the State’s own characterisation and without accepting it. The choice between the two characterisations is the State’s to make, and it fails on either.

- 94** On limb (b) the Authority’s own published tests decide when the duty is engaged. The report by which ANCA identified the noise problem for this application assembles, from the Commission’s tender specification and the ICAO guidance, the criteria by which a noise problem falls to be identified: exposure that “is increasing in the absence of an expansion of the airport”; an evolution of the airport noise “likely to result in a specific population becoming affected thus introducing populations to a certain

¹²³Dáil Éireann, 23 and 30 June 2026; PQ 50 [52104/26] and PQ 51 [52106/26], 8 July 2026; Seanad Éireann, Committee and Remaining Stages, 8 July 2026.

¹²⁴Dáil Éireann, 23 and 30 June 2026; PQ 50 [52104/26] and PQ 51 [52106/26], 8 July 2026; Seanad Éireann, Committee and Remaining Stages, 8 July 2026.

¹²⁵PQ 392 [55499/26], PQ 393 [55500/26], PQ 397 [55551/26] and PQ 398 [55552/26], 28 July 2026: “For the avoidance of doubt, there is no retention application relating to the flight paths at Dublin Airport.”

level of effect which they may not have previously observed”; and, at the threshold, that “[a] noise problem may be identified if one is ‘perceived’ ”.¹²⁶ The 2019 to 2023 record meets each of them: population exposure rose to the highest level reported in any round under the Regulations while no expansion consent was in effect (A.2), and the communities under the deviated routes were introduced to levels of effect they had never previously observed. On the Authority’s own criteria the routing change was a noise problem in its own right, identifiable at any time, with no planning application needed to prompt it and no threshold in the way, since even a perceived problem suffices. What the Authority in fact did, on 22 January 2026, was apply those criteria to the future increment of the development alone. The standalone duty limb (b) describes is therefore not a construction NRTG urges on section 9; it is the Authority’s own published account of when its function is engaged, applied to every noise problem except the one the routing created.

- 95 That the routes are “not a condition of planning” is now the State’s own stated position, and it reached that position without any legal foundation being shown. Invited at parliamentary question to say whether he agreed with the version of the proposition put by the Managing Director of Dublin Airport, the Minister for Transport did not engage the question but restated it as his own, “flight paths are not a condition of planning at Dublin Airport,” a formula he has placed on the Dáil record repeatedly.¹²⁷ The proposition began as the regulated party’s public characterisation of the routes and has become the State’s position by repetition, yet no legal opinion or professional planning analysis supporting it has been produced by daa or by Fingal, and it stands against the permission’s own Condition 1, which ties the development to the Environmental Impact Statement that assessed the routes. Asked under the Access to Information on the Environment Regulations who determined, advised or approved it, in what professional capacity and on what date, whether any advice stands behind it, and whether the Department received the proposition from daa and assessed it before stating it as its own, the Department of Transport answered that “[n]o records could be found matching the description given” and that “[r]ecords do not exist”.¹²⁸ The same decision released the drafting file for the answer of 8 July: the sentence stands in the initial draft and in the final approved answer in identical terms and carries no alteration, the only alteration recorded anywhere in that answer falling in the sentence that

¹²⁶DRD Report, Appendix G, pp. 9 and 13.

¹²⁷PQ 252 [31827/26], PQ 248 [31820/26] and PQ 251 [31825/26], 30 April 2026.

¹²⁸Department of Transport, decision on access-to-information request AIE-2026-013, 13 August 2026, item 4 and the accompanying schedule of records. The records released with that decision include the initial draft and the final approved draft of the answer to Parliamentary Question 52104/26 of 8 July 2026.

follows it.¹²⁹ A proposition with a complete approval trail and no recorded origin, coined by the operator and adopted as policy without a legal basis being shown, is not an answer to the scope question Article 2(1) poses; it is the scope error, now official.

- 96 daa’s own record refutes the proposition in the operator’s own words. In the very consultation by which it sought to change the permitted operations, daa told the public that the flight paths were to be determined within that planning process. Its February 2017 report on that consultation records that the change “involves the preparation of a comprehensive Environmental Impact Statement (EIS)”, that “[t]o inform the EIS, daa sought the input of the public”; that the second consultation phase gave communities “an opportunity to input into the selection of future flight paths for North Runway”, and, in terms, that “[d]etermining flight paths is an important component in the preparation of the EIS relating to the Proposed Change to Permitted Operations”; its October 2016 consultation booklet and 2016 display materials say the same.¹³⁰ The company that now says flight paths are not a matter of the planning permission is the same company that, when it was seeking to change that permission, placed the choice of flight paths inside the EIS the change required and consulted the public on the route options.
- 97 That record is relied on here for one purpose, to show that daa itself treated the flight paths as a matter for the planning process and its EIS; it is not evidence that the Routes Flown were consulted or consented, and daa’s reverse reliance on the same consultation, the claim of its Managing Director of Dublin Airport to the Joint Committee on Transport that what is now flown is “aligned to what was consulted in 2016”, does not hold on content, on participation or on effect, for the reasons set out at Annex F §3.¹³¹ The proposition is therefore not only a scope error in law and a departure from the permission’s own Condition 1; it is contradicted by the operator’s own record of how it treated the very routes now at issue.
- 98 Nor can the 2016 consultation supply the public participation whose absence it is now invoked to excuse. daa’s own report of that consultation records an exercise conducted wholly in Fingal: the three public events, the newspaper advertisements, all 33,000 leaflets, the library posters and the

¹²⁹Department of Transport, decision on access-to-information request AIE-2026-013, 13 August 2026, item 4 and the accompanying schedule of records. The records released with that decision include the initial draft and the final approved draft of the answer to Parliamentary Question 52104/26 of 8 July 2026.

¹³⁰daa, North Runway Report: Consultation on Flight Paths and Change to Permitted Operations (February 2017), pp. 1 and 3.

¹³¹Joint Committee on Transport, 24 March 2026.

elected representatives notified were Fingal's; County Meath, over which the aircraft now fly, received no event, no advertisement, no leaflet and no poster; and nine of the 261 survey respondents are identifiable as Meath residents.¹³² The population most affected by the routes as flown was absent from the only participation exercise ever conducted on them, and the routes flown are in any event not what was consulted: the consultation put two discrete options to the public, and the 30-degree turn now flown was neither (Annex F §3). Nor was the exercise voluntary: daa held it, on its own report, to inform the comprehensive Environmental Impact Statement the change to permitted operations required; that draft Statement engaged the routes, was never completed or submitted, and was set aside for the relevant action, which can assess no route (Annex F §3).¹³³ daa's course of conduct thus concedes that a change of routes engaged the planning process, with assessment and public participation, and that the relevant action was no substitute. A consultation that excluded the public now overflown, on route options that are not the routes now flown, held for a statutory process daa commenced and never completed, cannot stand in for the participation that Article 6 of the Aarhus Convention attaches to the consent procedure a change of this kind required, and which never took place.

- 99 daa's stated process had a further gate the routes flown never passed. The same February 2017 report told the public that "before any proposed flight path can be finalised for North Runway, a comprehensive safety case and assessment will have to be completed by the Air Navigation Service Provider (Air Traffic Control)", an assessment that would "occur before the opening of North Runway".¹³⁴ That comprehensive assessment has never been produced for the routes actually flown. Asked four times, on the design rationale for the turn, the brief given to the certified designer, the engineering competence behind the choice and the ICAO Doc 8168 aeronautical study, the air navigation service provider, AirNav Ireland, answered nothing at either statutory stage, three of those requests now standing before the Commissioner for Environmental Information; and no aeronautical study of the deviation exists on any of the four responsible bodies' records (A.2).¹³⁵ The only assessment shown to exist is the Irish Aviation Authority's approval "from a safety perspective" alone, which on the State's own account tests neither the routes against the assessed Environmental Impact Statement route nor their confor-

¹³² daa, North Runway Report (February 2017), sections 2.4.1, 2.6.1 and 2.6.2.

¹³³ daa, North Runway Report (February 2017), p. 1.

¹³⁴ daa, North Runway Report (February 2017), p. 3.

¹³⁵ Annex I (AirNav Ireland requests, items 1 to 4).

mity with the planning permission. daa told the public the routes would be chosen through that EIS and validated by a comprehensive safety assessment before any was finalised; the routes flown since 2023 were the product of neither.

- 100** The Minister has in any event confirmed the gap the doctrine leaves: ANCA, his written answer records, “monitors for noise compliance only and does not monitor planning compliance with the 2007 Environmental Impact Statement,” so on the State’s own account no body tests the routes against the assessment.¹³⁶
- 101** The dilemma is closed by A.1: the planning authority responsible for enforcing the route-bearing condition, which An Bord Pleanála imposed on appeal, and the noise authority conducting this consultation are one legal person, the same chief executive at two desks. The circular referral by which each function finds the routing belongs to the other is therefore a single body declining the matter at each of its own desks; there is no third body to which Fingal can deflect the route. Whichever limb the State selects, the same authority must answer, and has answered only by doing nothing.
- 102** That the loop is not merely circular but closed against the community, and closed lawfully, the courts have confirmed: when elected members of Fingal sought to widen noise insulation below the ANCA threshold through their development plan, the Office of the Planning Regulator recommended deletion, the Minister so directed, and the High Court dismissed the members’ side’s challenge, holding the Minister’s stated reason, that an objective of that kind conflicts with the separate statutory processes conferred on the competent authority under the 2019 Act and is inconsistent with National Policy Objective 65, to be a valid basis for the direction (*Friends of the Irish Environment and SMTW Environmental v Minister for Housing* [2024] IEHC 588, under appeal).¹³⁷ Whatever the appeal yields, the position while the direction stands is the one that matters here: only the competent authority can deliver the wider insulation the members sought; the development-plan route to it is foreclosed; and the competent authority has not acted.

¹³⁶PQ 246 [31817/26], 30 April 2026.

¹³⁷*Friends of the Irish Environment and SMTW Environmental v Minister for Housing, Local Government and Heritage* [2024] IEHC 588.

The primary ask

- 103** NRTG’s primary ask of the Authority is therefore this: do not adopt the updated Noise Abatement Objective, the Draft Regulatory Decision or the Strategic Environmental Assessment on the deviated routing as their baseline; treat the deviation as the material change it is; and have that change assessed and, if it is to be regularised at all, regularised through the exceptional route the law provides, before any step is taken toward relicensing the expansion on top of it.
- 104** The record set out in this Part shows the State’s bodies defending the deviation’s consequences with an energy never applied to the deviation itself: litigating the elected members’ insulation objective to the High Court, resisting the information requests at both statutory stages, and moving the route question between the planning desk, the noise desk, the relevant action and a promised assessment that waits on all three. A fraction of that effort, applied once to correcting or lawfully assessing the change, would have resolved what this consultation now confronts, at less cost to every party, including the bodies that spent it.
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The bridge

- 105** Each measure set out in Part B is one a competent authority acting independently would adopt without hesitation. The Authority’s record since 2019 gives little reason to expect that these measures will be adopted. If they are not, NRTG will rely on that fact in any subsequent proceedings. The measures, remedies and questions that follow are advanced not in acceptance of the Authority’s legitimacy or of the baseline, but as the test of both.
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Part B: Without prejudice to the primary objection, what the law would require if the decision-maker were entitled to proceed

- 106** Part B is advanced strictly in the alternative, and without prejudice to the primary objection in Part A, which is maintained in full. Assuming solely for the sake of argument, and contrary to Part A, that the body conducting this consultation is lawfully constituted and entitled to determine it, the following is the decision the law would require: the analysis of the four consultation documents (B.1 to B.4 below), the remedies sought, and the questions requiring a reasoned response. Part B is included for one protective reason only: NRTG cannot assume that the Authority, or any court later reviewing its decision, will uphold Part A, and so must answer the consultation documents on their own terms to avoid any argument that a point has been conceded or an objection waived.
- 107** Nothing in Part B accepts that Fingal County Council, acting as ANCA, is the independent competent authority Regulation 598/2014 requires, that the 2023 baseline is lawful, that the deviated routing may be treated as the status quo, or that this consultation is capable of regularising the post-2022 routing; each is denied for the reasons in Part A. Nor is NRTG's participation, which is under protest, a concession that the process is an effective remedy, or that domestic remedies have been exhausted, for the purposes of EU law or Articles 6 and 9 of the Aarhus Convention.
- 108** Part B is directed to the contents of the consultation documents alone, and not to the legality or legitimacy of the body issuing them or of the process itself, neither of which NRTG accepts as lawful, adequate, or capable of satisfying Ireland's obligations under Regulation 598/2014, the EIA Directive or the Aarhus Convention; it is made to complete the record.
- 109** Accordingly, every submission in Part B proceeds on the hypothesis, and only on the hypothesis, that the body conducting this consultation is legally entitled to determine it. That hypothesis is denied.
- 110** One further matter should be put beyond doubt at the outset, because it bears on how everything that follows is read. NRTG does not ask the Authority to constrain the growth of Dublin Airport, and nothing in Part B requires it to. The measure principally sought is a routing measure. On the Authority's own cost metric it would register at a small fraction of the insulation options costed, it requires no reduction in the movements the applicant forecasts, and on the deposited modelling it removes population from beneath the departure tracks without placing any new population under a corridor (B.2.6, An-

nexes C, E and H). The quieter routing and the traffic the applicant projects are not alternatives to one another. Where this submission does address operating restrictions, it does so because Regulation 598/2014 requires them to be weighed, not because it seeks their imposition: the complaint is that they were set aside by assertion instead of being costed, and a properly conducted Balanced Approach may well conclude that a quieter routing is sufficient and that no restriction is needed. What NRTG asks for is the assessment the Regulation prescribes. Its expectation is that, properly conducted, that assessment would identify a quieter routing as the most cost-effective measure available; but which routing, and on what geometry, is for the assessment to determine and not for NRTG to assert. Nothing here should be read as suggesting that the routes now flown would withstand the assessment. NRTG's case is that they would not, and that no assessment capable of answering the question has ever been carried out.

B.1 The updated Noise Abatement Objective

111 Without prejudice to the primary objection in Part A, and strictly in the alternative:

B.1.1 The baseline defect is built into the operative text of the objective

112 The updated objective cannot lawfully stand: the 2023 baseline the spine shows to be wrong is written into its operative targets, not just its reasoning.

113 First, the annoyance and sleep-disturbance outcomes are now expressed as reductions “compared to 2023”: 20% by 2031, 25% by 2036, and 30% by 2041.¹³⁸ They replace the 2022 objective's reductions of 30% by 2030, 40% by 2035 and 50% by 2040, against 2019.¹³⁹

114 Second, the binding 65 dB Lden and 55 dB Lnight outcome has been demoted to a tracking indicator with no reduction target, and rebased to 2023, as set out in the spine: the one outcome speaking directly to the most severely exposed and to night-time exposure no longer requires any reduction at all.

¹³⁸Noise Abatement Objective for Dublin Airport (May 2026), Expected Outcomes.

¹³⁹NAO Report, p. 19.

- 115** Third, the new area-based outcome for the 55 dB Lden and 50 dB Lnight contours is set to “reduce compared to 2023.”¹⁴⁰ The post-North-Runway expansion of those contours is taken as the zero from which future reduction is measured, so the growth in area a 2019 comparison would have exposed is absorbed into the baseline.
- 116** The reference year is defended as the most recent measured situation while a more recent one sits unused in the decision’s own schedule. The schedule of application documents lists daa’s 2024 noise contour report, presenting “the figures of these contours, the areas of the contours, the counts of population and dwellings within the contours”;¹⁴¹ the decision elsewhere records 2024 activity of 243,719 movements and 34.6 million passengers, and 245,554 movements in 2025.¹⁴² No 2024 exposure figure appears anywhere in the decision, and the Authority’s own statutory review of 2024 records that the populations highly annoyed and highly sleep disturbed “have increased when compared to 2023”.¹⁴³ The consultation is thus asked to accept a forecast of shrinking contours from a 2023 baseline while the one measured year newer than that baseline, in the Authority’s hands throughout, has its contour populations nowhere published in the decision and the year nowhere assessed in these instruments.

B.1.2 “Modest but measurable” is contradicted by Fingal’s own tables

- 117** Fingal’s characterisation of the forecast increase as “modest but measurable” is irrational on the documents’ own figures.¹⁴⁴ Isolating the development’s effect, the report records that in 2031 the population exposed at and above 45 dB Lden rises from 286,385 without the development to 308,822 with it, an increase of 22,437, and that the population at and above 40 dB Lnight rises from 147,728 to 155,143, an increase of 7,415.¹⁴⁵ An increase of more than twenty-two thousand people at the threshold Fingal’s own report identifies, reciting WHO guidance, as the level above which “aircraft noise ... is associated with adverse health effects” is not modest.¹⁴⁶
- 118** The night-time picture is worse. The report records that exposure at and above 55 dB Lnight rises from

¹⁴⁰NAO Report, p. 3.

¹⁴¹DRD Report, Appendix A (Schedule of Application Documents), p. 9.

¹⁴²DRD Report, p. 61.

¹⁴³NMER 2024, p. 33.

¹⁴⁴DRD Report, p. 55.

¹⁴⁵DRD Report, p. 90.

¹⁴⁶DRD Report, p. 28.

279 without the development to 5,542 with it, both its own 2027 forecasts, its “Without Development NRPP” and “With Development NRRA” scenarios, which it concedes is “a proportionally much larger increase” attributed to night-time operations being “the main driver for the increase in the population exposed.”¹⁴⁷ Its environmental assessment separately records the night population above 55 dB Lnight rising from 305 in 2021 to 4,465 in 2023, and above 50 dB Lnight from 3,572 to 22,737, describing this as “a vast increase.”¹⁴⁸

- 119** A reply attributing the night-exposure rise to housing growth rather than to the routes is answered by Fingal’s own appendix before it is made. The consultant’s analysis attributes part of the increment to post-2019 construction in the areas the Development Plan zones for housing;¹⁴⁹ but held to the same 2019 census, the 55 dB Lnight contour of 2023, identical in area to 2019’s at 18.6 km², covers 1,753 people against the 2019 contour’s 1,385, a rise produced by geometry alone, and the same analysis says so: the changed operations “resulted in a different distribution of the noise footprint around Dublin Airport, which resulted in more people being exposed to the 55 dB Lnight even if footprint areas result to be the same in the two years”.¹⁵⁰ The 279-to-5,542 comparison above is immune to the attribution in any event, being a same-year forecast pair on a single population base, and the track-based counts of the newly overflowed communities (B.2.6) count existing residents, not new builds. What remains of the growth limb is a confession rather than a defence: the dwellings were consented by the same Council whose screening consultant then cited them as a reason to relax the 55 dB Lnight standard rather than correct the routing (B.2.1).
- 120** Annex D answers “modest” directly from daa’s own measurements. Restated on the actual westerly-operation days rather than averaged across the whole year, the 28R-departure contribution alone reaches or approaches the 60 dB Lden insulation threshold at the most overflowed communities, before any arrival or other source is counted: 61.0 dB Lden at Newpark, 60.6 at Kilcoskan National School, and 58.7 at St Margaret’s National School.¹⁵¹ Those communities reach, from departures alone, the very level at which Fingal’s draft decision offers insulation to dwellings.¹⁵² The annualisation the objective relies on understates the level at every affected receptor: across the eight monitors in Annex

¹⁴⁷DRD Report, p. 90.

¹⁴⁸SEA Report (DRD), p. 25.

¹⁴⁹NAO Report, p. 49.

¹⁵⁰NAO Report, pp. 48 and 76.

¹⁵¹Annex D to this submission (from daa correlated noise-monitor data, AIE 2611, Record 1).

¹⁵²Draft Regulatory Decision (F23A/0781), p. 10.

D, dividing the same measured noise energy over all 365 days rather than over the days the airport actually runs westerly removes about one decibel from each (1.0 to 1.7 dB).¹⁵³ “Modest” is partly an artefact of averaging a route’s burden across the days it does not fly.

B.1.3 The objective is set in averaging metrics that hide the single-event reality, and adopts no L_Amax objective

- 121** The updated objective measures the noise problem only in L_{den} and L_{night}, annualised energy-averaged metrics, and adopts no single-event maximum-level objective, so the discrete loud overflight that is the actual lived experience under the departure routes is dissolved into a yearly average, never made a regulated quantity.
- 122** Acting as ANCA, Fingal directed daa in its own section 9 directions to provide correlated noise-monitor maximum-level and sound-exposure-level data, route by route; daa holds millions of such per-event records, the data NRTG has now analysed.¹⁵⁴ In the performance of the ANCA function, no single-event L_Amax objective or threshold has been adopted. Fingal’s own commissioned Health Evidence Review found “a role for L_Amax-based metrics” in characterising sleep disturbance, but Fingal confined them to “supplementary information”, to be used “but not for measuring or defining outcomes with respect to the NAO itself”; the metric its own evidence supported as relevant was kept out of the objective by choice, not for want of evidence.¹⁵⁵
- 123** The legal pathway and the domestic precedent for a single-event objective stand acknowledged in the consultation’s own text. The decision report itself recites the Environmental Noise Directive’s Annex I provision that it “may also be advantageous to use special noise indicators and related limit values”, naming “the L_Amax and SEL, in the case of night period protection from noise peaks”;¹⁵⁶ An Coimisiún Pleanála has already operated exactly such a criterion at this airport, adding to its parallel Dublin Airport decision “a residential dwelling insulation scheme criterion of 80 dB L_AS_{max}”, and the existing residential scheme qualifies bedrooms “[e]xperiencing aircraft event levels of 80 dB L_Amax”;¹⁵⁷ and

¹⁵³Annex D to this submission.

¹⁵⁴daa response to AIE 2611, Records 4 and 5 (per-event noise-monitor data); section 9 direction requiring the 2019 baseline (Records 3 and 6).

¹⁵⁵Noise Abatement Objective Report (May 2026), §5.1 (Health Evidence Review on L_Amax-based metrics).

¹⁵⁶DRD Report, p. 37.

¹⁵⁷DRD Report, pp. 18 and 74.

the benchmarking appendix records Vienna qualifying households by counting discrete overflights above 65 dB LASmax, through the “Sydney” noise zones of its mediation contract, and working to an internal single-event target of 52 dB LASmax derived from national legislation.¹⁵⁸ What was missing was not the law, the precedent or the practice. The NAO Report’s Consideration 10 records that a night-differentiated reduction rate was considered and refused, on the reasoning that the single rate “already provides for prioritising the effects of aircraft noise at night” through the 10 dB night weighting inside Lden.¹⁵⁹ That answers a different question: a weighting inside a composite annoyance metric is neither a night target nor a single-event measure, and a uniform reduction rate lets daytime fleet gains satisfy the target while night traffic grows.

124 NRTG closes off, in advance, the reply available from the same health review. The review states that time-averaged metrics are “sufficient to describe the public health impacts” of night flights on subjective sleep disturbance and of school exposure on children’s learning, and records the UK CAA’s conclusion that concerns about averaging “may be unfounded”.¹⁶⁰ Those findings concern the quantification of population health burden, and NRTG does not ask the objective to abandon Lden or Lnight for that purpose. The ask is a targeting and eligibility instrument, and there the same review points the other way: objective sleep disturbance is assessed by event-based metrics, whether “an aircraft event of a certain loudness lead[s] to an awakening”; awakening contours, which “take into account the noise level of individual aircraft noise events”, are “probably best aligned with identifying those most impacted by aviation noise at night for mitigation schemes”; and the review’s own account of Heathrow’s Quieter Neighbourhood Support scheme records eligibility built on a composite including the sound-exposure-level footprint of the noisiest aircraft and the calculated probability of more than one additional awakening.¹⁶¹ A single-event objective for mitigation targeting, schools included, is what Fingal’s own evidence supports; the averaging-sufficiency findings defend the burden metric, not the decision’s refusal to adopt any single-event measure at all.

125 The omission is most serious at schools. Fingal’s commissioned health evidence, by a lead author of the WHO and related guidance, finds “robust evidence that aviation noise at school affects children’s learning,” and finds the relationship to be linear with no safe floor: across aircraft noise exposure

¹⁵⁸DRD Report, Appendix D, pp. 5-6.

¹⁵⁹NAO Report, p. 21.

¹⁶⁰Clark (2026), pp. 21, 34-35 and 39.

¹⁶¹Clark (2026), pp. 13, 15 and 38-39.

ranging from 31 to 77 dB at school, the exposure-response relationship for reading comprehension “was linear indicating that reducing aircraft noise exposure in schools at any level of exposure would improve children’s reading.”¹⁶² The same evidence reports that the in-classroom mechanism is the individual overflight: in schools near a major airport there were “a greater number of instances of teachers raising their voices and their voices being masked during aircraft noise events,” and effects appear not only for averaged metrics but for single-event L_{Amax}, number-of-events and time-above metrics.¹⁶³ The harm does not habituate.¹⁶⁴

- 126** Yet Fingal’s new remedy is a sound insulation grant scheme “for residential dwellings,” at or above 60 dB L_{den}, and does not reach schools at all.¹⁶⁵ Schools are left to a separate Schools Sound Insulation Scheme established in 2016 under a different planning condition, and that scheme does not answer the harm this evidence identifies: it is keyed to an averaged indoor target of 45 dB L_{Aeq} over a typical school day, and to a 60 dB L_{Aeq},16hr contour predicted for the 2022 runway opening, before the Routes Flown changed in February 2023, so it neither captures the single-event disturbance that occurs during each overflight nor necessarily reaches the schools the moved routes newly overfly.¹⁶⁶

¹⁶⁷

- 127** Annex B quantifies the single-event gap from daa’s own 2023 measurements. Across the 113,584 North Runway 28R departure events in the period, the median single-event maximum at Kilcoskan National School is 74.7 dB(A), with a 95th percentile of 80.1 dB(A) and a median sound exposure level of 84.9 dB(A); at St Margaret’s National School the median single-event maximum is 75.2 dB(A).¹⁶⁸ These are the levels a child experiences on each overflight, absent from an objective expressed only as an annual L_{den} average; the measured single-event footprint over the two schools is shown in the published single-event L_{Amax} model, deposited as Annex E.¹⁶⁹

- 128** A single day of continuous westerly operation makes the gap concrete. The chart below plots the 136

¹⁶²Professor Charlotte Clark, State of the Evidence for Aviation Noise Effects on Health and Wellbeing (January 2026) (“Clark (2026)”), pp. 33 and 34.

¹⁶³Clark (2026), pp. 33 and 34.

¹⁶⁴Clark (2026), p. 34.

¹⁶⁵Draft Regulatory Decision (F23A/0781), p. 10.

¹⁶⁶Draft Regulatory Decision Report (May 2026), §3.4 (LU-3 Voluntary School Insulation Scheme; North Runway Planning Permission Condition 6).

¹⁶⁷Draft Regulatory Decision (F23A/0781), p. 10.

¹⁶⁸Annex B to this submission (from daa per-event noise-monitor data, AIE 2611, Records 4 and 5).

¹⁶⁹G. O’Brien, Quantifying Single-Event Aircraft Noise: a Calibrated L_{Amax} Model for Dublin Airport North Runway Departures (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567721> (Annex E).

jet departures that crossed Kilcoskan National School during the teaching block on Thursday 16 October 2025, a day of 332 North Runway 28R departures with no gap between successive overflights longer than about fifteen minutes, so the school was overflowed right through the teaching day, each plotted at daa's own recorded peak level. The single averaged level the objective regulates is confirmed independently by daa's own published 2023 Lden contour, which places this school in the 60 to 64 dB band (Annex G, Figure A2-3, actual modal split), consistent with the Lden reconstructed from daa's per-event data and demonstrating that the regulated annual average sits beneath every overflight of the day.

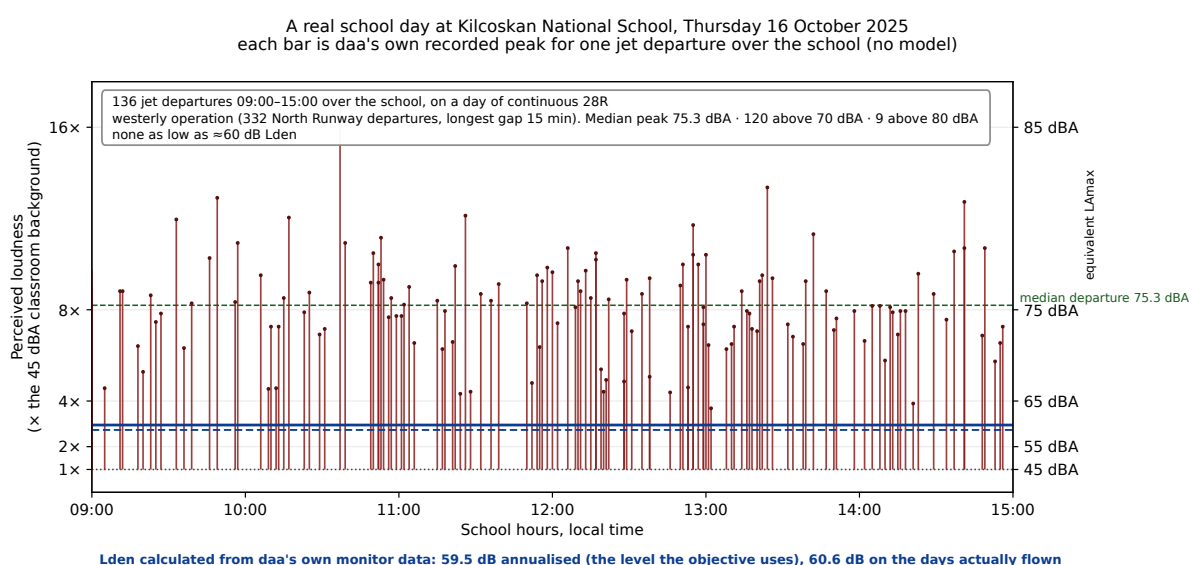


Figure 2: A real all-westerly school day at Kilcoskan National School, Thursday 16 October 2025: 136 jet departures crossed the school during the 09:00 to 15:00 teaching block, each bar daa's own recorded peak (Lmax) for one departure. The flat lines are the Lden reconstructed from daa's own per-event data, 59.5 dB annualised and 60.6 dB on the days actually flown (Annex D, the 28R-departure contribution). The single-event peaks and the averaged Lden are different metrics on one dB(A) scale, which is the point: the averaging the objective relies on compresses a day like this into one number near 60 dB, beneath every overflight. Source: daa noise-monitor event data released under AIE 2611, Record 1.

B.1.4 The objective writes in an economic-benefit test the Act does not contain

- 129** Fingal gated noise reduction on an economic-benefit test that appears nowhere in the Act or the Regulation, turning a factor that bears only on the choice of measures into a precondition for reducing noise at all, which is beyond its power. The objective is to be achieved by “limiting changes in the noise situation only to those which are outweighed by the wider economic and consumer benefits of aviation, and prioritising measures which can reduce adverse effects”.¹⁷⁰ The report does not hold that test steady: its own recommendations state the inverse, that changes “should be limited to those that have demonstratable [sic] wider economic and social benefits,”¹⁷¹ so one formulation admits a change only where economic benefit outweighs it and the other only where the change itself yields economic benefit, the benefit drifting from “consumer” to “social” between them.
- 130** On either available reading of the Explanation the test is one the Act does not contain. If “changes in the noise situation” means the adverse changes growth brings, the objective licenses deterioration wherever the unquantified “wider economic and consumer benefits of aviation” are asserted to outweigh it. If it means any change, including the reductions residents seek, then economic benefit has been made a precondition of noise reduction itself.
- 131** No such test appears in the Aircraft Noise (Dublin Airport) Regulation Act 2019 or in Regulation 598/2014, in any of these formulations: neither contains any “economic benefit” or “outweighed by” gate on the reduction of noise. Either instrument refers to aviation economics only in the selection of measures, where Fingal must take “into account public interest in the field of air transport as regards the development prospects of the airport.”¹⁷² That makes the airport’s development a consideration in choosing among noise measures; it does not make economic benefit a precondition for reducing noise at all.
- 132** By writing an economic-benefit gate into the objective, Fingal has turned a measure-selection factor into a threshold on the reduction function itself, substituting a balancing test of its own for the scheme the Act lays down. That is beyond its remit: an authority may not refashion its statutory function by a policy test the legislature did not provide, still less one that subordinates the purpose the objective

¹⁷⁰NAO Report, p. 10.

¹⁷¹NAO Report, p. 2 (review recommendations, item 3).

¹⁷²Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(2)(d); Regulation (EU) No 598/2014, Article 5(2)(d).

states for itself, “limiting and reducing the adverse and harmful effects of aircraft noise.”¹⁷³

- 133** The documents quantify no economic or consumer benefit and weigh none against the noise harm; the benefits of aviation are asserted as a category and treated as decisive, the same omission as the Balanced Approach cost-effectiveness never performed (B.2.1).
- 134** The decision is exact to the decibel about who falls inside its remedy: insulation eligibility turns on whether a dwelling sits at or above the 60 dB Lden contour, a line Fingal draws to the metre.¹⁷⁴ Yet it is silent in euros about the economic test it says governs the reduction of noise. Fingal prices none of the costs that test would weigh: the health cost of the annoyance, sleep disturbance and impaired childhood learning its own commissioned evidence documents (B.2.3); the cost offloaded onto owners of dwellings consented after 9 December 2019 (B.2.5); and the carbon cost of the expansion, which the State has placed beyond pricing (B.3.1).
- 135** Applied properly, the test would compel the route that affects the fewest people. The economic and consumer benefit of the expansion, its capacity, connectivity, fares and jobs, is materially the same whichever departure route is flown, because the throughput the current geometry serves is carried by the divergence, and the redesign put to the responsible bodies preserves the divergence by moving it onto the missed approach; the route determines only how many people are overflowed. There being no benefit on the side of the route that affects roughly twenty-five times as many people (Annex C), the test cannot outweigh that harm with a benefit that does not exist. Worse, the route works against the very interest the test invokes: the overflight it adds is what draws the opposition, complaints and challenges the expansion now faces.
- 136** NRTG has drafted a mechanism that would enable the straight departure by deviating the 28L missed approach, and no responsible body has assessed it: not daa, AirNav Ireland or Fingal. AirNav’s own access-to-information response confirms as much, treating an alternative 28L missed approach as something daa would first have to initiate a process to explore, subject to military acceptance and safety approval, which has not happened.¹⁷⁵ That the 28R routing already varies with Baldonnell’s operating hours confirms the routing is not fixed.¹⁷⁶ The lower-noise route is not, in any event, a novelty:

¹⁷³NAO Report, p. 2.

¹⁷⁴Draft Regulatory Decision (F23A/0781), p. 10.

¹⁷⁵AirNav Ireland access-to-information response (ref 57179); G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

¹⁷⁶Annex B to this submission.

the Irish Aviation Authority’s own Chief Executive told the Oireachtas that “in principle, the missed approach procedure for 28L could turn left to ensure a divergence of at least 30 degrees,” and achieving the required divergence by turning the missed approach rather than the departure is the practice at Heathrow, Gatwick, Amsterdam, Berlin and Brussels.¹⁷⁷ daa’s own account to the competent authority confirms the cause: its letter of 15 March 2023 states that SOIR requires for independent departures on parallel runways a divergence of “a minimum of 15 degrees immediately after take-off”, and that the final 30 degrees “was as a result of the ‘missed approach’ procedure on the southern runway”.¹⁷⁸ On the operator’s own written account, the magnitude of the turn over the communities is a consequence of a design choice about the southern runway’s missed approach, the very procedure the redesign would move, and not a property of parallel-runway operation.

- 137** Fingal cannot rely on an untested impossibility to avoid requiring the lower-noise route, and the only stated basis for the impossibility is an agreement that provides for its own revision. AirNav’s predecessor told the Department in May 2023 that an alternative missed approach “would not be possible on the basis of a letter of agreement in place with the military”.¹⁷⁹ The Letter of Agreement itself, released under Defence FOI 5872/2023, provides that its revision “requires the mutual consent of the signatory authorities”, permits cancellation on a minimum of twelve calendar months’ notice, and makes the design of route structures that may affect the other user expressly “subject to a joint civil-military consultation process”.¹⁸⁰ What is presented as impossibility is an arrangement between two State bodies that its own terms allow them to revise by consent, through a consultation neither has convened. The relief the route would deliver is worth having at any level of exposure: on the evidence Fingal itself commissioned, reducing aircraft noise over a school improves children’s reading whatever the starting level (B.2.3).

B.1.5 The objective is baselined to a transient, sub-design operational state that will not describe the airport it regulates

- 138** The 2023 noise climate the updated objective adopts as its reference was produced by an operation the airport was not built to keep. Fingal justifies the reset on the ground that 2023 is “representative

¹⁷⁷Irish Aviation Authority role statements (JCTC-33-1126, 7 November 2023; FOI 2025.122, 13 May 2025).

¹⁷⁸daa letter of 15 March 2023 (Record 1e to Fingal (ANCA) decision on AIE/2026/014, 15 May 2026).

¹⁷⁹AirNav Ireland response to the Department of Transport, 8 May 2023.

¹⁸⁰Civil/Military Letter of Agreement (2019), clause 10.1.

of the airport in its current form following the opening of its North Runway in 2022.”¹⁸¹ But that current form is single-runway departures. The published staged-operations plan for the North Runway provided, at its Stage 3, for “fully integrated parallel runway operations” including “Dual Departure operations from Runways 28R and 28L”; that stage was cancelled with immediate effect by NOTAM on 25 September 2023, removed from the aeronautical information publication with no replacement schedule, and the airport was still operating single-runway departures when NRTG recorded its movements in June 2026.¹⁸² The operation the second runway exists to enable has not been staffed, a shortfall now documented on the public record in the air-navigation provider’s own account of its controller numbers.¹⁸³ The reference year is therefore not the airport in steady form; it is the airport without the operation the runway was built to run.

139 That makes the baseline unsound whichever way the operation later develops. The expected outcomes are expressed as reductions measured from 2023 (B.1.1). If the airport runs the simultaneous dual-departure operation it was built for, departures split across both runways, the spatial and temporal pattern of departure noise changes accordingly, and reduction outcomes calibrated to the single-runway 2023 climate no longer describe the operation they govern: the objective’s evidence base is undermined on adoption. If instead the objective is held to its 2023 calibration, the reductions it requires are measured from a single-runway exposure distribution the dual-departure operation would not reproduce. The Authority could then show neither that the outcomes remain achievable under the operation the runway was built to run, nor that apparent compliance describes that operation, without assessing the dual operation afresh. On neither branch is 2023 a sound foundation for a standing objective.

140 NRTG does not ask the Authority to require dual departures, nor to prevent them: that is a capacity question, and the noise relief this submission seeks for the affected communities comes from routing the assessed EIS-consistent departures through the gap between the settlements (B.1.4, Annex C), not from dual departures, which redistribute noise and add movements. The point is confined to the

¹⁸¹NAO Report (May 2026), p. 2 (2023 “representative of the airport in its current form following the opening of its North Runway in 2022”).

¹⁸²AIP Supplement 018/2022 (effective 11 August 2022), Stage 3, “fully integrated parallel runway operations” including “Dual Departure operations from Runways 28R and 28L”; cancelled with immediate effect by NOTAM A2669/23 (25 September 2023) and removed at AIRAC 011/23 (30 November 2023); single-runway departure operation recorded in NRTG ADS-B data for 25 and 28 June 2026.

¹⁸³On AirNav Ireland’s controller staffing, see Irish Times, “Six Irish airspace closures this year due to issues with air traffic control staffing”, 2 March 2026, and “Air traffic control staff shortages threaten to disrupt passengers”, 15 February 2026.

baseline: an objective should be set against the airport's properly designed, fully utilised operation flown on the assessed routes, not against a degraded transient state and not against a permanent single-runway freeze. The reference year fixes a moment at which the second runway's departure capacity was not in use, and at which no competent hand is shown to have owned the design that displaced the assessed routes (A.2); an objective built on that moment measures the airport against neither the operation it was consented for nor the operation it was built to run.

- 141** The defect goes to what the objective is for. Regulation 598/2014 lays down the process for noise-related measures so as to “help improve the noise climate and to limit or reduce the number of people significantly affected by potentially harmful effects of aircraft noise.”¹⁸⁴ An objective discharges that function when its reference captures the operation to be improved upon, so that the reductions it requires bite on the burden the airport actually imposes. Fingal has fixed the reference instead at the year of the airport's highest recorded population exposure (A.2) and at an operational state the airport was not built to keep. That inverts the objective's purpose: an instrument meant to move the operation towards the assessed, lower-noise design would take a transient sub-design state and make it the fixed standard against which future improvement is measured. A noise abatement objective should drive the harm down; this one would ratify the state that produces it.
- 142** Nor is the inversion academic in the present policy setting. The State has legislated to remove the airport's passenger cap, and to bar any planning authority or An Coimisiún Pleanála from imposing a condition on passenger numbers (the bar enacted but not yet commenced), presented as removing an impediment to the airport's growth.¹⁸⁵ That cap has withdrawn no slot and cancelled no flight in its entire existence: it was suspended by a High Court stay in November 2024, pending determination of proceedings now before the Court of Justice in Case C-857/24, before it constrained a single operation, and the IAA's only attempt to give it effect, through the Summer 2025 slot-coordination parameters, fell under that stay.¹⁸⁶ Yet the reference year proposed here would, so far as the objective is treated

¹⁸⁴Regulation (EU) No 598/2014, Article 1(1) (rules on the process for introducing noise-related operating restrictions to be followed “so as to help improve the noise climate and to limit or reduce the number of people significantly affected by potentially harmful effects of aircraft noise, in accordance with the Balanced Approach”).

¹⁸⁵Dublin Airport (Passenger Capacity) Act 2026 (No. 25 of 2026), s.25(1) (Ministerial order amending or revoking the passenger cap) and s.36 (inserting s.34(4B) and s.37(1A) into the Planning and Development Act 2000); the Act was commenced on 27 July 2026 by S.I. No. 366 of 2026 other than sections 36 and 37, which are enacted but not yet in force.

¹⁸⁶*Aer Lingus Limited v Irish Aviation Authority* [2024] IEHC 624, High Court (O'Donnell J.), 4 November 2024, delivered in three sets of proceedings heard together (Record Nos. 2024/1296 JR, 2024/1297 JR and 2024/1299 JR): a stay was granted on the operation and implementation of the passenger air traffic movement seat cap element of the Irish Aviation Authority's Summer 2025 coordination-parameters decision of 10 October 2024, pending determination of the proceedings

as binding, foreclose the very parallel-runway capacity the second runway was built to provide. A constraint on throughput that the planning system is being forbidden to impose, and that never in fact bound an operation, would be replaced by one arriving through the noise instrument, in a channel never assessed or debated as a limit on the airport's capacity.

B.1.6 The objective is set where the forecast already stands, so it cannot perform the function the Regulation gives it

- 143** The updated objective is achieved on the day it is adopted, by the operation continuing exactly as forecast. Fingal says so in terms: operating restrictions are “not required to address the noise problem” because “the expected outcomes of the 2026 NAO can be achieved across the Forecast Without New Measures.”¹⁸⁷ An instrument in that condition does not abate noise. It states the noise that is expected to occur and gives the statement the name of a target.
- 144** The objection is not that the Regulation requires new measures in every case. It does not: assessments “should only lead to additional noise abatement measures if the current combination of noise mitigating measures does not achieve the noise abatement objectives, taking into account expected airport development.”¹⁸⁸ An authority that sets a demanding objective, tests the current combination against it, and finds honestly that the objective is met may properly take no further action.
- 145** The objection is that the test here is circular, and the Regulation's scheme depends on its not being. The objective is the independent standard against which the existing combination of measures is measured; that is why Article 5(2) requires the objective to be defined first, then the available measures identified, then their cost-effectiveness thoroughly evaluated.¹⁸⁹ A standard derived from the operation it is then used to appraise cannot discharge that function, because it cannot return any answer other than the one built into it. That is what has happened. The reference year was moved to 2023, the noise situation the deviated routing produced (B.1.1); the outcomes were expressed as reductions from that year; and the resulting objective was then found to be achievable across a forecast in which nothing changes. The yardstick was carried to where the measurement already stood, and the reading

or further order of the Court. daa plc, a notice party, opposed the stay.

¹⁸⁷DRD Report, p. 94.

¹⁸⁸Regulation (EU) No 598/2014, recital 9.

¹⁸⁹Regulation (EU) No 598/2014, Article 5(2)(a) to (c).

taken there is reported as compliance.

- 146** Two consequences follow for this decision. The finding that no operating restriction is required rests on the objective and inherits its defect, so it cannot stand while the baseline does not (B.1.1, B.2.1). And the Authority cannot rely on recital 9, the provision quoted above that permits an authority to take no further action where the current combination of measures achieves the objective, because that permission assumes an objective set independently of the combination it tests. Fingal should state, in the report section 9(12) requires, what the current combination of measures would have failed to achieve had the 2019 reference year been retained, and whether any measure it has declined would have been required on that footing.
- 147** The comparator Fingal itself invokes shows what an objective of this class does where it is meant to bind. Fingal's report cites Schiphol's practice for its own metric choices; the same report records that Schiphol's objective counts the dwellings exposed above 58 dB Lden and 48 dB Lnight, thresholds "directly linked to wider land use policies that effectively control the number of dwellings permissible" at those exposures, earlier policies having "sought to limit the number of dwellings to no more than 10,000";¹⁹⁰ and Fingal's own benchmarking appendix records the Dutch government proposing to cut Schiphol's movement cap from 500,000 to 440,000 "to achieve the set noise abatement objectives".¹⁹¹ At the comparator the objective binds: it caps exposed dwellings, and when it was not being achieved the State moved to cut movements by 12 per cent. At Dublin the same instrument class is rebased to where the forecast already stands, its one binding exposure outcome is demoted to tracking (B.1.1), and every operating restriction is screened out because the rebased objective is met (B.2.1). The difference is not in the European framework; it is in what each authority built its objective to do.

B.2 The Draft Regulatory Decision

- 148** Without prejudice to the primary objection in Part A, and strictly in the alternative:

¹⁹⁰NAO Report, pp. 13-14.

¹⁹¹DRD Report, Appendix D, p. 24.

B.2.1 The Balanced Approach was not performed: measures were excluded, and a noise control weakened, by assertion rather than by the cost-effectiveness assessment the Regulation requires

- 149** The draft decision does not perform the Balanced Approach that Regulation 598/2014 requires: one duty attaches to any noise-related action, that the full combination of available measures must be considered, to determine the most cost-effective measure or combination. The draft decision excludes operating restrictions, sets aside the quieter departure route, and weakens the binding night-time outcome, each without that assessment.
- 150** The Regulation provides that “when noise-related action is taken, the following combination of available measures is considered, with a view to determining the most cost-effective measure or combination of measures,” and lists all four.¹⁹² The cost-effectiveness of the measures must be “thoroughly evaluated.”¹⁹³ The decision’s own appendix recites that duty, that “the likely cost-effectiveness of identified noise mitigation measures and operating restrictions (if any) must be thoroughly” evaluated, then does not discharge it.¹⁹⁴
- 151** The Regulation requires this, and so does Ireland’s own stated policy. The National Aviation Policy commits the State to “implement a ‘Balanced Approach’ to noise management at Irish airports in accordance with Regulation (EC) No.598 of 2014,”¹⁹⁵ and sets out the same four measures the Regulation names, listing third “adapting operational procedures to reduce noise impact on the ground” and fourth, expressly conditional, “if required, introducing operating restrictions.”¹⁹⁶ The Department’s own policy thus names the adaptation of the departure procedure as one of the four principal elements of the approach Ireland committed to implement, and places operating restrictions last and only “if required”. Excluding the operational-procedure measure while the entire domestic contest was fought over the conditional fourth element is a departure from the State’s own policy as much as from the Regulation; the policy corroborates the statutory duty rather than supplying it, being policy and not law.
- 152** The duty attaches to the weakening of a control as readily as to its imposition. The updated objective

¹⁹²Regulation (EU) No 598/2014, Article 5(3).

¹⁹³Regulation (EU) No 598/2014, Article 5(2)(c).

¹⁹⁴DRD Report, Appendix J, p. 4.

¹⁹⁵National Aviation Policy for Ireland (2015), policy objective 2.3.5.

¹⁹⁶National Aviation Policy for Ireland (2015), the four principal elements of the Balanced Approach.

demotes the binding 65 dB Lden and 55 dB Lnight reduction outcome to an untargeted tracking indicator and rebases it to 2023 (B.1.1).¹⁹⁷ That is noise-related action. The Balanced Approach therefore required Fingal to determine, by the prescribed cost-effectiveness assessment, that weakening the control was the most cost-effective course. Fingal performed no such assessment, and it is for Fingal to explain, on the record, why it is free to relax a noise control without it. The alternative reading, that the duty binds when measures are imposed on the airport but falls silent when they are relaxed in its favour, is not what the words “noise-related action” say.

- 153** The Regulation lists noise abatement operational procedures among the measures to be considered, and places operating restrictions last, to be applied “not ... as a first resort, but only after consideration of the other measures of the Balanced Approach.”¹⁹⁸ A quieter departure route is a noise abatement operational procedure, the third of the four measures, not an operating restriction, which the Regulation says is an action that “limits access to or reduces the operational capacity of an airport,”¹⁹⁹ something a change of departure route does not. Fingal’s own report places the route within that pillar, defining noise abatement operational procedures as “optimising how aircraft are flown and the routes they follow to limit the noise impacts.”²⁰⁰
- 154** Measured against that definition, the route now flown is not a noise-abatement operational procedure but its opposite. The concept of operations daa agreed with the IAA air navigation service provider for the parallel-runway system, effective November 2020 and released in 2026 under access-to-information law, records that the standard instrument departures were to be developed by the service provider “to best utilise reduced departure intervals and enhance runway throughput,” that under a “safety-driven COMPASS-defined principle” the tracks of departing aircraft do not turn towards the other runway’s departure track, and that the instrument flight procedures were to be designed in accordance with international standards, “taking into consideration ... noise abatement requirements.”²⁰¹ The departure regime in place was thus optimised for runway throughput, with noise subordinate to throughput. The air navigation service provider put it in plainer terms still.

¹⁹⁷ NAO Report, p. 3.

¹⁹⁸ Regulation (EU) No 598/2014, Article 5(3)(d).

¹⁹⁹ Regulation (EU) No 598/2014, Article 2(6).

²⁰⁰ Noise Abatement Objective Report (May 2026), §11 (Balanced Approach, third pillar).

²⁰¹ New Tower and Parallel Runway (NTPR) Concept of Operations at Dublin Airport, daa document reference DUB.AM.AIRS.CONOPS.DAP/IAA.790, effective 6 November 2020, agreed by daa and the IAA Air Navigation Service Provider and approved at Deputy Managing Director and General Manager level; released by daa under access-to-information request AIE 2621 on 30 June 2026, paragraphs 2, 5 and 22.

Briefing the Department of Transport on the design in May 2023, it recorded that the tracks “diverged initially by 30 degrees to guarantee the safe airborne separation of aircraft”, while a second, larger divergence “to service the major traffic flow to the East was developed in order to provide 60 second departures between successive aircraft taking off from the North Runway”.²⁰² A route optimised instead to limit the noise impact, the third-pillar measure the Regulation requires, has not been designed for the parallel-runway departures now in place, still less weighed against the throughput-optimised route it flies.

- 155** A safety rationale for the route’s geometry does not answer the noise question, because the safety regime does not reach it. Across the 140 pages of the State Plan for Aviation Safety, the safety regulator’s own three-year plan, instrument flight procedure design is never addressed, and noise and environmental impact are never mentioned.²⁰³ A track may be constrained by safety in where it can turn and remain wholly unassessed for whom it overflies: the “safety-driven” principle that shapes the corridor and the Balanced Approach assessment of where the noise should fall are governed by different regimes, and satisfaction of the first is not consideration under the second. Whatever safety bounds the route’s geometry, it neither performs nor excuses the cost-effectiveness assessment the Regulation requires.
- 156** The ordering Fingal relies on to avoid restrictions is the very ordering that obliged it to consider the route first, and the route is the one operational measure its decision never examines. Three third-pillar measures are assessed. The NADP climb profile is set aside on its applicant’s consultant’s assessment that changes in NADP usage are “largely representing noise redistribution rather than a net reduction”;²⁰⁴ displaced landing thresholds on the South Runway and steeper approaches are each dismissed because the applicant’s sensitivity modelling “results in a redistribution of noise exposure rather than a uniform reduction”, the same formula in identical words two sections apart.²⁰⁵ None of the three is costed against any alternative; the displaced threshold and the steeper approach are declined while, in the decision’s own words, their “operational feasibility and safety implications ... have not been fully evaluated by the Applicant”, the regulator resting its rejection partly on work its regulated party had not done; and each dismissal closes by holding the measure over to a future in which

²⁰²AirNav Ireland presentation to the Department of Transport, 18 May 2023.

²⁰³Irish Aviation Authority, State Plan for Aviation Safety 2023-2025, Volumes I and II.

²⁰⁴DRD Report, p. 98 (recording a key finding of the noise abatement departure procedures assessment provided by the Applicant).

²⁰⁵DRD Report, pp. 101 and 105.

operational and technical conditions allow.²⁰⁶ Operating restrictions Fingal declared “not required to address the noise problem” because “the expected outcomes of the 2026 NAO can be achieved across the Forecast Without New Measures.”²⁰⁷ The route itself, the measure that determines who is overflown at all, is assessed nowhere in the decision (Annex G.1). Nor could the redistribution finding be stretched to cover it: on the decision’s own page, redistribution describes benefits from a climb profile at one point along the departure being “frequently offset by increased noise exposure at other points along it”, noise moving along the same track,²⁰⁸ whereas a route chosen to overfly the fewest people would reduce the newly affected population roughly twenty-five-fold (B.2.6 and Annex C), which is reduction, not redistribution.

- 157** The declaration that restrictions are not required is contradicted by the Authority’s own statutory finding, published months before this draft decision. Reviewing 2024 under section 21(2) of the 2019 Act, ANCA found that “[t]he remaining noise mitigation measures in place at the airport did not support the delivery of the noise exposure limit aspects of the NAO during 2024”, that “[s]uccessive noise assessments since 2019 have determined that noise related operating restrictions remain a necessary component of the noise management framework for Dublin Airport”, and that “[t]he absence of effective noise limiting operating restrictions has been an impediment to the delivery of the noise-limit aspect of the NAO during 2024”.²⁰⁹ The same Authority that reported restrictions necessary, and their absence an impediment to the objective, now screens every restriction out at the threshold because the objective’s expected outcomes can be achieved without them. The two positions reconcile only through the re-baseline the spine identifies: between the review and the draft decision what changed was not the noise situation but the objective, reset to 2023, with the result that the outcomes restrictions were needed to deliver became deliverable without them. The review carries a statutory consequence besides. Where, following a section 21 review, the Authority is of the opinion that the objective is not being achieved, section 21(4) obliges it to take such action, under the Regulation or the Act or both, as it is of the opinion “will be effective towards achieving that objective”.²¹⁰ The 2024 review found the noise-limit aspect of the objective undelivered and named the missing class of measure; a

²⁰⁶DRD Report, pp. 103-104 and 106-107.

²⁰⁷DRD Report, p. 94.

²⁰⁸DRD Report, p. 99.

²⁰⁹ANCA, A review of the effectiveness of aircraft noise mitigation measures at Dublin Airport during 2024 (“NMR 2024”), pp. 32 and 34.

²¹⁰Aircraft Noise (Dublin Airport) Regulation Act 2019, s.21(2) and s.21(4).

draft decision that adopts no restriction is not the action the subsection requires.

- 158** Nor is the dismissal a stable one: the same operational-procedure pillar is ruled out a second time, in the SEA Environmental Report prepared for this same decision, on a different and incompatible ground, that the procedures carried “potential conflicts with EU regulations and technological implementation difficulties.”²¹¹ A measure set aside as mere redistribution in the decision report, and as an EU-law and technical impossibility in the environmental report accompanying it, was not set aside by the single cost-effectiveness assessment the Regulation prescribes; it was set aside by assertion, the reason supplied afterward and varying with the document. The environmental report’s ground is self-defeating besides, excluding as in conflict with EU regulation the very pillar that EU regulation requires Fingal to weigh.
- 159** The write-down of the climb-profile measure fails even on its own NADP terms, against the airport’s own published procedure and the operator’s own measurements. The decision dismisses noise abatement departure procedures as “marginal”, “often cited in the range of 1–4 dB”, on the assessment its applicant provided.²¹² Two facts sit against that.
- 160** First, Dublin’s published departure climb is itself a noise abatement procedure with its acceleration point fixed low: the AIP requires, for Category C and D aircraft, that the take-off climb “shall comply with the procedure detailed below, which is based on noise abatement departure climb guidance contained in PANS OPS Doc 8168 Vol 1 - Appendix to Chapter 3 - NADP2”, with body angle reduced and flaps/slats retracted from “240m (800ft)”.²¹³ Second, daa’s own correlated measurements show that height above the community, which is what the climb procedure governs, moves the measured level more than any available fleet substitution: at Kilcoskan National School the measured single-event level falls 3.3 dB for every 1,000 ft of height within a single aircraft type, and the A320neo and the 737 MAX 8-200, machines of the same source loudness, measure 2.2 dB apart at the school because one passes 568 ft lower.²¹⁴ The two remedies are not interchangeable, and the limit belongs to the climb profile rather than to the route. The United Kingdom Civil Aviation Authority’s study of these procedures records that a climb change buys a lower maximum level by holding speed to a greater height,

²¹¹DRD SEA Draft Environmental Report, §2.3.4.

²¹²Draft Regulatory Decision Report (May 2026), s.11.2.2.

²¹³AIP Ireland, EIDW AD 2.21, paragraphs 3.2.3 and 3.2.4.1 (AIRAC effective 9 July 2026).

²¹⁴G. O’Brien, single-event L_{Amax} analysis of daa correlated noise-monitor data (AIE 2611), Annex E and its reproducibility package.

which lengthens the event, so a gain measured on L_{Amax} can be absent when the same departures are measured on SEL.²¹⁵ A route moved off the community does not lengthen the event; it removes it.

- 161** A pillar dismissed as marginal at 1 to 4 dB, while the published procedure fixes the acceleration point at the bottom of the climb and the operator's own monitors record larger differences from height alone, has not been cost-effectiveness-assessed; it has been assumed away.

A pillar written down on a report the public cannot read

- 162** The assessment on which the pillar is written down examined a different measure from the one this submission seeks. Anderson Acoustics assessed noise abatement departure procedures, which are climb profiles: ICAO A against ICAO B, how steeply an aircraft climbs and when it accelerates. The finding the decision takes from it is that “[a]pproximately 73% of departures already operate using NADP-1, suggesting limited scope for further noise reduction through procedural changes”.²¹⁶ That is a conclusion about the vertical profile. The decision carries it across to the operational-procedures measure as a whole, which also contains the lateral departure route, and the route appears nowhere in the decision's measures table (above). A finding about how steeply aircraft climb is thereby made to serve as a finding about where they fly.
- 163** The distinction decides the pillar, because redistribution, the decision's stated objection to operational measures (above), is a property of altering the profile along a fixed track. It is not a property of altering the track. The deposited study models routings that remove population from overflight without placing any new population under a corridor, sparing communities “without new overflight anywhere” (Annex H).²¹⁷ The single objection the decision offers to operational measures does not reach the operational measure it never assessed.
- 164** The decision records that the effectiveness of these procedures “requires a tailored approach for each runway and departure route”, and again that it necessitates “a tailored approach for each runway and flight path”, before closing the measure in an Opinion that “no single procedure can be said to have a

²¹⁵UK Civil Aviation Authority, CAP 1691, Departure Noise Mitigation (July 2018), chapter 5.

²¹⁶DRD Report, p. 98.

²¹⁷G. O'Brien, Quantifying Noise Impact of Dublin Airport's North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

universally better noise impact”.²¹⁸ No such procedure was proposed. The report the Authority cites for that proposition draws the opposite conclusion from the same finding: CAP 1691 states that “there is no single NADP that will reduce departure noise in all locations”, and concludes that “[i]dentifying the optimum procedure(s), whilst respecting the two procedure EU-OPS limitation, is a matter for individual airports, airlines and their communities”, devoting a chapter to departure routes tailored “to avoid more densely populated areas and therefore reduce the number of people impacted by aircraft noise”.²¹⁹ The assessment the Authority commissioned made exactly such a local recommendation, to adopt ICAO-B as standard departure procedure on easterly operations, and the decision does not record it.²²⁰ The absence of a universally superior climb procedure is, on the Authority’s own material, the reason the remedy is particular to this airport and its routes, not the reason for declining to identify one.

- 165** The provenance and publication of the assessment relied on compound the defect. Action 5 of the Noise Action Plan required Fingal to have daa review the departure procedures and publish the findings. What the record contains is the applicant’s own commissioned report, summarised in the decision report in three bullet points, listed in the decision’s own schedule of documents only as a redacted file, “DAP NADP Report 2024 (7669_001R_1-0_JN)_Redacted”, and which the Authority has not published: a crawl of its entire website on 22 July 2026 found no copy, redacted or otherwise.²²¹ Nor do the usage figures on the decision’s own page cohere, and the one the decision attributes to daa’s survey is not a usage figure at all.
- 166** The applicant’s assessment is summarised as finding that “[a]pproximately 73% of departures already operate using NADP-1”, and the radar assessment by the Authority’s own experts “confirmed that NADP-2 was effectively used for approximately 75% of departures”; those two are irreconcilable, and without the report the public cannot tell whether the contradiction lies in the assessment or in the decision’s summary of it. The third, that the survey responses “indicated that NADP-2 procedures accounted for approximately 75.3% of all departures”, is not what the applicant’s return records: daa’s Section 19 compliance report gives the figure as the share of departures operated by the thirteen airlines that answered, “The 13 responses constitute responsibility for 75.3% of Departures at Dublin

²¹⁸DRD Report, pp. 99-100.

²¹⁹DRD Report, p. 100; UK Civil Aviation Authority, CAP 1691, Departure Noise Mitigation (July 2018), chapters 5 to 7.

²²⁰Anderson Acoustics, Departure Profiles Noise Investigation (ref 7669_001R_1-0_JN, October 2024), slides 30 and 38.

²²¹DRD Report, p. 98; DRD Report, Appendix A (Schedule of Application Documents).

Airport (based on 2023 YTD movements)”, entered beside an opinion on compliance of “Opinion not available at this time”. The survey measured no departure.²²² The Authority records that it “observed discrepancies between the data provided by the Applicant and in other published documents” and re-assessed the profiles itself; it then adopted the conclusions of the assessment whose data it had found discrepant, from a report the public cannot read.²²³

- 167** That “no new measures” posture is daa’s, adopted from its planning application. daa’s own Environmental Impact Assessment for this application told the planning system that “No significant effects were found as a result of the Proposed Development”, and that it “does not include any new mitigation measures because no significant effects were identified, and the Noise Abatement Objective for Dublin Airport is forecast to be met.”²²⁴ Its entire mitigation case in the same application was a one-line self-certification: daa “indicated that these measures are designed to address both expected and unforeseen impacts arising from the Infrastructure Application”, and “state that ‘This is considered appropriate and sufficient in our expert technical view’ ”, an expert view with no named expert, no analysis and no document behind it, resting on a measures inventory whose entries run to “should continue to be progressed” and “[r]esearch noise impacts”.²²⁵ Fingal’s own noise-problem report nonetheless identified a noise problem at this airport requiring a noise-related action. The two findings sit oddly together, a development with no significant noise effect not being one that generates a noise problem, and the documents reconcile them only through the re-baseline, the objective being “forecast to be met” because it is measured from 2023, which is how a finding of no effect and a finding of a noise problem come to sit in the same file.

The land-use pillar is conceded defective and deferred

- 168** Both of the measures Fingal keeps under this pillar fail for the same reason, and it is a reason outside the pillar: they are built on noise contours forecast from a departure route that was never flown and never assessed against the route that was. The land-use pillar cannot be repaired from within itself while that remains true, which is why the operational-procedure measure the decision declines to

²²²DRD Report, p. 98; daa Annual Compliance Report 2022, measure NA-3.

²²³DRD Report, p. 98.

²²⁴Draft Regulatory Decision Report (May 2026), Appendix G, §6.3 (findings of the EIAR and supplementary BAP assessment; EIAR Chapter 9, Aircraft Noise & Vibration).

²²⁵DRD Report, Appendix G, pp. 32-33.

consider is a precondition of the two measures it does propose, not an alternative to them.

- 169** Of the whole Balanced Approach inventory, the decision identifies two measures for further consideration, and both belong to the land-use pillar: a review of the airport noise zones, and the insulation scheme.²²⁶ The first is conceded defective in the decision’s own words: “The noise zones were based on forecasts made available to FCC by the Applicant in 2018, prior to the opening of the North Runway. Airspace arrangements subsequently changed following the opening of the North Runway. As such, the noise zones do not fully represent all areas that are or could be affected by aircraft noise.”²²⁷ The zones were drawn in December 2019 on the applicant’s pre-North-Runway forecasts, for routes that have not been flown since the deviation, and have never been revised;²²⁸ the newly overflowed communities sit where no zone was drawn for them. The remedy chosen for this conceded defect is a letter: on 2 March 2026 Fingal’s noise function wrote to Fingal’s planning function recommending a review of the zones, and on 14 May 2026 the planning function replied that it intends to review them as part of the overall Fingal Development Plan review, no date attached; the decision then records that “consideration of reviewing and updating the airport noise zones will be made through this process rather than through this Draft Regulatory Decision”.²²⁹ Both correspondents are Fingal County Council, so the ground on which the environmental report sets the land-use measures aside, that they are “a matter to be dealt with by FCC”, is an account of Fingal writing to Fingal, receiving a reply from Fingal, and treating that exchange as the reason the measure need not be decided here by Fingal. The Development Plan already carries a standing objective to “[r]eview the operation of the Noise Zones on an ongoing basis”; the deviation is in its fourth year and the review has not begun.²³⁰ What is left for consultation is therefore one measure, the insulation scheme, and Fingal’s intention to review the zones. This is the deferral pattern in its purest form: a pillar of the Balanced Approach admitted not to represent the affected areas, its cure assigned to a future process of the same Council, and the decision proceeding as if the pillar held.

- 170** The direction of the recommended review is towards the routes as flown. ANCA’s letter, quoted in the decision, asks that the review deliver “zoning alignment with current and forecasted airport operations and flightpaths”, and that the updated zones align with the key metrics of the Environmental

²²⁶DRD Report, p. 119.

²²⁷DRD Report, p. 114.

²²⁸NAO Report, pp. 17 and 26.

²²⁹DRD Report, pp. 114-115 and 119.

²³⁰DRD Report, p. 46.

Noise Regulations in place of the LAeq,16hr basis on which the present zones are drawn.²³¹ The zones are the last land-use instrument still drawn on the configuration that was assessed and permitted. Redrawing them around the routes as flown would do on the map what this submission challenges on the metric: an unassessed change is not corrected but written into the statutory instrument that records where the noise is expected to fall. The Authority's own stated reason for the review is the change in airspace arrangements following the opening of the North Runway, quoted above, which is the change itself offered as the reason to move the zones around it.

- 171** Nor can the instrument reach the population that change exposed. The zones sit in the Fingal Development Plan, and the routes now flown carry every departure across the county boundary at DW128 and on into Meath, whether it turns again there or continues straight (B.2.6). A review of Fingal's development plan can redistribute protection within Fingal; it cannot zone land in another planning authority's area. The one land-use measure the decision identifies is therefore incapable, as an instrument, of addressing the geography the route change created.
- 172** The same defective zones do double duty inside the decision's one new measure. The insulation scheme excludes dwellings constructed or consented after 9 December 2019, the date the zones were adopted, on the reasoning that dwellings built since then in Zone B "will have been provided with insulation measures" through zone conditions;²³² that assumption fails precisely where the zones fail, because a post-2019 dwelling in a newly overflowed area outside Zones B and C carries no insulation condition and is excluded from the scheme regardless (B.2.5). And the zones' own operative text sets a standard the decision's remedy does not meet: Zone A, at 63 dB LAeq,16hr or 55 dB Lnight, declares that noise-sensitive development within it "may potentially be exposed to high levels of aircraft noise, which may be harmful to health or otherwise unacceptable", and is to be resisted.²³³ The same Council that declares those levels harmful or unacceptable for a dwelling not yet built demotes the 55 dB Lnight outcome to a tracked indicator (B.1.1) and offers the resident already living at those levels insulation only from 60 dB Lden (B.2.2). The standard Fingal applies to protect a hypothetical future resident is withheld from the actual one.

²³¹DRD Report, p. 114.

²³²DRD Report, p. 127.

²³³NAO Report, p. 17.

Excluded by construction

- 173** Fingal’s own measures table makes the omission plain. Of roughly two dozen Balanced Approach measures it tabulates across the operational-procedure, land-use and operating-restriction pillars, it proposes a single new measure, the residential insulation scheme, marks every other “No”, and attaches a cost-effectiveness figure to none; the route does not appear in the table at all.²³⁴ No operating restriction, whether a passenger or movement cap, a night-movement limit, or a respite or alternation scheme, no noise-related charge, and no route option, is costed anywhere in the decision or its appendices.
- 174** The other column of the same table carries the decision’s whole finding that nothing more is required, and it fails for a different reason. That column is the current inventory the Regulation requires, and the Regulation asks more of it than a yes: Annex I calls for “[a] description of the existing and planned measures to manage aircraft noise already implemented in the framework of the Balanced Approach and their impact on and contribution to the noise situation”, and names the categories that description must cover, among them the use of preferential runways, the use of noise-preferential routes, the use of noise abatement take-off and approach procedures, the monitoring of encroachment, and a cap on movements.²³⁵ Seventeen of Fingal’s entries answer “Yes”. The table attaches to none of them any figure for its impact on or contribution to the noise situation. Three are credited to measures the report does not describe anywhere: steeper or segmented approach procedures and ground based augmentation, which the decision’s own later assessment marks as not part of the current inventory while recording that approaches operate on the standard 3.0° glide path; automated area-navigation and performance-based navigation procedures, which appear nowhere in the consultation documents beyond the table row itself; and encroachment management, which appears only in an appendix inventory, sourced to the applicant, as an undertaking to prevent future housing. Others are credited while the enforcement of the condition behind them is stayed, or while the zoning instrument carrying them is conceded in the same report not to represent the areas affected. Each is set out against the source at Annex G.1.
- 175** The defect is not presentational, because the operative finding rests on it. The Regulation permits

²³⁴Draft Regulatory Decision Report (May 2026), §1.8 measures tables (reproduced at Annex G.1).

²³⁵Regulation (EU) No 598/2014, Annex I, point 1.4 (current inventory: description of existing and planned measures and their impact on and contribution to the noise situation).

an authority to stop short of new measures only where the current combination of noise mitigating measures already achieves the objective (B.1.6), and the conclusion that no operating restriction is required is a conclusion about that combination. A conclusion about a combination cannot be better founded than the record of what the combination is. On the material published for consultation the Authority cannot show what the credited measures contribute, and in three instances cannot show that the measure exists at all, so the premise from which it declines every available measure is not made out in its own documents.

The one financial instrument is assessed under the wrong pillar

- 176** A noise-related charge does exist at this airport, and the decision closes it on a question it was never the right instrument to answer. Fingal records that at Dublin “the aeronautical charges levied on all aircraft movements now includes a landing fee component based on the aircraft’s noise quota count (QC) value”, set as a fee per movement and published in the airport’s 2025 charges document.²³⁶ It considers that charge solely as a means of reducing noise at source, stating that “[a]ircraft noise performance and fleet mix is a key measure of reducing noise at source under the Balanced Approach”, and then declines to take it further, concluding that it “does not consider charges and associated regulation regarding the Airport’s environmental charging regime a measure for further consideration”, to be “kept under review particularly as and when new generation aircraft enter service”.²³⁷
- 177** The findings that support that closure are findings about the index, not about the instrument. Fingal’s own analysis determined that “a reasonable proportion of the movements currently and forecast to operate at Dublin Airport up to 2031 will not be impacted by the charging regime”, and that it is “difficult to differentiate between expected fleet modernisation rates and the incentive and effect the Airport’s environmental charging regime has on the Airport’s forecast fleet mix”.²³⁸ A charge that misses a reasonable proportion of movements, and whose effect cannot be separated from fleet renewal that would have occurred anyway, is not an exhausted measure. It is a measure charged on the wrong variable.
- 178** The Balanced Approach has four elements and a financial instrument is not one of them, which is the

²³⁶DRD Report, p. 68.

²³⁷DRD Report, pp. 96-97.

²³⁸DRD Report, p. 96.

reason the Regulation requires it to be inventoried apart from all four rather than folded into any one. Article 2(3) closes the list of measures at “the reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions”. Annex I then requires the description of the measures implemented “in the framework of the Balanced Approach” to be given by reference to five heads: those four, and at 1.4.5 “[t]he financial instruments in place, such as noise-related airport charges”.²³⁹ A charge is not a pillar; it is a lever, and the Regulation’s own structure separates the thing acted upon from the instrument that acts on it. What Annex I prescribes under reduction at source is information about the fleet: the current aircraft, expected technology improvements, and fleet renewal plans. The charge that might induce those things is inventoried separately.

- 179** Fingal collapsed that distinction, and a lever capable of serving any of the four was assessed against the purpose of one. A charge indexed on the aircraft can bear only on which aircraft fly. A charge indexed on the population beneath the track would bear on where they fly, which is the third-pillar question this decision never reaches. Having recorded the instrument as a source-reduction measure and tested it against fleet mix alone, Fingal never asked whether that same instrument, differently indexed, is the means by which the operational measure Annex I itself names at 1.4.3(b), the “use of noise-preferential routes”, could be given effect. Its own commissioned health evidence identifies the same gap from the opposite direction, finding that insulation ameliorates but does not remove the effects while the operational measures are the ones shown to work (B.2.3).
- 180** The reason given for going no further belongs to the pattern this section describes rather than answering it. Charges are set aside in part because increases that “outpace the growth of passengers and/or revenues” have “the potential to put at risk the potential financial viability of specific routes”.²⁴⁰ That is an assertion about the regulated party’s route economics offered in place of the cost-effectiveness assessment the Regulation prescribes, and it is made for a class of measure the Regulation directs the Authority to inventory in its own right.
- 181** Neither side of that balance is quantified. The risk to route viability appears once, carries no figure, and is doubly conditional: a potential to put at risk a potential viability. Against it sits no monetised harm at all. Neither the decision nor its appendices price the noise: no external, social or damage

²³⁹ Regulation (EU) No 598/2014, Article 2(3) and Annex I, paragraph 1.4.

²⁴⁰ DRD Report, p. 97.

cost of aircraft noise is computed for any population anywhere in them. The one quantification the exercise does contain is the price of the insulation scheme, which is the cost to the applicant of the single remedy the applicant endorsed. An unpriced commercial risk to the operators thus outweighs an unpriced harm to the overflowed, and the only figure in the balance is what the regulated party would spend.

- 182** The deferral compounds this. Charges are to be “kept under review particularly as and when new generation aircraft enter service”. Read most favourably to the Authority that means recalibrating the quota-count bands as the fleet improves, so that the charge continues to discriminate between aircraft; ordinary practice, but not what the decision undertakes to do, and in any event confined to the first pillar. On the Authority’s own findings the review falls due when the instrument has least left to do: the applicant’s fleet mix assumptions are already accepted as “consistent with the operators known fleet plans”,²⁴¹ so a charge indexed on the aircraft is held over until after the fleet change it exists to encourage has been made.
- 183** NRTG does not ask the Authority to set a charge. That is not its function, and no relief sought in this submission requires it to. What is asked is that the assessment address the financial-instrument class as the Regulation frames it, on the index that bears on the pillar in issue; and that where the instrument capable of serving the operational pillar lies outside the Authority’s own powers, the decision record that and refer it, rather than closing the class on a fleet-renewal analysis that answers a different question.
- 184** The exclusion is built into the modelling itself, beneath the measures table. The decision’s scenario appendix models runway-use and restriction options only: it fixes the runway-direction split at the 2013 to 2022 ten-year average, fixes daytime operations to the Option 7b mode of the 2005 EIS Addendum, and varies between scenarios only the night-time runway-use and restriction patterns and the capacity assumptions.²⁴² No modelled scenario varies the departure route. A determination of the most cost-effective measure or combination cannot reach a measure the modelled option space was constructed never to contain: the route was not weighed and found wanting; it was excluded by construction. The report states the exclusion in one line, and draws comfort from it: “All forecasts

²⁴¹DRD Report, p. 96.

²⁴²Draft Regulatory Decision Report (May 2026), Appendix E (Modelled Runway Use and Restriction Scenarios), Tables 3 to 5 and Section 4, pp. 7 to 15.

assume that the existing flight paths remain unchanged. As such, any changes in predicted noise exposure would occur within areas already affected by existing aircraft operations”, the deviated geometry assumed permanent, and the new noise confined, reassuringly, to the communities the deviation placed beneath it.²⁴³

- 185** The method to do so plainly exists: Fingal’s own appendix computes the “cost per % reduction in High Annoyance and High Sleep Disturbance” and runs four options through it, all of them insulation funding variants ranging from €2.7 million to €84 million across the modelled scenarios, and no operating restriction or route through it at all.²⁴⁴ Run through Fingal’s own metric, the route, at a cost far below every option in that table for a reduction in the affected population of roughly twenty-five times (Annex C), would dominate each of them. The most cost-effective measure “or combination of measures” cannot be determined when only one was costed. If Fingal means to decide this on cost-effectiveness, the figures belong on the record: the cost of each measure it declined, against the scheme it chose and the benefit it asserts but never quantifies (B.1.4).
- 186** What such an appraisal contains, when one is performed for an airport expansion, need not be described in the abstract. Appraising the draft Heathrow Expansion National Policy Statement, the United Kingdom’s Department for Transport carries the environmental effects as monetised entries within the appraisal itself: the aviation noise impact of expansion at minus £1.6 billion over the appraisal period, air quality at minus £879 million, and non-aircraft carbon at minus £5,154 million.²⁴⁵ Those figures are set against a scheme cost stated at approximately £49 billion, of which £21 billion is the runway and £27 billion the terminals and supporting infrastructure, and the mitigation counted within that cost includes the compulsory acquisition of approximately 780 dwellings at an equivalent or better level than 125 per cent of market value plus taxes and moving costs, a voluntary purchase zone beyond the acquisition boundary, ongoing compensation to the local community, and acoustic insulation for dwellings and for schools and community buildings within the 60 dB contour.²⁴⁶
- 187** NRTG does not cite that appraisal as authority. It is a third-country instrument and binds nothing here,

²⁴³DRD Report, p. 82.

²⁴⁴Draft Regulatory Decision Report (May 2026), Appendix J (Information to Support Cost Effectiveness Analysis of Noise Insulation Scheme Options), §8 and Table 8-1.

²⁴⁵AECOM, Health Impact Analysis for the draft Heathrow Airport Northwest Runway Airports National Policy Statement (2026).

²⁴⁶Appraisal of Sustainability for the draft Heathrow Airport Northwest Runway Airports National Policy Statement (2026); AECOM, Health Impact Analysis (2026).

and no part of this ground depends on it. It is cited because it answers the only question this ground raises about method: whether the exercise Article 5(2)(c) prescribes, in which the cost of the harm and the cost of each candidate measure are quantified and set against one another, is a thing capable of being done at an airport of this kind. It is done there, in a published document, for a runway that has not been built. This decision concerns a runway that has been built and is operating on routes that were never assessed, and the only figures it produces are four ways of funding insulation.

188 The tables the decision already contains quantify the one comparison it never draws. On the applicant's own forecasts, with the development and the original 2007 night conditions enforced, the population above 55 dB Lnight is 279 people in 2027 and 189 in 2034, with 70 dwellings above that level in 2034; under the night regime the decision assumes, the same forecasts give 5,542 people in 2027 and up to 1,659 dwellings in 2031.²⁴⁷ The cost side of the comparison is stated in the applicant's own scenario definitions: applying the 2007 conditions' 65-movement night limit "delays reaching the 40 mppa traffic level until about 2034", roughly three years after the 2031 by which the unrestricted case reaches the same capacity.²⁴⁸ On Fingal's own evidence, then, the airport reaches the applicant's full target either way, and the whole difference the choice of night regime makes is three years of growth against a night-exposed population roughly twenty times smaller. The decision carries both regimes as presumptively valid and never weighs that trade. Article 5(6) provides that measures shall not be more restrictive than is necessary to achieve the objective;²⁴⁹ a regime that achieves the applicant's own growth target while all but eliminating the night noise problem is not excluded by that ceiling, and a Balanced Approach that never weighed it has not determined the most cost-effective measure or combination. The same tables also answer in advance the reply that the 279-to-5,542 rise relied on at B.1.2 reflects the night regime rather than this development: that is precisely the point, and it is Fingal's table that makes it. Which night regime applies is the single largest determinant of the night noise problem this decision exists to address, and the decision treats it as a given.

189 There is a further option in the matrix that was never costed, and it is the one the decision in fact selects: doing nothing yet. The route measure is not being rejected on the evidence; it is being postponed, on the sequencing described at A.2 and adopted by the applicant and the Department alike.

²⁴⁷DRD Report, pp. 88-92 (Tables 10-4 to 10-6).

²⁴⁸Draft Regulatory Decision Report (May 2026), Appendix E (Modelled Runway Use and Restriction Scenarios), p. 5; DRD Report, p. 90.

²⁴⁹Regulation (EU) No 598/2014, Article 5(6).

Postponement is a choice with a price, and the price is not zero. Measured on Fingal's own metric, deferral purchases a nil reduction in High Annoyance and High Sleep Disturbance for as long as it lasts, and the consideration paid is the continued exposure of the population the objective exists to protect. An appraisal that prices four ways of insulating, prices the route at nothing because it was never assessed, and does not price the passage of time at all has not compared the alternatives Article 5(2) requires it to compare.

- 190** Nor is the price merely the continuation of the present position, because deferral alters the ground on which the eventual measure must operate. Fingal's own reasoning supplies the demonstration. The screening report that proposes removing the 55 dB Lnight criterion records that development within the areas the Development Plan designates for residential use "is a contributor to the increment in the number of people exposed to levels above the 55 dB Lnight", and that further development in those areas "conflicts with the achievement of the current Noise Abatement Objectives linked to 55 dB Lnight when assessed against the forecasts noise levels of the future airport operations."²⁵⁰ Development consented while the routing went uncorrected has become, in the Authority's own account, a reason to relax the standard rather than to correct the routing. Each further year of deferral produces more of exactly that: consents granted around the contour the deviated routing draws, an operation grown into the exposure the objective records, and a further round of modelling built on the same routing, which makes the applicant's stated reason for deferring, that a change now would invalidate work already done, stronger next time than it is today. The rationale improves with keeping. That is not an argument for accepting it; it is the mechanism by which a temporary deferral becomes permanent, and the reason the cost of the measure rises rather than falls while it is postponed.
- 191** None of this requires the Authority to predict the outcome of any proceedings. It requires only that, if the decision is to be made on cost-effectiveness, the option actually being chosen should be costed like the others.
- 192** In Decision C(2026) 919 of 10 February 2026 the Commission found that the process for adopting operating restrictions at Dublin Airport did not comply with Regulation 598/2014 because only the operating-restrictions pillar was assessed without the other three pillars of the Balanced Approach, and Fingal had prepared the underlying assessment on which that process relied; the draft decision's

²⁵⁰ANCA SEA Screening Report (Logika Consultants, report 12128C-01, 6 January 2026).

own report records the same finding.²⁵¹ The draft decision now under consultation repeats that error rather than correcting it. It too reaches its measure without assessing whether measures from the other pillars could have achieved the objective, this time by setting all four aside and adopting an insulation scheme weighed against none of them. The environmental report puts that setting-aside in Fingal's own words: reduction of noise at source is disclaimed as "a matter for the IA rather than the DRD,"²⁵² land-use planning as "a matter to be dealt with by FCC,"²⁵³ and operating procedures on the EU-conflict ground already described, leaving operating restrictions as the only pillar Fingal treats as its own, and that one it declines.

- 193** Three of the four measures are thus excluded by jurisdictional assertion, not one by the cost-effectiveness assessment the Regulation prescribes. The fourth is excluded on no stated ground at all. In the same paragraph the operating-restrictions head carries no text: the bullet reads "Operating Restrictions.", the next sentence proposes the insulation scheme, and the reader is referred to the DRD Report for "[m]ore information on why specific measures as noted above, were ruled out".²⁵⁴ That reference resolves to the measures tables, where every restriction is marked "No" and none is costed. A column of "No" records a decision, not a consideration, and section 9(3) requires the second. Nor is the silence one omission among four equivalents: section 9(3)(d) makes restrictions available only "after consideration of the other measures of the Balanced Approach", so disposing of the other three by assertion removed the precondition on which restrictions could lawfully have been either adopted or set aside.²⁵⁵ The one measure left unreasoned is the one the Authority's own statutory review, quoted above, records as remaining a necessary component of the framework and as having impeded the noise-limit aspect of the objective in 2024.

Never assessed by anybody

- 194** Exclusion by jurisdictional assertion is not a feature of this draft decision. It is the settled architecture, and it originated with the applicant. In the Regulation 598/2014 assessment daa prepared for the earlier relevant action, its Noise Reduction Mitigation Measures Screening Matrix carries a row for

²⁵¹Commission Decision (EU) 2026/836 of 10 February 2026 (notified under document C(2026) 919), OJ L, 13.4.2026.

²⁵²DRD SEA Draft Environmental Report, §2.3.4.

²⁵³DRD SEA Draft Environmental Report, §2.3.4.

²⁵⁴SEA Report (DRD), p. 12 (section 2.3.4).

²⁵⁵Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(3)(d).

the design of standard instrument departure and arrival procedures, described in daa's own words as measures that "can include routes to avoid noise-sensitive areas". The evaluation column does not evaluate that measure against cost or effectiveness. It reads: "Design and safety assessments of SID and STAR procedures are not within the control of daa. IAA ANSP is responsible for the design and assessment of SID and STAR procedures." The recommendation column reads "Do Not Proceed Further".²⁵⁶ The disclaimer does not even describe the procedures at issue: what determines who is overflown here is the departure procedure and the 28L missed approach that drives the turn (B.1.4), and standard arrival routes are nowhere in question. The operator that carries the design duty for its aerodrome's flight procedures (B.2.6) declined the pillar under a label that misdescribes them, and neither its consultant nor the Authority corrected it.²⁵⁷

- 195** Fingal adopted that attribution rather than testing it. Its own draft regulatory decision of November 2021 tabulates noise preferential routes with "Responsibility for Measure: Irish Aviation Authority (IAA)", records as its review and opinion that "It is the role of the IAA to design and operate the airspace at Dublin Airport. This is separate from the planning process", and concludes that "it is not considered feasible or within ANCA's competency to promote alternative airspace designs".²⁵⁸
- 196** The consequence is that the departure route has never been assessed under the Balanced Approach at this airport by anybody. The applicant declined to assess it because it said the measure belonged to the air navigation service provider. The Authority declined to assess it because it accepted that attribution, assigned the measure to a body that was not before it, and then placed the promotion of airspace alternatives outside its own competence. The service provider, for its part, has told the Department that where a route change carried noise consequences those "would be a responsibility for the aerodrome operator, daa, to assess".²⁵⁹ Each body has placed the measure with another. The requirement that the full combination of available measures be considered has therefore gone unperformed, not because any of them weighed the route and found it wanting, but because none of them

²⁵⁶ daa, "Dublin Airport North Runway, Regulation 598/2014 (Aircraft Noise Regulation) Additional Measures Assessment Report", July 2021, Table 3-1 Noise Reduction Mitigation Measures Screening Matrix, the Flight Departure and Approach Routes / SID and STAR Procedures row; submitted to the Aircraft Noise Competent Authority for planning application F20A/0668 and held on the Authority's public register for that application.

²⁵⁷ daa, Regulation 598/2014 report (30 July 2021), Table 3-1.

²⁵⁸ Aircraft Noise Competent Authority, Draft Regulatory Decision Report, 11 November 2021, measure sheet for Noise Preferential Routes (Responsibility for Measure: Irish Aviation Authority) and the Authority's Review and Opinion on that measure; held on the Authority's public register for planning application F20A/0668.

²⁵⁹ AirNav Ireland, response to Department of Transport queries on North Runway flight paths, 8 May 2023, response to query 1; released by the Department under freedom of information request FOI-2025-0110 as Record 17.

accepted that weighing it was theirs to do. That is the defect the Authority is asked to correct in this decision, and it cannot be corrected by repeating the assignment.

- 197** Fingal has already made this finding, in the plan it makes as action planning authority. Its statutory Noise Action Plan for Dublin Airport 2024-2028 records that “[a]lthough track keeping is in place to monitor adherence with all noise and environmental corridors at Dublin Airport, there is no data available to show that the current departure routes from the North Runway have been optimised from a noise perspective with evidence as to the alternatives considered”, and attaches no action to the finding.²⁶⁰ The sentence draws the distinction this section turns on: adherence to a corridor is not evidence that the route beneath it was chosen to minimise the noise. The draft decision nonetheless treats those routes as the settled geography within which every remaining measure is selected and costed. An authority that has published, in its own statutory instrument, that it holds no evidence the routes were optimised for noise cannot adopt them as the fixed frame for the measures that follow without first obtaining the evidence it says does not exist.
- 198** In France the authority designated under Article 3 of the same Regulation, the Autorité de contrôle des nuisances aéroportuaires (ACNUSA), established by Law no. 99-588 of 12 July 1999 as the Autorité de contrôle des nuisances sonores aéroportuaires, imposes financial penalties on operators for breaches of noise-abatement procedures, several hundred sanctions a year.²⁶¹ The 2010 reform that renamed it dropped “sonores” because its remit was widened beyond noise to airport nuisance generally, including air pollution: a State that had operated such an authority for a decade responded by extending its control of aviation’s impacts on the people beneath it, while the regime described in this submission has moved the other way, to the point of narrowing even the category of persons it consults.²⁶² ²⁶³ The powers are therefore capable of being applied to operators; whether they are applied is a matter of will, not of the framework.

²⁶⁰Noise Action Plan for Dublin Airport 2024-2028, measure NA-2.

²⁶¹Law no. 99-588 of 12 July 1999 (France); Regulation (EU) No 598/2014, Article 3; ACNUSA annual reports.

²⁶²Law no. 99-588 of 12 July 1999 (France); Regulation (EU) No 598/2014, Article 3; ACNUSA annual reports.

²⁶³Law no. 99-588 of 12 July 1999 (France); Regulation (EU) No 598/2014, Article 3; ACNUSA annual reports.

B.2.2 The remedy floor sits above the harm floor Fingal itself adopted

- 199** Fingal defines and counts the noise problem from the WHO health thresholds but offers a remedy only well above them, so the population it acknowledges as harmed below 60 dB Lden, and the night-time population altogether, is offered nothing.
- 200** The harm floor is the WHO threshold Fingal’s own report adopts and recites: the WHO Guideline Development Group “strongly recommends reducing noise levels produced by aircraft below 45 dB Lden, as aircraft noise above this level is associated with adverse health effects.”²⁶⁴ The decision counts its noise-problem population, the highly annoyed and highly sleep disturbed, from 45 dB Lden and 40 dB Lnight upward. The remedy floor, by contrast, is set at “residential dwellings forecast to be exposed to aircraft noise at or above 60 dB Lden.”²⁶⁵ The entire population between the two floors, acknowledged as harmed, is offered nothing, and the night-time population is unaddressed in its own right, the remedy being a residential insulation scheme keyed to an Lden contour and to dwellings, with no night metric of its own. Fingal’s own cost-effectiveness appendix counts the people in that gap: in the 55 to 60 dB Lden band, immediately below the eligibility floor, it tabulates 5,274 dwellings and 14,350 people sitting outside the scheme’s contour on the 2027 forecast, the larger part of them carrying night-time exposure at 45 to 55 dB Lnight.²⁶⁶ Fingal modelled the gap population precisely, and drew the eligibility line above it.
- 201** That gap population has, moreover, no alternative route to relief: when the elected members of Fingal sought to extend insulation to it through their development plan, the text was deleted by ministerial direction on the Office of the Planning Regulator’s recommendation, upheld by the High Court as conflicting with the statutory processes conferred on the competent authority (A.3). The State litigated to establish that this relief is exclusively the Authority’s to grant; the authority setting this remedy floor is therefore the only body that can close the gap it leaves, and it has not.
- 202** Fingal justifies the gap on the basis that “a fully funded package of noise insulation at all levels of adverse noise exposure can be considered disproportionate.”²⁶⁷ The alternative to insulating every dwelling at every level is not to insulate only the most exposed, but to use the operational measures

²⁶⁴DRD Report, p. 28.

²⁶⁵Draft Regulatory Decision (F23A/0781), p. 10.

²⁶⁶Draft Regulatory Decision Report (May 2026), Appendix J, Tables 5-1 and 5-2 (households and population in noise bands from 55 dB Lden, outside the RNIS eligibility contours).

²⁶⁷DRD Report, p. 122.

of the Balanced Approach (B.2.1), which protect the lower exposure bands and the night-time population without insulating a single additional dwelling. Fingal reached the disproportionate-cost conclusion only because it had already excluded those measures.

203 Fingal’s own commissioned benchmarking contradicts the disproportion it asserts. The review of European insulation programmes it placed in its appendices, covering schemes at fourteen European airports, shows that eligibility below 60 dB, cover for schools and hospitals, and night-time protection are ordinary practice, not the disproportionate extension Fingal treats them as.²⁶⁸ Peer schemes qualify dwellings well below the 60 dB Lden floor Fingal sets: Vienna from 54 dB LAeq,16h, Bordeaux and Basel-Mulhouse from 55 dB Lden. More than half of the fourteen extend to noise sensitive receivers including schools and hospitals, among them Prague, Bordeaux, Basel-Mulhouse and Frankfurt, the very institutions Fingal’s scheme excludes (B.1.3). And night-time exposure is addressed in its own right, through night metrics such as Vienna’s 45 dB LAeq,8h, Prague’s 50 dB LAeq,N and Frankfurt’s 55 dB Lnight, where Fingal’s remedy is keyed to the composite Lden contour alone, with no night-metric eligibility.

204 Fingal cannot characterise the lower threshold, the schools and the night-time population as a disproportionate burden when the review it itself commissioned records each as standard among the comparators it chose.

205 The same appendix forecloses two replies in advance. Its observation that “[t]here is only one identified programme specifically addressing night-time noise” continues, in its next sentence, that most schemes carry night metrics inside their ordinary eligibility, which is exactly what the Lden-only eligibility here omits, and Ireland’s own ACP-approved residential scheme is itself night-specific.²⁶⁹ And daa has signalled the opposite attack, reserving its position that “the proposed 60 dB Lden trigger appears at face value more demanding than the thresholds typically applied at UK and European airports”;²⁷⁰ the appendix’s own entries, set out above, foreclose that claim before it is made, and the review daa says it is conducting of “comparable international airports” was heading for a conclusion its regulator’s own appendix had already disproven.

206 Nor can the night gap be closed by the report’s assurance that “the 55 dB Lnight is generally captured

²⁶⁸DRD Report, Appendix D (Recent Trends in Airport Noise Insulation Programmes in Europe, 7 January 2026), §4 and Table 4-1.

²⁶⁹DRD Report, Appendix D, p. 30; DRD Report, p. 74.

²⁷⁰DRD Report, Appendix I, daa observation, p. 2.

by the 60 dB Lden”. The claim appears twice, qualified by “generally” both times and quantified neither time.²⁷¹ The decision’s own tables state the residual: the 2031 forecasts with the development carry 1,515 to 1,659 dwellings above 55 dB Lnight, while the eligibility estimate for the chosen option’s majority or full funding in 2031 is 1,165 to 1,197 dwellings, several hundred night-exposed dwellings short even if every eligible dwelling were among the night-exposed.²⁷² What a night-exposed dwelling outside the 60 dB Lden contour receives, the decision does not say; Fingal should quantify “generally” for each forecast year rather than rely on it.

- 207** The cost-effectiveness analysis behind the “disproportionate” finding was, moreover, constructed to produce it, in three respects, each visible in the decision’s own tables. First, the option space: no option offering full funding below 60 dB Lden was ever constructed, partial funding for the 55 to 60 dB band being ANCA’s own design choice, imported from the Gatwick scheme, so the alternative the gap population needed was never tested.²⁷³ Second, the ranking: on the decision’s own effectiveness table the option that covers that band, Option 1, is the most effective, with sleep-disturbance reductions of up to 41 per cent against the chosen option’s 17, and its cost-effectiveness range overlaps the chosen option’s with a cheaper low end; it is set aside because partial funding attracts uncertain uptake, ANCA preferring Option 4 for “a higher degree of certainty in the level of reduction of HA and HSD per euro”, an uncertainty its own half-funding design created.²⁷⁴ Third, the arithmetic: the euro-per-percent ratios divide costs “calculated on the basis of a full uptake of the scheme options” by benefits computed at assumed participation of 20 to 90 per cent, so every ratio is overstated, and overstated most for the partial-funding options that carry the wider bands; and the cost side rests on a consultant’s note that says of its own estimates that they “have not undergone the full range of quality assurance checks that would typically be accompanied by the use of such figures”.²⁷⁵ A line drawn above the harmed population survives on an option space built never to test protecting them in full, ranked by ratios inflated against the options that would, on costs the estimator itself declines to warrant.

²⁷¹DRD Report, pp. 130 and 140.

²⁷²DRD Report, pp. 91-92 and 131.

²⁷³DRD Report, p. 133.

²⁷⁴DRD Report, pp. 138-140.

²⁷⁵DRD Report, Appendix J, pp. 18 and 22, and the CEPA cost estimation note annexed to it.

B.2.3 Fingal's own commissioned health evidence condemns the chosen remedy

- 208** The remedy Fingal designed is the one its own commissioned health evidence says under-protects, and Fingal cannot dismiss that evidence as partisan because it commissioned it. The review it placed in the consultation set was prepared by Professor Charlotte Clark, Professor of Environmental Epidemiology at St George's, University of London and President of the International Commission on Biological Effects of Noise, who has advised the World Health Organization and the International Civil Aviation Organisation on noise and health and co-managed the RANCH study of aircraft noise and children.²⁷⁶ Its conclusions are an admission against the decision on three points.
- 209** The review's concluding recommendation is that "mitigation efforts should not be restricted to those with the highest levels of aircraft noise exposure ($\sim\geq 60$ dB LAeq,16h/ $\sim\geq 55$ dB LAeq,8h), but consideration should be given to protecting public health through measures and interventions that reduce noise exposure in the 50-60dB LAeq,16h /45-55dB LAeq,8h range."²⁷⁷ Fingal restricted its remedy to exactly the highest band, at or above 60 dB Lden, the review says it should not.
- 210** Insulation alone is not enough: "Noise insulation schemes ameliorate but do not remove all the effects of aircraft noise effects on health in a population," because exposure is still experienced outdoors, residual noise is still heard indoors at levels that "could still contribute to adverse health effects," and annoyance persists.²⁷⁸ Fingal's own appendix puts a figure on the shortfall: the scheme aims for a reduction of 5 dB in indoor levels, with 10 dB "also possible" and as little as 2 dB where funding is partial, and the correction is applied indoors only.²⁷⁹ An insulation-only remedy leaves the garden, the open window and the outdoors unprotected, and does nothing for the cardiovascular harm of long-term exposure.
- 211** The operational measures Fingal declined are the ones the evidence shows work: respite from runway alternation and operational-mode changes at a major airport "was associated with a reduced likelihood of being highly annoyed," and that residents who experienced at least 9 dB of daytime respite tolerated 7.5 dB more noise before the same proportion was highly annoyed.²⁸⁰ Respite and alternation are exactly the operating-procedure and operating-restriction measures B.2.1 shows were never

²⁷⁶Clark (2026), p. 6.

²⁷⁷Clark (2026), p. 40.

²⁷⁸Clark (2026), p. 14.

²⁷⁹Draft Regulatory Decision Report (May 2026), Appendix J, §6 (insulation correction to exposure levels).

²⁸⁰Clark (2026), p. 11.

costed.

- 212** The review also shows the harm counts under-read the real effect: it describes a “change effect” in which “communities becoming newly overflown” show an excess annoyance response above what steady-state functions predict, an excess that is “not temporary but can endure for at least a couple of years, if not longer,” and appears even for increases as small as “1-2 dB Lden.”²⁸¹ The communities newly overflown since the North Runway opened and the Routes Flown changed are the textbook case: the capacity increase produces exactly the lasting excess annoyance the decision’s steady-state counts do not capture.

B.2.4 The modelling answers convenient questions and omits the ones Fingal asked

- 213** The noise modelling underpinning the decision was built to questions easier than Fingal’s own directions posed; the route-attributable and segregated-mode assessments were never answered.
- 214** The modelling rests on a single annualised modal split “derived over a period of 10 years.”²⁸² Fingal’s own section 9 direction required five segregated operating-mode contour sets, westerly and easterly in each runway configuration plus mixed mode, each at LAeq,16hr and Lnight (Annex A).²⁸³ NRTG supplies the omitted segregated, westerly-conditional metric: Annex D restates the 28R-departure contribution on the days the airport runs westerly, reaching the 60 dB Lden insulation floor at the most overflown communities from departures alone.
- 215** The single annualised split also reverses the methodology the Authority itself prescribed. In October 2023, directing daa to supplement its Annual Compliance Report, the Authority stated that the annual contours were “an informative way of linking the sample flight tracks to community noise exposure”, but that “Actual modal split contours should be used however, to facilitate direct comparison with the actual flight tracks.”²⁸⁴ The decision now before consultation models its forecasts “using an average modal split based on the previous 10 years of runway operations”, an average dominated by years in which the North Runway did not exist.²⁸⁵ The Authority required of the operator, for a compliance

²⁸¹Clark (2026), p. 11.

²⁸²DRD Report, Appendix C, p. 12.

²⁸³Section 9 direction (daa response to AIE 2611, Record 6, item E-2).

²⁸⁴ANCA Direction ANCA/DI 02/2023 (19 October 2023), Schedule A, item 5.

²⁸⁵DRD Report, p. 87.

report, the actual-split method that permits comparison with the tracks actually flown; for its own regulatory decision it has adopted an average that dissolves them.

- 216** The objection is not to the quality of what was modelled but to its scope. The independent reviewer Fingal commissioned found the modelling it examined to have been “carried out in line with best practice based on the data available” and “of a sufficient quality to respond to ANCA’s policy requirements.”²⁸⁶ The reviewer’s own scope sentence says as much, in terms: “It should be noted that the review does not consider any specific scenario or forecast. Instead, the review has considered the modelling approaches adopted by BAP.”²⁸⁷ That review examined the model daa built; it did not, and could not, assess the route-attributable comparison against the EIS Route or the segregated operating-mode contours Fingal’s directions required, because neither is present in the material it examined, the modelling before it resting on the single annualised split. A well-built model of the wrong question remains the wrong question answered well: the omission described above is one the favourable review leaves untouched.
- 217** The fleet-renewal assumption is optimistic, and it rests on a lever the State does not control. The forecast assumes Ryanair’s older-generation share falls “from ca. 88% G1 in 2024 to between 12% and 13% G1 in 2031,” faster than the airline’s own announced plans, which show only “a lesser swing ... from ca. 60% G1 currently to ca 40% by ca. 2033,” and the Appendix B reviewer notes “scope for ... the proportion of G1 aircraft to the higher [sic] than is modelled,” meaning more noise than forecast.²⁸⁸ Fingal itself records that “the pace of Ryanair’s DUB fleet renewal is largely a strategic choice for the airline.”²⁸⁹
- 218** The reviewer’s reasonableness finding, moreover, carried a stated exception, and the decision’s summary deletes it. The forecast review at Appendix B concludes: “Overall, most aspects of the forecast appear reasonable (point 9 below is an exception).” Point 9 is that “[g]rowth of G0 aircraft types is assumed in the Night Period. This growth does not appear to be in line with publicly announced fleet replacement plans”: daa reports 458 annual movements of the out-of-production B737-400 in 2023 and assumes 3,900 to 4,600 by 2031, growth “almost all in the Night Period”, the reviewer finding “[i]t is not clear what has led daa to assume the 10-fold increase”, warning that the unexplained

²⁸⁶DRD Report, Appendix C (Review of Aircraft Noise Modelling for Dublin Airport, 30 April 2026), pp. 27 to 28.

²⁸⁷DRD Report, Appendix C, p. 9.

²⁸⁸DRD Report, Appendix B.

²⁸⁹daa response to AIE 2611, Record 6, item E-36.

G0 growth “could impact the number of Night Period ATMs the airport is presented as being able to handle within the QC limits”, and observing that “in an operating environment which penalises noisier aircraft, relatively few noisier aircraft may be expected”.²⁹⁰ The decision report renders all of this as: “The review concludes that the forecasts appear reasonable”, with Infrata highlighting “one issue”, the night passenger-per-ATM point.²⁹¹ The exception the reviewer carved out of its own conclusion, an assumed ten-fold night-time growth in the oldest and noisiest generation of aircraft, contradicting announced fleet plans and bearing directly on the night quota headroom, appears nowhere in the decision. Either the G0 night growth is real, and the night fleet is materially dirtier than the transition story the forecasts tell; or it is not, and the modelled night quota headroom and the noise attributed to the night fleet are wrong. Both limbs are adverse, and neither is confronted. This is a defect distinct from the wrong-question review described above: a favourable summary of an unfavourable finding, in the decision’s own pages.

- 219** Information demands Fingal itself raised remain unanswered. Its review caught daa modelling the A321neo as an A320-271N when the correct data had been available since 2021, never explained; daa reporting only 13 of the 19 required scenarios, omitting the six used for the NAO comparison; and the centrelines of the modelled departure routes, required but never received in usable form labelled to the route groups.²⁹²

B.2.5 The scheme’s design favours the regulated party

- 220** The remedy operates so that the party that pays for it draws the line defining its own liability, administers the scheme, and is already positioning to wind it down: a remedy whose scope the regulated party controls is not an independent regulatory outcome.
- 221** Eligibility is fixed by the area of the 60 dB Lden contour, “to be provided by the Applicant ... for the written agreement of ANCA prior to submission for approval to the Planning Authority.”²⁹³ The line deciding who is compensated is thus drawn by daa and agreed with Fingal off the public record before it reaches the Planning Authority. daa also prepares and publishes the eligibility reports and identifies

²⁹⁰DRD Report, Appendix B.

²⁹¹DRD Report, p. 83.

²⁹²daa response to AIE 2611, Record 6, items E-9, E-3 and E-12.

²⁹³Draft Regulatory Decision (F23A/0781), p. 11.

the recommended measures in the Statement of Need.²⁹⁴

- 222** The eligibility cut-off offloads newer homes: dwellings consented or granted permission after 9 December 2019 are excluded, shifting them onto their owners.²⁹⁵ The cut-off presupposes that a purchaser after that date could have foreseen the exposure, but the North Runway did not open until 2022 and the Routes Flown did not begin until February 2023: no one buying or building before then could have known where the departures would go, because the routes did not yet exist. The exclusion's stated rationale fails in the same geography as the zones that carry it: the decision reasons that dwellings built since December 2019 in Zone B "will have been provided with insulation measures" through zone conditions, but those are the zones the decision itself concedes "do not fully represent all areas that are or could be affected by aircraft noise" (B.2.1).²⁹⁶ A post-2019 dwelling in a newly overflown area outside Zones B and C carries no insulation condition from the planning system and no eligibility under the scheme either: it is excluded by a cut-off keyed to zones the Authority itself says do not cover the areas affected.
- 223** In its observation daa seeks "clearer review periods and appropriate sunset clauses, in order to provide certainty, manage long-term expectations and avoid unnecessary administrative burden," with biennial reviews, and attacks the 2019 cut-off as "arbitrary."²⁹⁷
- 224** daa "made one observation/submission and having considered this, ANCA made no changes to the proposed measures."²⁹⁸ A regulated party lodging one observation and no counterproposal, against a measure that constrains its flights not at all, is content with the outcome, and daa's observation says as much in its own words.
- 225** daa endorsed the scheme in principle, that "the central issue is therefore not whether insulation is appropriate, but how it is applied", confirmed it had "no counterproposals currently", and moved to manage the scheme's reach downward: it noted that eligibility "could extend to 2,500 dwellings (in total) but this could be carefully managed" if the criteria reflected planning practice, and asked that where mitigation had already been delivered through the planning system "there should be no further obligation on daa to provide insulation."²⁹⁹ Those are the positions of a party minimising both

²⁹⁴Draft Regulatory Decision (F23A/0781), p. 12.

²⁹⁵DRD Report, p. 142.

²⁹⁶DRD Report, p. 127.

²⁹⁷DRD Report, Appendix I (daa observation), pp. 5, 8 and 9.

²⁹⁸DRD Report, section 14.

²⁹⁹Draft Regulatory Decision Report (May 2026), Appendix I, daa observation (summary), signed J Roche, Head of Planning,

the count it is measured against and the liability it bears, not those of a regulated entity resisting a constraint; the observation was lodged at the section 34B(7) notification stage, daa expressly reserving its position for the draft decision. The relief (Remedy 6): the eligibility contour and the scheme's administration should be set and verified independently of daa, on the public record.

226 The condition's own mechanics let entitlement lapse while the obligation stays soft. Eligibility is re-determined every year from the contour "for the preceding calendar year", so a dwelling's entitlement evaporates if the receding contour passes it before the works happen; an owner who does not confirm agreement in writing within six weeks of the Statement of Need "shall cease to be an Eligible Dwelling for that year", re-qualifying only if a contour the applicant forecasts to shrink still reaches the dwelling; and what the works must achieve is "[a]n improvement of at least 5 dB, where feasible", with the applicant's delivery obligation cast as "reasonable endeavours".³⁰⁰ The party that forecasts the contour's recession thus administers a scheme whose reach recedes with it, under obligations qualified at every step: that is why remedies 3, 5 and 6 ask for the metric, the deadline and the verification on the face of the decision. Even the money is provisional on the face of the instrument put out for consultation: the grant is defined as "up to [€40,000] (Index Linked)", the square brackets in the operative text, twice, covering "fully, or the majority of," the costs, undefined.³⁰¹ Consultees are asked to comment on a scheme whose central monetary parameter is a bracketed placeholder; whether the bracket survives into the final decision or is filled in afterwards, the public never saw a committed figure, a participation defect under Article 6 of the Aarhus Convention as well as an enforceable-form one.

227 The scheme's sequencing also entrenches the routes it compensates for. Insulation is the only measure proposed; the route measure is deferred (B.2.1), and deferred behind the relevant action at that (B.2.6); the insulation will therefore be installed, dwelling by dwelling, along the Routes Flown while the deferral runs. Every euro spent becomes, on any later route review, an argument against correction: a corrected route would be said to strand the investment under the old track and to expose dwellings that would then have to be insulated in their turn. daa is already positioned to make that argument, having asked that mitigated dwellings not subsequently be counted as adversely affected for the objective's monitoring (Annex G.3, Remedy 9). If the Authority does not intend its remedy to become the economic case against ever correcting the routes, the decision should say so in terms: ex-

daa.

³⁰⁰Draft Regulatory Decision (F23A/0781), pp. 10, 12 and 16.

³⁰¹Draft Regulatory Decision (F23A/0781), p. 12.

penditure on insulation under this decision is not to be weighed against a change of departure route in any subsequent assessment.

B.2.6 The conflation of the SID, the Routes Flown, the NPR and the EIS Route, and the wrong geography it produces

- 228** The documents treat four distinct things as one, the conflation doing the work of making an unassessed change look compliant. The four terms are set out at the start of this submission and documented in the Appendix.
- 229** A “SID compliant” or “NPR compliant” statement reports track-keeping against a corridor daa drew, not conformity with the EIS Route the permission was granted on. The Routes Flown were never assessed against the EIS Route, and daa confirms under AIE 2611 that no record of that comparison exists.³⁰²
- 230** This produces a remedy aimed at the wrong geography: the eligibility contour is forecast from current operations (B.2.5), so the remedy is drawn around the Routes Flown, while the EIS-Route comparison does not exist. Within the 1.5 km half-width track-keeping corridor the UK Department for Transport applies at its designated airports, an EIS-consistent straight departure would newly overfly roughly 1,000 residents beyond the legacy South Runway tracks, whereas the Routes Flown newly overfly approximately 13,923 residents in 4,008 buildings: more than thirteen times as many. On a wider 3 km half-width corridor, the approximate lateral extent of the 55 dB single-event maximum contour for the common departure fleet, the newly affected population reaches approximately 30,186 against 1,164, roughly twenty-five times as many. Almost none of that newly affected population, the majority across the county boundary in Meath, was consulted or assessed. The remedy is a land-use planning and management measure keyed to the wrong geography, and the measure that would correct the geography, the route itself, is the one the decision declines to consider.³⁰³
- 231** These counts do not turn on a favourably chosen corridor width. Swept across defensible half-widths the newly-overflown figure rises rather than falls, reaching 17,137 (about 23% above the headline) at the wider ICAO RNAV-1 navigation tolerance for the procedure itself, so the 1.5 km figure is the

³⁰² daa response to AIE 2611, Item 3 (‘no record’ admission).

³⁰³ G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

conservative one; and the Routes Flown corridor's complete absence of overlap with the legacy South Runway tracks is a property of the corridor geometry, an overflown area and a newly-overflown area that are the identical 66.77 km², independent of any building or population method.³⁰⁴

- 232** The February 2023 change moved the second turn out to the waypoint DW128, which lies on the Fingal-Meath county boundary itself, so departures now reach the very edge of the planning authority's area before the majority make that turn and the rest continue straight on; either way the track crosses into County Meath, and almost all the overflight falls there. Land-use planning and management for the ground now overflown therefore belongs to a different authority from the one deciding the noise, in a county with no role in this decision and which was neither consulted nor assessed.³⁰⁵ The draft decision's own report admits the change, recording that "a further airspace adjustment was introduced in February 2023, affecting westbound departure routes from the North Runway," which contradicts the "no change" to the airspace and "established flight paths" that daa's screening proforma asserts and the assessment adopted (Annex G.3).³⁰⁶ When those routes began, daa's noise-monitor network did not extend to the Meath communities overflown; the corridor monitors there were commissioned only in mid-2025, so for over two years the cross-border overflight was among the least-measured of all.³⁰⁷

A compliance metric that inverts its own meaning

- 233** The NPR metric inverts its own meaning, because daa built the corridor in the reverse of the order the term carries internationally. A noise preferential route, in the UK practice daa names as its model, is the noise-minimising route, set first; the instrument procedure is then designed to be flown within a track-keeping swathe around it, which the UK Department for Transport sets at 1.5 km each side at its designated airports.³⁰⁸ daa defined the term the same way in its own 2016 consultation, telling the public that noise preferential routes are "designed to avoid the overflight of built-up areas where

³⁰⁴G. O'Brien, Quantifying Noise Impact of Dublin Airport's North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

³⁰⁵DW128 waypoint, IAA Aeronautical Information Publication, chart AD 2.24-13, on the Fingal/Meath county boundary.

³⁰⁶Draft Regulatory Decision Report (May 2026), §3.3 (operational history; February 2023 airspace adjustment).

³⁰⁷Annexes B and D to this submission.

³⁰⁸G. O'Brien, Quantifying Noise Impact of Dublin Airport's North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>, applying the UK Department for Transport track-keeping convention (DfT00393, 2017).

possible” and that, “[u]nless directed otherwise by ATC”, aircraft “are required to follow” them.³⁰⁹ At Dublin the SID was designed first and the corridor drawn around it afterwards, fitted to a route that overflies the very built-up areas daa’s own definition said it was designed to avoid.

234 Acting as ANCA, Fingal confirmed under AIE/2026/014 that it holds no record defining the corridor’s geometry, width or calibration; the only definitional record it holds is daa’s own letter of 15 March 2023.³¹⁰ By that letter, daa draws the corridor starting two-thirds down the runway at 90 m either side of the centreline, diverging at 12.5% each side to a maximum width of 1,800 m, on a method it calls a modified version of the London airports’ corridors, fixing its length by the worst-performing aircraft’s climb rather than the coded SID.³¹¹ Set against the actual radar tracks, and measured against the corridor as daa draws it on its own published chart, it is the aircraft turning closest to the coded termination that most often leave it. The reason is in the coding: every Category C and D departure from Runway 28R is coded to fly runway heading until reaching 650 ft above mean sea level and then turn right, so the coded turn point is wherever the aircraft passes that altitude, and a better-climbing aircraft reaches it closer to the runway. daa drew its corridor not around that coded path but around a nominal turn fixed by the slowest climb the procedure permits, with the result that the aircraft turning earliest are those most often scored outside the corridor, while one climbing no better than the published minimum is not (Annex K). A headline NPR-compliance percentage therefore measures adherence to a drawn corridor, not to the SID the IAA approved or the EIS Route the permission was granted on, producing false assurance.³¹²

235 The records daa released on 7 August 2026 supply what the absence of any definitional record at the Authority leaves open, and none of it is about noise. Every dimension of the corridor has a recorded reason. The start point was moved down the runway because at the narrower gate “aircraft are potentially outside of the corridor before they have a chance to be in it”, and the comparator widths were adopted so that all aircraft “depart the runway within the NPR and then have a fighting chance to remain within it”; the same start point was explained to the Authority as a way to avoid “spurious

³⁰⁹ daa, “North Runway: Consultation on Flight Paths and Change to Permitted Operations”, 2016 display materials, Noise Preferential Routes panel.

³¹⁰ Fingal (ANCA) decision on AIE/2026/014 (15 May 2026): ANCA holds no record defining the corridor geometry, width or calibration.

³¹¹ daa letter of 15 March 2023 (Record 1e to Fingal (ANCA) decision on AIE/2026/014, 15 May 2026).

³¹² G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

corridor violations arising from weather related events on immediate departure”.³¹³ The maximum width is not a noise figure at all: it is the final width of the take-off climb surface, the obstacle limitation surface whose stated purpose is “to protect an aircraft on take-off and during climb-out”, and daa adopted it as the “standard width ... as per Southern RWY”.³¹⁴ The vertical ceiling was settled on what the service provider would accept, the 6,000 ft that Vienna applies being put aside on the question whether it “would be agreeable with IAA”.³¹⁵ And the contractor daa engaged to build the corridor set out what the exercise required of it: “Whatever we do, you will end up with aircraft that are off-track. You want aircraft that are off-track. Anything less than that and you’ll be accused of just drawing corridors around the traffic and saying everything is compliant.”³¹⁶ Population, dwellings, noise contours and noise-sensitive areas appear nowhere among the recorded reasons. Adherence to a corridor assembled on those grounds is not adherence to any noise standard, because no dimension of it derives from one.

- 236** The same 15 March 2023 letter concedes both the origin of the divergence and the collapse of the mechanism offered to police it. daa told the regulator that when the North Runway became operational “it was evident that the assumptions within the noise model were not reflective of how aircraft operated on the SID”, that “aircraft turned earlier than had been assumed”, and that this “resulted in aircraft tracks that do not align with what was previously shared publicly”: the operator’s own written account, to the authority now deciding this consultation, that the routes flown had departed from what the public was shown.³¹⁷ The corridors were justified to the authority in the same letter as the remedy, allowing daa “to monitor track keeping compliance to the new SIDS”. Three years later daa states the position plainly in its decision on information request AIE 2625: “daa do not track SID compliance nor refer instances of flights deviating from the published SID to AirNav”; its automated flagging runs on deviations from the corridor it drew, and a comprehensive search identified no referral protocol, no internal review of the referrals process, and no record of communications between daa

³¹³ daa internal correspondence on the design of the North Runway noise corridors, and daa’s letter to the Authority of 15 March 2023; released by daa on internal review of access-to-information request AIE 2615, 7 August 2026 (records 4 and 7).

³¹⁴ EASA Certification Specifications and Guidance Material for Aerodrome Design, CS-ADR-DSN Issue 4, CS ADR-DSN.H.435 and Table J-2 (obstacle limitation surfaces, runways meant for take-off).

³¹⁵ daa internal correspondence in the Vienna chain; released by daa on internal review of access-to-information request AIE 2615, 7 August 2026 (record 3).

³¹⁶ The contractor engaged by daa to build the noise corridors, to daa; released by daa on internal review of access-to-information request AIE 2615, 7 August 2026 (record 3).

³¹⁷ daa letter of 15 March 2023 (Record 1e to Fingal (ANCA) decision on AIE/2026/014, 15 May 2026).

and AirNav Ireland on referred deviations.³¹⁸ The instrument offered to the authority as SID compliance monitoring neither measures the SID nor produces a record when the SID is departed from.³¹⁹

237 The turn the corridor is built around is coded to begin at about the minimum turn height ICAO permits, 120 m (394 ft) above the runway end, a safety floor adopted as the design datum rather than the result of any study of where the route should go.³²⁰ Labelling the result a “Noise Preferential Route” or “Environmental Corridor” presents a minimum-safety artefact as an environmental optimisation it never was; the IAA, which approves the procedure, approves neither noise preferential routes nor environmental corridors.³²¹

238 Fingal, acting as ANCA, has itself disclaimed any hand in these corridors or their naming: by its own letter of 28 February 2023, five days after the first turn went live, it had only recently become aware of corridors daa had already published and was operating, and neither designed nor sanctioned them.³²² A year later it disclaimed the term itself, stating that it “was not involved in the design, naming or implementation of these corridors and has no information evidencing the significance, from a noise perspective, of the use of this term”, and giving their name as “Indicative Noise Corridors”.³²³

239 The draft decision then adopts the label into the authority’s own record: the Balanced Approach measures table credits “Use of Noise Preferential Routes (NPRs)” as a measure currently in place (§1.8.2, reproduced at Annex G.1).³²⁴ The row admits of two readings only. Either the term bears the meaning daa’s own 2016 consultation gave it, in which case the measure does not exist at Dublin and the table credits it anyway; or the Routes Flown are genuinely the routes preferred on noise grounds, in which case the authority’s own Balanced Approach record states a preference for placing the noise on roughly twenty-five times the newly affected population. A table that credits, as an existing noise abatement measure, a corridor the authority has disclaimed designing, naming and holding any noise evidence for, is not an assessment of the measure but the adoption of the operator’s vocabulary in place of one (Annex G.1).

³¹⁸ daa decision on information request AIE 2625 (13 July 2026), item 1.

³¹⁹ G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

³²⁰ ICAO Doc 8168 (PANS-OPS), Volume II (7th ed, 2020), minimum turn height 120 m (394 ft); G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

³²¹ Irish Aviation Authority role statements (JCTC-33-1126, 7 November 2023; FOI 2025.122, 13 May 2025).

³²² Fingal (ANCA) decision on AIE/2026/014 (15 May 2026), ANCA’s letter of 28 February 2023.

³²³ ANCA response, Ref 2024/0119, 13 March 2024.

³²⁴ DRD Report, p. 9 (section 1.8.2).

- 240** The decision’s own definition of the credited measure sharpens the dilemma from inside the decision record. Table 9-8 states: “NPR compliance is defined by close adherence to the published Standard Instrument Departure (SID) track. Aircraft are considered to be operating on-track while within the NPR until either the end of the route is reached or the minimum required altitude is achieved (3,000 ft for the South and Cross Runways and 4,000 ft for the North Runway).”³²⁵ On daa’s own 15 March 2023 concession the tracks flown are not aligned with what was shared publicly, so on the decision’s own definition the credited measure is either being breached by the deviation or is not the corridor daa in fact scores. And the Authority’s own statutory table quantifies the performance of whatever is being scored: 92.8 per cent adherence on the North Runway against 99.8 per cent on the South, a seven-point gap recorded with the opinion “Continual improvement” and no action attached.³²⁶ Even inside daa’s own corridor, roughly one North Runway departure in fourteen falls outside it, against one in five hundred on the South; and on the Appendix’s analysis the true departure from the assessed geometry is larger still, the 92.8 per cent being scored against a corridor drawn around the Routes Flown rather than the SID the definition names.
- 241** The Doc 8168 that daa, AirNav Ireland and the IAA invoke for the safety criteria also sets out, in its appendix on environmental issues, the design guidance that points the other way: that local noise-abatement committees are included in the planning of new departure routes, and that the decision to concentrate or spread departures is made for each airport, weighing “the density of population.” The same appendix strongly recommends an aeronautical study “[i]n cases where a State is required to deviate from PANS-OPS”, to assess the effect on safety, “even where political pressure for change is strong.” A turning departure is not itself such a deviation: “[a] departure incorporating a turn of more than 15° is a turning departure”, and the criteria make “no provision ... for turning departures which require a turn below 120 m (394 ft) ... above the elevation of the DER”. On that reading no study was owed here, and the margin on which that turns is about twenty feet: the chart’s 650 ft QNH gate is 415 ft above the departure end, against the 394 ft below which the criteria make no provision at all. The same passage opens “Safety shall always be the highest priority”, the choice before the designer was where to place the required divergence, on the departure or on the 28L missed approach (above), and no body in the chain holds any study of the safety effect of the choice that was made.³²⁷ Only the safety

³²⁵DRD Report, p. 69.

³²⁶NMER 2024, p. 14.

³²⁷ICAO Doc 8168 (PANS-OPS), Volume II, Appendix to Chapter 3 (Guidance on environmental issues), §§2.2, 2.3 and 3.1.3.

criteria are treated as mandatory; the environmental guidance in the same document, addressed to the same designers, is passed over: daa, which carries the duty to ensure the flight procedures are designed under EU Regulation 139/2014, and AirNav Ireland, to which it delegated that design.³²⁸

The route measure is Fingal's, on the Authority's own recorded reading

- 242** What this submission asks on the route is a noise measure within Fingal's own section 9 powers, not the enforcement of the planning permission. Whether the Routes Flown conform to that permission is a planning question, set out here only to show that the deviation is unassessed and unenforced and has fallen through every net but Fingal's noise function. Condition 1 of the North Runway permission (F04A/1755) ties the development to the Environmental Impact Statement and Addendum, so the operation should conform to the assessed routes.³²⁹ The Routes Flown depart from those routes. But Fingal, the planning authority responsible for enforcing Condition 1, which An Bord Pleanála imposed on appeal, has not enforced it and has not decided whether it will: it pleads the legal complexity of whether Condition 1 reaches the routes, relying on the case-law position that a condition to develop in accordance with the permission is not a condition concerning the ongoing use of the land, and says it must engage outside consultants for expertise it lacks; and the Ombudsman, disclaiming jurisdiction over the technical merits, declined to uphold a complaint about the delay.³³⁰
- 243** The Irish Aviation Authority approves the procedure against mandatory safety requirements; on its own account it reviews the safety assessment daa submits rather than performing one, did not require the route chosen, and disclaims any role in planning or noise conformity.³³¹ The net effect: a deviation from the assessed routes can be implemented as an operational change that no authority will test against the assessment or enforce against the permission, so the central safeguard of the consent, the Environmental Impact Assessment, is made unenforceable by reclassifying a change to its assessed subject matter as operational.
- 244** The regulator's own published statement of its remit confirms that limit. In the State Plan for Aviation

³²⁸Regulation (EU) No 139/2014, ADR.OR.C.005(b)(2); AirNav Ireland briefing note to the Department of Transport, 13 May 2025 (FOI 2025.122).

³²⁹Planning permission F04A/1755 (North Runway), Condition 1.

³³⁰Fingal County Council report, 22 July 2025; Office of the Ombudsman, OMB-158504-Q7T9Q4 (19 March 2026); *Diamrem Ltd v Cliffs of Moher Visitor Centre Ltd* [2021] IECA 291.

³³¹Irish Aviation Authority role statements (JCTC-33-1126, 7 November 2023; FOI 2025.122, 13 May 2025).

Safety, the IAA's formal statement of its safety responsibilities lists seven functions, every one of them oversight, audit, monitoring, guidance or promotion, and none of them an approval of anything, while the parallel statement of its security responsibilities a few lines later expressly includes "reviewing and approving security programmes of regulated entities."³³² The regulator states an approval power for security and none for safety, and none in any event for the noise or environmental acceptability of a departure track, which the safety regime does not reach (B.2.1). An answer to the noise question that rests on the IAA having approved the SID claims for that safety review a reach the regulator itself does not.

- 245** NRTG's primary position (Part A.3) is that the Routes Flown do not conform to the permission and that the deviation is unlawful and unassessed. But the choice of a quieter route is, in addition and independently, a noise question that is Fingal's however the planning question is resolved. This is limb (b) of the dilemma in Part A.3: even without conceding the planning question, and even if the routes were not a matter of the permission at all, Fingal would hold a standalone duty under section 9 to reduce the number of people the routes expose, the assessed EIS route merely happening to identify the route that discharges it. The noise duty does not depend on the planning answer, so the Authority cannot decline the route by referring it to its own planning desk.
- 246** The Act requires Fingal to identify and introduce the measures available to reduce the noise impact, expressly including noise abatement operational procedures, and allows them to be "differentiated according to ... flight path."³³³ As the noise authority Fingal can therefore require the departure route that exposes the fewest people, with the implementing procedure designed to comply. Fingal declined that measure as "redistribution" (B.2.1), though it would reduce the affected population roughly twenty-five-fold (Annex C): the most effective noise measure available to Fingal, set aside while residents were told the route is not its concern.
- 247** That the departure routes lie within the noise functions is, moreover, the Authority's own recorded reading of the Act, stated in the first Direction it issued and maintained after the routes changed. In February 2021, directing daa on the relevant action, the Authority required "evidence that the assumed flight paths relied upon in the noise assessment provided with the Application can be relied

³³²Irish Aviation Authority, State Plan for Aviation Safety 2023-2025, Volume I: Strategic Safety Priorities, section 1.2.

³³³Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(2)(b), s.9(3)(c) and s.9(5).

on”;³³⁴ and, quoting daa’s position that operational procedures had not been taken forward because the IAA ANSP controls the design and assessment of the airspace, it directed daa “to provide evidence of the outcomes of engagement with the IAA and to demonstrate why the noise abatement operating procedures cannot be considered”, stating in terms: “ANCA has a requirement to ensure that technical coordination between stakeholders has taken place.”³³⁵ The same schedule required evidence “to confirm that environmentally, NADP2 is the best departure procedure for the airport”, noting that Action 5 of the Noise Action Plan “requires such evidence to be reviewed”.³³⁶ And in October 2023, after the North Runway opened and the routes changed, the Authority directed daa under section 19(5)(a) to supplement its Annual Compliance Report with “a segregation of route statistics between BOFUM/LIFFY/ENDEQ and DEXEN for RW 28L/28R category C/D departures”.³³⁷ An authority that demands evidence for the assumed flight paths, asserts its own duty to ensure technical coordination with the air navigation service provider on the operating procedures, requires the environmental case for the departure procedure to be evidenced, and directs route statistics segregated by named departure route, has already answered, in its own published instruments, whether departure routes lie within its functions. The position since put to residents, that the routes are not its concern, is contradicted by the Authority’s own directions, and they are on its own register and website.

- 248** Nor can the route be parked behind the relevant action. daa has told the Joint Committee on Transport that its route review cannot advance until the North Runway relevant action sets a baseline (the spine), but a relevant action can only impose, revoke, revoke and replace, or amend an operating restriction, and departure routes are not operating restrictions.³³⁸ The relevant action therefore neither assesses nor baselines the routes, and cannot be the reason to defer the noise measure that is Fingal’s to take. Nor can it be parked behind the State’s promised assessment: the Minister’s office has put in writing that the independent assessment of flight paths committed to at Second Stage will most likely await “a final decision ... regarding the North Runway Relevant Action”.³³⁹ A promised as-

³³⁴ANCA Direction 01 (24 February 2021), Appendix A, Request 111.

³³⁵ANCA Direction 01 (24 February 2021), Appendix A, Request 110.

³³⁶ANCA Direction 01 (24 February 2021), Appendix A, Request 118.

³³⁷ANCA Direction ANCA/DI 02/2023 (19 October 2023), Schedule A, item 4.

³³⁸Aircraft Noise (Dublin Airport) Regulation Act 2019, s.4(1), read with sections 34B and 34C inserted into the Planning and Development Act 2000; “operating restriction” as defined in s.2(1), substituted from 27 July 2026 by s.38(a) of the Dublin Airport (Passenger Capacity) Act 2026: “a noise-related action that limits access to or reduces the operational capacity of the airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at the airport, as well as operating restrictions of a partial nature”.

³³⁹Department of Transport, Ref TTAS-MO-03406-2026, 3 July 2026 (Private Secretary to the Minister for Transport, response to a resident of the affected area).

assessment that is itself deferred behind the same process cannot discharge, or excuse deferring, the section 9 duty that is Fingal's now. Nor has that assessment's own terminus stood still: it has gathered conditions. The commitment was given on 23 June 2026 with none attached, "I am committing here that we will carry out an independent assessment of flight paths".³⁴⁰ By 3 July the relevant action had been attached, in the letter above. On 8 July, in the Seanad, three further conditions were added in the Minister's own voice: the passing of the Bill and the disposal of "a number of legal cases ongoing at the moment"; the final decision of "the aircraft noise competent authority, which comes under Fingal County Council"; and, in the widest formulation, that "I cannot have an independent assessment while there are pending decisions with regard to the operation of the airport".³⁴¹

- 249** Two things follow for this Authority. The last of those conditions cannot be satisfied at an airport with a continuous pipeline of applications and decisions, so a commitment given without qualification on 23 June had, fifteen days later, a terminus that recedes as each condition is added. And one of the conditions is this decision. The Minister will assess the routes after the Authority decides; the Authority is invited to leave the routes to the Minister's assessment. Each defers to the other, and the route is corrected by neither.

One local authority, two desks, and a deferral that does not end

- 250** The planning authority responsible for enforcing Condition 1, which now declines to do so, and the ANCA conducting this consultation, are not two bodies but two executive functions of one: as A.1 sets out, the same chief executive performs both the Council's planning and noise functions, and the only independence the 2019 Act confers runs from the elected councillors, not between the chief executive's own functions. What presents as one arm of the State deferring to another is, on the route question, a single local authority moving the matter between its own planning desk and its own noise desk, finding at each that it belongs to the other.
- 251** Nor is the deferral confined to this Council. The reason first given by the operator for not reviewing its own routes is now the reason given at every level with power to act on them. daa conditioned its review on the relevant action setting a baseline. Fingal, reporting to the Ombudsman on a complaint

³⁴⁰Dáil Éireann, 23 and 30 June 2026; PQ 50 [52104/26] and PQ 51 [52106/26], 8 July 2026; Seanad Éireann, Committee and Remaining Stages, 8 July 2026.

³⁴¹Seanad Éireann, 8 July 2026.

that the routes flown are unauthorised development under Condition 1, gave among its reasons for having reached no enforcement decision “the evolving status of regulatory consents governing operations at Dublin Airport, such as the Relevant Action application and decision”.³⁴² The Ombudsman did not uphold the complaint, holding the delay “not unreasonable” in light of “adjudications by the Commission affecting the North Runway”.³⁴³ The Department has since adopted the same timing for the Minister’s committed independent assessment. Four bodies, one rationale, and no body in the chain has tested whether the instrument they are all waiting on can determine a departure route. On the statutory analysis above, it cannot. NRTG advances this as a matter of effect and makes no allegation as to how the alignment came about: a rationale adopted at four levels without being examined at any produces the same outcome as a rationale designed to defer, which is that the routing is not corrected and no body is answerable for not correcting it.

252 The clock did not start with this consultation. NRTG put the routing problem, and a redesign proposal, to daa in person on 27 October 2023. Nine days later daa’s own delegate wrote out the work required to test it: the missed-approach climb-gradient calculations, the minimum obstacle clearance that would fix the turning waypoint, the climb profiling, the effect on the arrival minima, and the later stages of the missed approach, recording that the element already confirmed feasible was “only a small part of the overall picture and completes the initial ask” (Annex F, section 6).³⁴⁴ The course of work was known, itemised and begun by the delegate in November 2023. The rest of it has not been done. The status quo has not persisted for want of a route to examine or a method for examining it.

253 The deferral is also not neutral in its effect on the answer. Each instrument adopted while the routing question is held open takes the Routes Flown as given: the relevant action baselines them, this decision measures from a year that contains them, its environmental assessment assumes their continuation, and the noise-zone review the Authority now recommends would draw the statutory land-use zones around them (B.2.1). Each of those steps raises the cost of reversing the routing and none of them assesses it. Delay of that kind is not waiting; it is construction.

254 Taken with B.1 and B.2, a consistent two-part pattern emerges from the documents, and it is the pat-

³⁴²Office of the Ombudsman, decision on complaint concerning Fingal County Council, reference OMB-158504-Q7T9Q4, 19 March 2026, recording the reasons given by the Council for having reached no decision on planning enforcement.

³⁴³Office of the Ombudsman, reference OMB-158504-Q7T9Q4, 19 March 2026, conclusion (complaint not upheld; time taken “not unreasonable”).

³⁴⁴AirNav Ireland internal email, 5 November 2023.

tern these instruments must be drafted against rather than a characterisation of anyone's conduct. First, where a parameter is not measured, no exceedance can arise on it: the objective adopts averaging metrics and sets no L_{Amax} objective, so the single-event levels that define the impact under these routes generate no obligation however high they run (B.1.3). Second, where measurement cannot be avoided, the reference against which it is taken has moved to where the operation already stood, so the measured position is compliant by construction (B.1.1, the 2023 reference year). What survives the two steps is a decision that records the noise climate the deviation produced and requires nothing of the operator that this authority would have to enforce. That is why the remedies sought in this submission are directed not at the level of ambition but at the form of the obligation: fixed on the face of the decision, measured by a method outside the operator's control, and carrying a consequence the authority is required to apply within a stated period. Annex F is the evidential basis for that form: the documented record, in the named bodies' own words, of how measures left to good faith or discretion at this airport have operated.

B.3 The SEA Environmental Report for the NAO

255 Without prejudice to the primary objection in Part A, and strictly in the alternative:

B.3.1 The Strategic Environmental Assessment assessed no alternative or effect capable of producing a different answer

256 The Strategic Environmental Assessment of the updated objective assessed nothing that could have produced a different outcome, and its central choices each breach a mandatory requirement of the SEA Directive: it assessed no reasonable alternatives, scoped noise out of a noise plan and climatic factors out of a growth plan, required no monitoring, and rested on a no-significant-effect finding circular because it depends on the 2023 baseline the spine shows to be wrong.

257 Article 5(1) of Directive 2001/42/EC requires the environmental report to identify, describe and evaluate the likely significant effects “and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme,” and Annex I(h) requires “an outline of the reasons

for selecting the alternatives dealt with.”³⁴⁵ The SEA records that alternative metrics and thresholds were explored but “discounted on the basis that they did not achieve the ambitions of the NAO”, and that “[c]onsequently, no credible alternatives for the SEA have been considered. However, as no likely significant environmental effects ... have been identified, there is also no need to consider alternatives any further.”³⁴⁶ That is circular: assessing alternatives is the very mechanism by which a less harmful objective would be identified, a lower cap, an operating restriction, or retention of the 2019 baseline, and it has been omitted on the strength of a no-effects finding that assessing alternatives might have displaced.

258 The environmental report also misdescribes the plan it assesses, in the direction of overstating its night protection. Its own explanation of the amendments tells consultees that “[s]eparate reduction rates have also been proposed for population HSD and HA, to allow for a higher rate of reduction in population HSD to better reflect the policy objective”.³⁴⁷ The published amendment proposes no such thing: the operative text sets one reduction rate for both populations at each target year, and the NAO Report’s Consideration 10 records that a higher HSD rate was considered and refused, “the current approach of setting a single reduction target for population HA and population HSD already provides for prioritising the effects of aircraft noise at night”.³⁴⁸ Either the assessment examined a different draft of the plan from the one published, or the report states the plan’s night protection to the public incorrectly; on either footing it does not identify, describe and evaluate the effects of implementing the plan actually proposed, because it does not accurately describe that plan. The scoping table on which every scoping-out decision rests carries the same stamp of unexamined assembly: its Cultural Heritage row concludes that without altered operating procedures there will be no “changes to the amount of fuel burnt and therefore the setting of heritage assets”, the climate row’s fuel-burn reasoning pasted into the heritage row with only the object changed.³⁴⁹ A consultee cannot tell from such a report which scoping conclusions were reasoned and which were copied.

259 The SEA scopes “Noise and Vibration” out of assessment, on the stated basis that the objective “is unlikely to be affected” and that “there will be no alteration to the operating procedures.”³⁵⁰ The

³⁴⁵Directive 2001/42/EC (SEA Directive), Article 5(1) and Annex I(h).

³⁴⁶SEA Report (NAO), p. 34.

³⁴⁷SEA Report (NAO), pp. 16-17.

³⁴⁸NAO Report, p. 21; Noise Abatement Objective for Dublin Airport (May 2026), Expected Outcomes.

³⁴⁹SEA Report (NAO), p. 25.

³⁵⁰SEA Report (NAO), pp. 25 and 26.

same table scopes Population and Human Health in, but only for “the potential for positive effects ... including reducing the number of people highly sleep disturbed and highly annoyed”.³⁵¹ The one effect the instrument exists to address is thus assessed solely as a benefit of the plan: no row of the framework admits the possibility that re-baselining to 2023 and demoting the night outcome could have an adverse effect on the exposed population, so the adverse limb the assessment exists to test is assumed away at scoping, and the growth-driven increase is firewalled into a later assessment.

260 It scoped climatic factors out of a plan whose own baseline is airport growth, and could not lawfully do so. Annex I(f) of Directive 2001/42/EC lists “climatic factors” among the effects an environmental report must assess.³⁵² The SEA scopes “Carbon and Climate Change” out on the same formula used for noise, that “There will be no alteration to the operating procedures at Dublin Airport and consequently result in changes to the amount of fuel burnt and therefore the level of carbon emissions,” and the Regulatory Decision’s SEA scopes it out in near-identical words.³⁵³ Yet the same report adopts a future baseline that assumes the airport grows to roughly 40 million passengers in 2030 and 54 million from 2050.³⁵⁴ An assessment cannot build that growth into its baseline and then scope out the growth’s defining climatic effect on the basis that the amendment alone changes no fuel burn: if the growth is in scope as the baseline, its carbon is in scope as an effect.

261 The EU Effort Sharing Regulation, which carries Ireland’s enforceable 2030 reduction obligation across transport, buildings, industry, agriculture and waste, provides that CO₂ emissions from civil aviation “shall be treated as zero”, and the EU Emissions Trading System reaches only flights within the European Economic Area, its derogation exempting flights to and from aerodromes outside the EEA until 31 December 2026, leaving the international flights an expanding hub exists to carry outside any binding limit.³⁵⁵ Where the SEA gestures at climate it points to national policy, the Climate Action Plan its statutory environmental authority asked it to align with, the very framework that binds every other sector to a measured cut while leaving aviation’s growth unbound.³⁵⁶

262 And the State has now legislated to the same effect. The Dublin Airport (Passenger Capacity) Act 2026

³⁵¹ SEA Report (NAO), p. 26 (scoping table).

³⁵² Directive 2001/42/EC (SEA Directive), Annex I(f).

³⁵³ SEA Report (NAO), p. 25; SEA Report (DRD), p. 19.

³⁵⁴ SEA Report (NAO), p. 27.

³⁵⁵ Regulation (EU) 2018/842 (Effort Sharing), Article 2(3); Directive 2003/87/EC (EU ETS), Article 28a. The exclusions are noted in Irish Fiscal Advisory Council and Climate Change Advisory Council, *A Colossal Missed Opportunity* (2025).

³⁵⁶ EPA scoping submission (Appendix A1 to the SEA Environmental Report for the Noise Abatement Objective).

empowers the Minister to order the planning cap amended or revoked, and amends the Planning and Development Acts so that neither a planning authority nor An Coimisiún Pleanála may impose a condition “relating to the number of passengers that may use Dublin Airport,” a prohibition enacted but not yet commenced.³⁵⁷ Its section 39 then disapplies the climate duty itself: the Minister and An Coimisiún Pleanála, performing their functions under the Act, “shall not be subject to the requirements referred to in section 15(1) of the Climate Action and Low Carbon Development Act 2015,” the stated reason being “the likely consequences for the economy of the State and for international connectivity.”³⁵⁸ The national policy the SEA defers to for the growth’s carbon is the policy the State is disapplying for this expansion, on the same economic-benefit ground Fingal wrote into the objective (B.1.4): the gap the submission exposes on noise, now repeated on carbon, a real growth-driven effect each process treats as another’s responsibility until none assesses it.

- 263** Article 10 requires Member States to “monitor the significant environmental effects of the implementation of plans and programmes.”³⁵⁹ The SEA states that “monitoring is not required.”³⁶⁰ For a noise objective whose purpose is to track and reduce exposure, an assessment with no monitoring leaves no trigger and no remedial mechanism if exposure rises.
- 264** The no-effects finding on which all of this rests is itself unsafe, because it is measured against the 2023 baseline the spine shows Fingal’s own directions had rejected in favour of 2019.
- 265** A second scoping direction was recited and never carried into the assessment. The EPA’s scoping submission told Fingal that the European Commission’s Zero Pollution Action Plan “aims to reduce, by 30%, the share of people chronically disturbed by noise from transport against 2017 levels”, that a recent EEA assessment indicates the target is likely to be missed, and that “[t]he environmental assessment should reflect the obligations under the ZPAP”.³⁶¹ Both environmental reports respond by reciting the target, bracketing its baseline (“[from a 2017 baseline]”), remarking through the EPA’s State of the Environment Report that such targets are “a major challenge”, and assessing nothing against it.³⁶²

³⁵⁷Dublin Airport (Passenger Capacity) Act 2026 (No. 25 of 2026), s.25(1) (Ministerial order amending or revoking the passenger cap) and s.36 (inserting s.34(4B) and s.37(1A) into the Planning and Development Act 2000); the Act was commenced on 27 July 2026 by S.I. No. 366 of 2026 other than sections 36 and 37, which are enacted but not yet in force.

³⁵⁸Dublin Airport (Passenger Capacity) Act 2026 (No. 25 of 2026), s.39 (disapplying s.15(1) of the Climate Action and Low Carbon Development Act 2015; in force from 27 July 2026, S.I. No. 366 of 2026).

³⁵⁹Directive 2001/42/EC (SEA Directive), Article 10.

³⁶⁰SEA Report (NAO), p. 35.

³⁶¹SEA Report (NAO), Appendix A1 (EPA scoping submission), p. 45.

³⁶²SEA Report (NAO), p. 20; SEA Report (DRD), p. 14.

The omission is not peripheral. The quantity the EU target regulates, people chronically disturbed by transport noise, is the quantity the amended objective adopts as its own primary measure: the objective's text says its metrics "describe those chronically disturbed by aircraft noise".³⁶³ The Union measures that quantity from 2017, before the North Runway and the deviated routes existed; the instruments under assessment move their reference year to 2023, so the 2017-to-2023 deterioration, the very ground the EU target requires Ireland to claw back, is erased from every test either instrument will face. An assessment directed by the statutory environmental authority to reflect a 2017-baselined obligation, which instead re-baselines the plan to 2023 and tests nothing against the obligation, has not reflected it; it has assessed it away.

266 In scoping, the Environmental Protection Agency, the statutory environmental authority for the SEA, advised Fingal to assess the full range of effects "including ... cumulative and synergistic effects" and pointed it to the EPA's own cumulative-effects guidance, which the SEA itself cites.³⁶⁴ That guidance sets out a checklist, Table 4.1, for those carrying out an SEA and the authorities that review SEA outputs.³⁶⁵ The objective and the Regulatory Decision were assessed in two parallel reports that run the same exercise twice, so each item below is tested against whichever of them carries the passage, and a defect shown in one is a defect of both (B.4.1). Measured against that checklist, the SEA fails almost line by line:

- Item B, past trends for the key receptors: not described. The re-baseline to 2023 erases the 2019-to-2023 trend in population noise exposure (the spine), contrary also to Annex I(b) of the SEA Directive.³⁶⁶
- Item E, the likely evolution of the current state without the plan: not described, for the same reason, and because the expansion is built into the baseline rather than treated as the activity driving the effect.³⁶⁷
- Item F, the relevant available assessment analyses for the receptor: not used, because the central one was never made. Asked in 2026 for its internal comparison of the routes now

³⁶³Noise Abatement Objective for Dublin Airport (May 2026), Expected Outcomes.

³⁶⁴EPA scoping submission (Appendix A1 to SEA Environmental Report for the Noise Abatement Objective (May 2026)), 'Range of Effects'; and the SEA's citation of the EPA 2020 cumulative-effects guidance (SEA Report (DRD), p. 29).

³⁶⁵EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1.

³⁶⁶EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item B; Directive 2001/42/EC (SEA Directive), Annex I(b).

³⁶⁷EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item E; SEA Report (DRD), p. 1.

flown against the routes the 2004 and 2005 Environmental Impact Statements assessed, daa answered that it holds no such record, the nearest document being a compliance report which carries forecast contours from the 2004 Statement through to the 2022 relevant action but “does not include noise level comparison”. The comparison on which any conclusion about the change in the noise situation depends has therefore not been withheld from the Authority; it has never been carried out by anyone. Route-attributable measurement tells the same story in a different way: daa’s returns to Fingal’s 2023 section 9 direction recorded the departure route flown against each correlated noise event, and its returns for 2023 and 2024 under the 2024 direction recorded no route, no flight identifier and no aircraft type, so the attribution that had been present was removed from what followed (Annex A; Annex C).³⁶⁸

- Item G, the total impacts of the plan on the receptors: not identified. NRTG had to construct the GIS analysis to establish that the Routes Flown affect roughly twenty-five times as many people as the EIS Route within the 3 km half-width affected corridor (Annex C; the full study is deposited as Annex H).³⁶⁹
- Items H and I, cumulative impacts identified and tested against thresholds: neither. The SEA dismissed cumulative effects as “not in any way additional.”³⁷⁰
- Item J, assumptions, uncertainties and gaps reported: not reported. The SEA stated “no assumptions or difficulties were encountered.”³⁷¹
- Item K, avoidance and mitigation for the adverse effects: none proposed. The available avoidance measure, the lower-noise route enabled by deviating the 28L missed approach, was proposed by NRTG and remains untested (B.1.4 and B.2.6).³⁷²
- Item M, European sites and the Habitats “in combination” test: the cumulative effects on the estuary and coastal Special Protection Areas are screened out by assertion (B.4.2).³⁷³
- Item O, monitoring of significant effects: not recommended. The SEA stated “monitoring is not

³⁶⁸EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item F; daa decision on AIE 2611, 1 May 2026, Item 3; and daa’s returns to the section 9 directions of 4 September 2023 and 1 March 2024.

³⁶⁹EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item G; G. O’Brien, Quantifying Noise Impact of Dublin Airport’s North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

³⁷⁰EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, items H and I; SEA Report (DRD), p. 14.

³⁷¹EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item J; SEA Report (DRD), p. 23.

³⁷²EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item K.

³⁷³EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item M; Appropriate Assessment Screening Report for the Draft Regulatory Decision (“the AA Screening Report (DRD)”), p. 27.

required,” though Article 10 of the SEA Directive requires it.³⁷⁴

B.4 The SEA Environmental Report for the DRD, and the AA screenings

267 Without prejudice to the primary objection in Part A, and strictly in the alternative:

B.4.1 The same SEA defects carry to the Regulatory Decision report, which also rebases the expansion into its baseline

268 The Strategic Environmental Assessment of the Draft Regulatory Decision repeats the defects set out in B.3, including one decisive on its own: it builds the expansion into the baseline. Like the objective’s SEA, it scopes “Noise and Vibration” out, on the basis that “the implementation of the proposed measure will not ... result in impacts to Noise and Vibration”, and scopes Population in on the same positive-effects-only basis, “the potential for positive effects on the Population through the implementation of the proposed measure to mitigate the effects of aircraft noise”, so that here too no row can register an adverse effect (B.3.1).^{375 376}

269 Each Environmental Report’s future baseline “assumes that daa will seek to grow the airport,” and rests on “the assumption that the previously mentioned Infrastructure Application is consented.”³⁷⁷ Because the growth and its noise are placed in the baseline, the assessment pre-judges the very planning decision on the Infrastructure Application still live before the planning authority. The objective of environmental assessment “cannot be circumvented by the splitting of projects” so that the cumulative effect of successive stages escapes measurement;³⁷⁸ and where works form part of a consent procedure carried out in several stages “the ultimate purpose of which is to enable” the increased activity, the effects of that activity must be assessed, “at the very least,” at the stage now in hand, not deferred behind a baseline that assumes the next stage consented.³⁷⁹

270 The division of the assessment in two is not an inference; the report announces it, and the report’s

³⁷⁴EPA, Guidance on Cumulative Effects Assessment in SEA (2020), Table 4.1, item O; SEA Report (NAO), p. 35; Directive 2001/42/EC (SEA Directive), Article 10.

³⁷⁵SEA Report (DRD), p. 19.

³⁷⁶SEA Report (DRD), p. 19.

³⁷⁷SEA Report (DRD), pp. 1 and 20; SEA Report (NAO), p. 26.

³⁷⁸Abraham and Others (Case C-2/07).

³⁷⁹Brussels Hoofdstedelijk Gewest and Others (Case C-275/09).

own figure contradicts it. The “Plan” this assessment covers is defined as the Draft Regulatory Decision alone: “ANCA is preparing the amendments to the NAO and the DRD as two separate outputs, and the amendments to the NAO are subject to a separate environmental assessment ... Therefore, the ‘Plan’ comprises the DRD.”³⁸⁰ The exclusion does not extend to the baseline. The same report states that “These amendments form part of the future baseline,” having described them as providing “more stringent criteria which Dublin Airport has to apply with [sic]”, so the Decision has been assessed against a state of the world in which the objective is already amended, although the amendment is not adopted and is the other instrument this consultation puts out for comment.³⁸¹ Either the two are separable, in which case this assessment could not assume the objective in force, or they are not, in which case one assessment was required rather than two. One regulatory response to one identified noise problem is thus divided into two strategic environmental assessments, each free to find no significant effect in part because the matter is treated as the other’s (B.3.1). Yet the same report’s Figure 2-2 places both in a single chain: a tiered diagram running from national aviation and climate policy, through the regional strategy, the Fingal Development Plan and the amended Noise Abatement Objective, through the Airport Noise Action Plan, Local Area Plan, Central Masterplan and Investment Programme, to the Regulatory Decision at its foot; and the figure’s key classifies the plan, the Regulatory Decision itself, as a “Driver of both passenger growth and environmental/community protection.”³⁸² The legend is an admission in Fingal’s own hand: the noise authority’s environmental report classifies its regulatory decision as a driver of passenger growth, which is what this submission says these instruments optimise for. And the diagram defeats the severance: an authority that depicts one integrated, growth-driven programme and then assesses it in separate slices, no assessment carrying the whole, produces the outcome the anti-splitting principle exists to prevent; what Abraham forbids for projects cannot be achieved for a plan by the author’s own choice to write two reports.

- 271** The report contradicts itself: it states that “no assumptions or difficulties were encountered,”³⁸³ while elsewhere conceding that “the assessment undertaken is necessarily high level” and “makes the assumption that adherence to the final RD will require Dublin Airport to operate a newer ... fleet.”³⁸⁴ And it dismisses cumulative effects by treating the decision as “not in any way additional” to existing plans,

³⁸⁰SEA Report (DRD), §2.3.2.

³⁸¹SEA Report (DRD), §3.5.3, p. 20.

³⁸²SEA Report (DRD), Figure 2-2 (“Relationship between the RD and other Plans”) and key, p. 15.

³⁸³SEA Report (DRD), p. 23.

³⁸⁴SEA Report (DRD), p. 27.

rather than assessing it in combination with the expansion it accompanies.³⁸⁵ The “necessarily high level” assessment also proceeds from a premise that describes neither instrument: each report tells consultees that the instrument under assessment “mandates that operations occur within defined noise limits”, the NAO SEA of the amended objective and the DRD SEA of the decision in near-identical terms.³⁸⁶ Neither contains a noise limit: the objective sets five-yearly aggregate reduction outcomes and a tracked indicator carrying only an “expectation” of mitigation (B.1.1), and the draft decision contains one insulation condition and no limit of any kind. The environmental case for no significant effect thus rests on growth being constrained by prescribed limits that do not exist.

- 272** The report also gives no reasons at all under one of the four heads by which it organises the measures. Paragraph 2.3.4 states a ground for ruling out three of the four; the operating-restrictions bullet carries no text, and the reader is referred to the DRD Report, whose measures tables mark every restriction “No” and cost none.³⁸⁷ Annex I(h) requires an outline of the reasons for selecting the alternatives dealt with, and a report silent under a quarter of its own framework does not supply one (B.3.1).
- 273** The report’s engagement with the one measure it does assess fares no better. Its single quantified benefit, that insulation “could result in a reduction in high annoyance by up to 24% following full or majority insulation”, matches no table of the decision, whose own effectiveness analysis puts the chosen option’s high-annoyance reductions at 2 to 10 per cent (B.2.2); the sentence that follows, promising “a further 25% of all properties exposed to levels greater than 60 dB Lden in 2031 compared to the Residential Sound Insulation Grant Scheme”, does not parse.³⁸⁸ Its alternatives section states that of the measures explored “none were deemed appropriate on technical grounds other than a land use planning measure, and a noise insulation schemes [sic]”, which is not the decision’s stated reasoning, that reasoning being cost-effectiveness, uptake uncertainty and redistribution; and it concludes that “there were no viable alternative measures that needed to be assessed as part of this SEA process”, although the decision it assesses constructed and costed four scheme options (B.2.1), none of which the environmental report mentions.³⁸⁹

³⁸⁵SEA Report (DRD), p. 14.

³⁸⁶SEA Report (NAO), p. 33; SEA Report (DRD), p. 27.

³⁸⁷SEA Report (DRD), p. 12 (section 2.3.4).

³⁸⁸SEA Report (DRD), p. 28; DRD Report, p. 138.

³⁸⁹SEA Report (DRD), p. 29.

B.4.2 The Appropriate Assessment screen-out is circular and templated

- 274** The conclusion that the decision has no Likely Significant Effect on the European sites rests entirely on its being insulation-only, the very scope under challenge, and is reached by a template applied identically to two different instruments.
- 275** Article 6(3) of Directive 92/43/EEC requires that any plan “likely to have a significant effect” on a Natura 2000 site, alone or in combination with other plans, “shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives,” and that the competent authority may agree to it “only after having ascertained that it will not adversely affect the integrity of the site.”³⁹⁰ The Court of Justice has held that the authorisation criterion in that provision “integrates the precautionary principle”, and that a competent authority may authorise only where “no reasonable scientific doubt remains as to the absence of such effects.”³⁹¹ A screening that excludes likely significant effect must therefore do so beyond reasonable scientific doubt; this one assumes its own conclusion.
- 276** The screening for the Regulatory Decision concludes that “there is no pathway for potential likely significant effect as the plan does not propose any measures which could increase or negatively affect existing noise levels.”³⁹² The decision is screened out because it is insulation-only, which is the point in dispute.
- 277** It records that the estuary and coastal Special Protection Areas are “often overflown,”³⁹³ and that “noise emissions from aircraft will reach 71dB LAmax between 5.54km and 13.1km from the end of the airport runways.”³⁹⁴ Having established a noise pathway to the protected sites, the screening closes it by assertion.
- 278** The assertion can be tested against the screening literature, which both reports carry in the same terms. The disturbance thresholds it cites are that “high level disturbance effects are likely with continuous noise above 72 dB or sudden noise above 60 dB”, and its own computation puts individual departures at “between 68 and 72 dB” LAmax over the sites, above the sudden-noise level at which

³⁹⁰Directive 92/43/EEC (Habitats Directive), Article 6(3).

³⁹¹Case C-127/02 Landelijke Vereniging tot Behoud van de Waddenzee, judgment of 7 September 2004, operative part 4.

³⁹²AA Screening Report (DRD), p. 27.

³⁹³AA Screening Report (DRD), p. 10.

³⁹⁴AA Screening Report (DRD), p. 11.

high-level disturbance is likely.³⁹⁵ The report avoids that conclusion by reclassifying the events: aircraft noise “can be considered to generate near continuous noise”, experienced “with noise gradually increasing as aircraft get closer ... avoiding sudden peaks”, so that only the 72 dB continuous threshold applies, and “[b]ecause of this sudden noise levels are not considered any further”.³⁹⁶ A discrete overflight is reclassified as continuous noise, and the threshold it exceeds thereby ceases to apply to it: the same averaging manoeuvre the objective applies to residents (B.1.3), here applied to protected birds, on an added assumption of habituation that Fingal’s own health evidence rejects for children’s learning in the same corpus.

- 279** The in-combination limb is answered by a list that omits the only relevant projects. The screening matrix, asked whether other projects or plans together with the plan could affect the sites, lists sixteen instruments, policies, spatial strategies and development plans with no emissions of their own, and concludes that “[t]here are no additional sources for effects to Natura 2000 sites in combination with other projects or plans”.³⁹⁷ Absent from the list are the Infrastructure Application itself, the project whose noise problem this decision exists to address, which adds movements over sites the screening describes as “often overflowed”, and the ACP-approved relevant action that sets the night regime over the same sites. The two live projects with a noise pathway to the sites are the two the in-combination table does not contain.
- 280** Whether any screening determination exists is itself unclear on the face of the record. The Draft Regulatory Decision tells the public that “Screening has concluded that the Draft RD is not predicted, either alone or in-combination with other plans or projects, to have a significant effect” and that “[t]he AA Screening Determination is available for public inspection”; the screening report itself says that it “forms the basis on which ANCA has concluded that, if the Regulatory Decision is made on substantially the same terms as the draft Regulatory Decision, a Stage 2 Appropriate Assessment is not required. A screening determination is not being made at this juncture.”³⁹⁸ Either a determination exists and the report’s conditional wording is wrong, or none does and the decision misstates the position to consultees; on the no-reasonable-scientific-doubt standard set out above, a conditional non-determination cannot support the decision’s public claim.

³⁹⁵ AA Screening Report (NAO), p. 11.

³⁹⁶ AA Screening Report (NAO), pp. 11-12 and 29.

³⁹⁷ AA Screening Report (NAO), pp. 29-30.

³⁹⁸ Draft Regulatory Decision (F23A/0781), p. 7; AA Screening Report (DRD), p. 3.

- 281** The screening reports for the objective and for the Regulatory Decision are near-verbatim duplicates: the same “no pathway ... does not propose any measures” conclusion appears in both.³⁹⁹ The objective’s version goes further, asserting its “reduction in noise emissions will be indirectly beneficial for” the birds,⁴⁰⁰ presupposing a reduction an insulation-only decision does not secure, and that the spine shows the re-baselined objective does not require. A screen-out reasoned by template, and in one version by a benefit it cannot deliver, is not the plan-specific appropriate assessment Article 6(3) requires. The relief (Remedy 10): a proper appropriate assessment of the decision in the context of the expansion it responds to, not a screen-out on its own narrow scope.
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Remedies sought

- 282** These remedies are sought without prejudice to the primary objection in Part A and strictly in the alternative; each is a step a competent authority acting independently would take, and is pleaded as a legal demand, not as rhetoric. Their inclusion must not be read as inviting the Authority to cure the institutional and procedural defects identified in Part A by adopting better substantive measures: those defects require independent resolution and cannot be remedied through this consultation, whatever measures it adopts.
- 283** NRTG asks Fingal, acting as ANCA, to change direction, from accommodating the noise and minimising its measurement to reducing it. Because the accompanying dossier shows that daa does not comply voluntarily, supplies only partial information when directed, and disputes or ignores findings, these remedies are framed to be verifiable and self-executing rather than dependent on daa’s good faith. For each, Fingal should specify what is required, in what form, by what date, and who verifies it independently of daa, and use its statutory powers to compel compliance. These remedies are also not severable at the Authority’s election. They address a single causal chain, and adopting the downstream ones while declining the upstream one reproduces the defect rather than curing it. The measurement remedies matter because they reveal what the routing does; the routing remedy matters because it

³⁹⁹ Appropriate Assessment Screening Report for the Noise Abatement Objective (“the AA Screening Report (NAO)”), p. 28; AA Screening Report (DRD), p. 27.

⁴⁰⁰ AA Screening Report (NAO), p. 29.

is what the measurement would show. To improve the insulation scheme, or the metrics, or the reporting, while leaving the routing to a later process is to accept a better account of an unaltered harm. It is also the specific error the European Commission has already found against the process at this airport, where the pillars of the Balanced Approach were addressed selectively rather than together (B.2.1). A partial adoption should therefore not be recorded, and will not be treated, as a response to this submission: NRTG asks that any decision adopting some of these remedies and not others state which were declined and on what evidence, so that the choice appears on the face of the record rather than in the gap between what was asked and what was granted.

284 NRTG asks Fingal to take the following steps before adopting the Noise Abatement Objective, the Draft Regulatory Decision or the Strategic Environmental Assessment:

1. Restore 2019 as the reference year for the Noise Abatement Objective and for the SEA baseline; reinstate the population exposed above 65 dB Lden and 55 dB Lnight as a binding reduction outcome rather than a tracked indicator; and remove the economic-benefit test that the Act does not authorise, applying instead the statutory scheme under which the airport's development prospects bear only on the selection of measures.
2. Before making any finding of compliance, commission the comparison of the Routes Flown against the 2004 and 2005 EIS Route, and do so by directing that it be carried out rather than by asking for it to be handed over. daa has confirmed that it holds no such comparison, so there is nothing to produce and a direction to supply would be answered, correctly, with a nil return. Section 9(10)(a) meets the difficulty on its own terms: it empowers the Authority to direct the airport authority "to carry out such assessments and give to it such information or plans arising from such assessments", and the airport authority "shall comply ... as soon as is practicable".⁴⁰¹ Specify the scenarios, metrics and population basis, set a date, require the underlying per-event records in a defined and reproducible format with the departure route recorded against each event, treat partial or late compliance as non-compliance, and use Fingal's statutory enforcement powers if daa does not comply rather than proceed on the missing analysis. Failing daa's compliance, adopt NRTG's reconstruction (Annexes A and C) or an independent equivalent, not daa's unsupported assertion.
3. Adopt a single-event L_{Amax} objective for mitigation targeting and eligibility, built on the per-

⁴⁰¹Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(10).

event noise data Fingal already holds, with thresholds and event-count limits that apply at schools as well as at dwellings. The pathway and the domestic precedent stand acknowledged in the decision's own text, the END's Annex I invitation and the ACP's 80 dB LASmax criterion (B.1.3); the measure complements the Lden and Lnight burden metrics rather than replacing them.

4. Perform the Balanced Approach in full, thoroughly costing operating restrictions, including a passenger or movement cap, a night-movement limit, and a respite or runway and route alternation scheme, together with the financial-instrument class the Regulation's Annex I requires to be inventoried at 1.4.5, assessed on an index capable of bearing on the routes flown and not on the aircraft alone, against the insulation measure, and select the most cost-effective measure or combination on that evidence. The costing must include the regime the applicant's own forecasts already quantify: the original 2007 night conditions, which on Fingal's own tables reduce the night population above 55 dB Lnight roughly twenty-fold while still delivering the applicant's full passenger target about three years later (B.2.1).
5. Close the gap between the harm floor and the remedy floor, by lowering the insulation eligibility threshold below 60 dB Lden and adopting the operational measures that can protect the 45 to 60 dB Lden population and the night-time population an insulation scheme cannot reach. In particular, establish the voluntary night-noise buyout scheme the Joint Committee on Transport recommended "as a matter of urgency," night-time noise being, in the Committee's words, "the biggest problem for affected residents" and already in "a 343% breach of ANCA's own night-time noise abatement criteria."⁴⁰² Any insulation measure adopted must also carry, on the face of the decision, a completion deadline and annual delivery milestones verified independently of daa: on the applicant's own estimate the scheme would take "some 15 years or more to deliver in practice", which would bring the last eligible household its remedy around 2041, the objective's final target year, while the additional movements begin at consent.⁴⁰³
6. Set and verify the eligibility contour and the administration of any insulation scheme independently of daa and on the public record: the contour must be computed by Fingal or an independent party on a published methodology, with the input data and assumptions published in full

⁴⁰² Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026), Recommendation 16.

⁴⁰³ DRD Report, Appendix I, p. 3.

before any approval, and the scheme must be administered and audited by a party other than daa. Require also that the scheme's cost be established and published annually, as a single figure for the year, alongside the number of dwellings then eligible and the number treated. The decision presently commits to no such figure: the grant ceiling is a bracketed placeholder, and the only costing on the record is the applicant's own estimate of approximately €140 million over some fifteen years, offered in an observation rather than in the instrument. A mitigation measure whose annual cost is neither computed nor published cannot be weighed against any alternative measure, which is what the cost-effectiveness assessment at Article 5(2)(c) requires, and cannot be seen by those who ultimately bear it.

7. Exercising Fingal's own noise powers under section 9, require as a noise abatement operational procedure the departure route that exposes the fewest people, rather than adopting a remedy whose geography is defined by the route that exposes the most. The fewest-people route need not be designed from scratch: the EIS Route the permission was granted on already identifies it, and the land it overflies was reserved accordingly, so requiring it imposes no new constraint and invents nothing. This is not a demand for literal compliance by a straight line flown over whoever lies beyond five nautical miles. The objective is the route that minimises the total population overflow, engineered to that end by qualified designers using the low-density corridors between the settlements to the west of the airport, with the affected communities at the design table (Remedy 11). The assessed EIS Route is the benchmark and the proof that a lower-population routing was intended and feasible, not a track to be reinstated regardless of what better design would now yield. That feasibility is quantified, not asserted: the deposited studies (Annexes E and H) model engineered routings that thread the low-density corridors between the settlements and remove population from overflight without placing any new population under a corridor, and Dublin already applies population-avoidance design of this kind on its existing 10R departure.⁴⁰⁴ NRTG does not ask that its own routings be adopted: it offers them as a starting point for an independent design exercise, to which it is willing to contribute. The operator objection is spent: the airlines have told the Joint Committee on Transport that they will fly whatever standard instrument departure is published, and have offered their simulators

⁴⁰⁴G. O'Brien, Quantifying Noise Impact of Dublin Airport's North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>.

to evaluate alternatives.⁴⁰⁵ What is required is that the design exercise be competently commissioned and conducted. The requirement must be specific and not deferrable: identify the route by reference to the assessed EIS Route, direct that the implementing instrument procedure be designed to deliver it within a stated time, and provide that commitments by daa to “engage”, “explore”, or “determine how a process could be run” do not discharge it. Any reduction the route delivers must be credited against the 2019 reference year and counted as a fall in net population exposure, not converted into movement or passenger headroom beneath the 2023 baseline.

8. Re-run the Strategic Environmental Assessment lawfully, assessing reasonable alternatives including retention of the 2019 baseline and operating restrictions, assessing noise rather than scoping it out, using that baseline, and providing for monitoring with defined indicators and thresholds, a remedial trigger if exposure rises, and public reporting verified independently of daa.
9. Measure and report population exposure by actual exposure. An insulated or planning-condition-mitigated dwelling must continue to be counted as exposed and adversely affected for the purposes of Noise Abatement Objective monitoring, assessment and reporting; the affected-population count must not be reduced by reclassifying mitigated dwellings, as daa’s observation on the draft decision asks.⁴⁰⁶ Mitigation is to be recorded in addition to the exposure figure, never in substitution for it, so that the count reflects the noise people actually receive and not an accounting reduction.
10. Carry out a proper appropriate assessment of the decision in the context of the expansion it responds to, rather than screening it out on the basis of its own narrow scope.
11. Put the affected communities at the design table, as partners and not as recipients of a finished route. Any change to the departure routes should be developed with the affected residents through a standing noise-abatement committee, the course ICAO Doc 8168 already prescribes for the planning of new departure routes (B.2.6), with the candidate routes and the population each would overfly placed before that committee before any route is selected, not a participation logged after the decision is taken. A route presented as a completed and “compliant” design, one that satisfies a track-keeping corridor while moving the overflight onto another com-

⁴⁰⁵ Joint Committee on Transport, 25 March 2026.

⁴⁰⁶ Draft Regulatory Decision Report (May 2026), Appendix I, daa observation.

munity, does not meet the objective: the measure is the route that overflies the fewest people (Remedy 7), arrived at with the communities affected, not handed down and defended as compliant after the fact. This is the course the Joint Committee on Transport itself recommended: that “ANCA engages with local communities’ representative groups as part of its review of noise abatement objectives,” which is the review now in hand.⁴⁰⁷

12. Fix professional responsibility for the noise outcome and assess the measures as one joined-up scheme. The noise-relevant design choices, including the departure procedure required at Remedy 7, should be specified and signed off by appropriately qualified professionals accountable for the noise result, verified independently of daa and AirNav Ireland, whose divided handling produced the unassessed routing; and the scheme should be assessed as a whole rather than split among bodies each treating the noise consequence as another’s concern. The division by which daa, AirNav Ireland and the Irish Aviation Authority each disclaim the routing’s noise effect (B.2.6) is how it has gone unowned; the objective should place responsibility, not perpetuate the division.

- 285** This submission asks Fingal, acting as ANCA, for nothing it is not already bound to do: to use the noise powers it holds and reduce the disturbance, as the law requires. The noise analysis behind these figures is built from daa’s own measurements and the population analysis from published census data, all of it openly published and reproducible, and NRTG will provide any of it on request.

Questions requiring a reasoned response

- 286** Under the law this submission requires a reasoned response, not an acknowledgement. Under Article 8 of Directive 2001/42/EC, Fingal, performing the ANCA function, must take the opinions expressed in this consultation meaningfully into account before it adopts the objective, the Draft Regulatory Decision or the Strategic Environmental Assessment; and under Article 9(1)(b) it must, on adoption, publish a statement of how those opinions were taken into account, with its reasons for adopting the

⁴⁰⁷ Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026), Recommendation 11.

plan in the light of the reasonable alternatives.⁴⁰⁸ The Aarhus Convention, to which the State and the European Union are party, imposes the same duties: under Article 6(8) due account must be taken of the outcome of the public participation, and under Article 6(9) the decision must be made public together with the reasons and considerations on which it is based.⁴⁰⁹ Regulation 598/2014, Article 5(2)(e), separately requires that the stakeholders are consulted in a transparent way on the intended actions.⁴¹⁰ A response that records this submission as received and noted, without engaging its substance, discharges none of those duties. The substance to be engaged includes the Authority's own public account of the draft decision: its consultation video of 18 July 2026 is set out and answered point by point at Annex J, where each of its assurances is met by the Authority's or the operator's own record.

- 287** When the decision reports that stakeholders were consulted in a transparent way, the question is who the Authority's record counts as a stakeholder. The Regulation answers it: Article 6(2)(d)(i) requires that the interested parties consulted include at least "local residents living in the vicinity of the airport and affected by air traffic noise, or their representatives, and the relevant local authorities".⁴¹¹ The operative register at this airport answers differently: the decision's own Appendix G reproduces the engagement measures with the word "stakeholder" attached to the aviation actors alone, CE-1 "Aviation Stakeholder Engagement" being "Continue and enhance engagement with stakeholders including AirNav Ireland, airlines, and aviation and local authorities", while residents appear only in a separate row, CE-2, as a "Community Engagement Programme" of meetings, forums and webtools, with daa the responsible party for both.⁴¹² The residents Article 6(2)(d)(i) names among the interested parties to be consulted at least are, in the operative vocabulary, not stakeholders but an audience to be engaged.⁴¹³ The category was not always drawn that way. daa's 2020 report to the Authority, quoted verbatim on the Authority's own F20A/0668 register, stated that "Main airport and community stakeholders were consulted on these NPRs throughout 2016 and 2017".⁴¹⁴ The communities were stakeholders when their consultation was cited to validate the routes; they are outside the category now that the consequences of those routes fall to be decided.

⁴⁰⁸ Directive 2001/42/EC (SEA Directive), Article 8 and Article 9(1)(b).

⁴⁰⁹ Aarhus Convention, Article 6(8) and Article 6(9).

⁴¹⁰ Regulation (EU) No 598/2014, Article 5(2)(e).

⁴¹¹ Regulation (EU) No 598/2014, Article 6(2)(d)(i).

⁴¹² DRD Report, Appendix G, p. 33 (Table 9.2).

⁴¹³ DRD Report, Appendix G, p. 33 (Table 9.2).

⁴¹⁴ ANCA Direction 01 (24 February 2021), Appendix A, Request 115.

288 To define the matters on which a reasoned response is required, NRTG sets out the following questions, each answerable from the consultation documents, with the statutory provisions they refer to cited in the body of this submission. The questions on the scope and statutory basis of this consultation, gathered under that heading at the end of the list, go to the threshold grounds in Part A. The remainder are put strictly in the alternative and without prejudice to those grounds, and answering them does not cure the defects Part A identifies. NRTG asks Fingal to answer each in terms, identifying the document, page or record it relies on, in or alongside its statement on adoption. Where Fingal cannot answer from the documents, that absence is itself the answer.

The reference year and the baseline

1. Fingal's section 9 directions of 4 September 2023 and 1 March 2024 required population exposure to be assessed against the 2019 population. On what stated basis did Fingal depart from that reference year, and in which document is the basis recorded?
2. Does Fingal accept that 2023, the year to which it has re-baselined, is the year of highest recorded population exposure to aircraft noise of any reported under the Regulations? If not, identify the higher year and the record.
3. Does Fingal accept that the 2023 population exposure it adopts as the baseline is itself elevated by the deviation from the EIS Route to the Routes Flown, and identify any assessment of how much of the 2023 exposure an EIS-consistent routing would have avoided; or confirm that no such assessment exists?
4. Before re-baselining to 2023 and demoting the 65 dB Lden and 55 dB Lnight reduction outcome to an untargeted indicator, did Fingal carry out the cost-effectiveness assessment Regulation 598/2014 requires when noise-related action is taken? If so, identify the record; if not, state the basis on which that duty does not apply to the weakening of a noise control.
5. In the 2022 objective the duty to secure the reduction of the population above 65 dB Lden and 55 dB Lnight rested with the authority that adopted it; the updated objective replaces that duty with monitoring and an expectation that daa will use measures to mitigate or limit the number. That is a transfer of responsibility for the noise outcome from the regulator to the regulated

- party, and a dilution from duty to discretion. State the reasons for which that transfer is considered capable of achieving the statutory objective, having regard to the conduct record at Annex F; state who, under the updated objective, is answerable if the exposed population rises; and identify where in the consultation documents the transfer is assessed or explained.
6. The 2023 baseline reflects single-runway departure operations, the Stage 3 simultaneous dual-departure operation for the North Runway having been cancelled in September 2023 and not since reinstated. How will the re-baselined expected outcomes remain valid once simultaneous dual-departure operations resume; identify any assessment of whether they remain achievable in that event, or confirm that none has been carried out.
 7. The decision's own schedule lists daa's 2024 noise contour report, presenting the contour areas and the populations and dwellings within them, and the Authority's own review of 2024 records the highly annoyed and highly sleep disturbed populations as higher than 2023's; no 2024 exposure figure appears in the decision. Publish the 2024 contour areas and exposure counts; state whether they are consistent with the forecast trajectory relied on; and state why the assessment proceeds on 2023 with a measured 2024 in the Authority's hands (B.1.1).⁴¹⁵

The economic-benefit test

8. The report states its economic-benefit test in two inconsistent ways: the Explanation of the Policy Objective confines the objective to "limiting changes in the noise situation only to those which are outweighed by the wider economic and consumer benefits of aviation," while the review's recommendations require changes to "be limited to those that have demonstrable [sic] wider economic and social benefits." Identify the provision of the Aircraft Noise (Dublin Airport) Regulation Act 2019, or of Regulation 598/2014, that authorises either test, or any test conditioning the reduction of aircraft noise on economic benefit. Then reconcile the two formulations: state which governs, and, on the wording of the Explanation as drafted, confirm whether the objective confines noise reduction to changes that economic benefit outweighs, that is, defeats.
9. State the monetary value Fingal assigns to the "wider economic and consumer benefits of aviation" on which the objective relies, and the document in which that value is quantified.

⁴¹⁵DRD Report, Appendix A, p. 9; NMER 2024, p. 33.

10. State the monetary value Fingal assigns to the noise harm against which that benefit is weighed, and the document in which it is quantified.
11. The economic and consumer benefit of the expansion being the same whichever departure route is flown, and the required divergence, with it the departure interval, being preserved by a missed-approach redesign, what benefit would be lost by selecting the departure route that overflies the fewest people?

The Balanced Approach and the measures considered

12. Identify, for each of a passenger or movement cap, a night-movement limit, and a respite or runway and route alternation scheme, the document and page at which its cost-effectiveness was evaluated, as Article 5(3) requires.
13. The decision addresses the environmental charging regime only as a means of reducing noise at source. Identify the document and page at which a noise-related charge indexed otherwise than on the aircraft's noise quota count, and so capable of bearing on which routes are flown rather than on which aircraft fly them, was evaluated for cost-effectiveness; or confirm that the financial-instrument class Annex I requires to be inventoried at 1.4.5 was assessed against the first pillar's purpose only (B.2.1).
14. Section 1.8 of the Draft Regulatory Decision Report tabulates the Balanced Approach measures considered and proposes one new measure, the residential insulation scheme, marking every other measure "No". For each measure marked "No", identify the cost-effectiveness assessment on which it was excluded; if none was carried out, state the basis on which it was excluded without one. For each measure the same table marks as part of a current measure, identify the record in which its impact on and contribution to the noise situation is described, as Annex I to the Regulation requires; and identify in particular where the report describes steeper or segmented approach procedures and ground based augmentation, automated area-navigation and performance-based navigation procedures, and encroachment management, none of which appears in the inventory of measures currently in place at Tables 9-7 to 9-11 (Annex G.1).

15. For the measures the same table credits as already in place, and in particular NPR compliance, which Table 9-8 defines as “close adherence to the published Standard Instrument Departure (SID) track”, identify the assessment on which the Authority satisfied itself that the corridor it scores measures adherence to that procedure, the procedure terminating its first leg at an altitude rather than a place and setting no minimum bank angle, and daa having stated that it does not track SID compliance nor refer flights deviating from the published SID to AirNav (Annex K); or state that no such assessment was carried out.
16. Paragraph 2.3.4 of the Draft Environmental Report themes the four Balanced Approach measures and gives a stated ground for ruling out three of them, but carries no text under the operating-restrictions head and refers the reader to the DRD Report.⁴¹⁶ Identify where in the consultation documents operating restrictions were considered for the purposes of section 9(3) of the 2019 Act, and state the ground on which they were ruled out; or confirm that no such consideration was carried out.
17. daa’s completed Aircraft Noise Change Considerations Proforma, submitted with the application, answers that “EU Reg598 does not apply” to the cost-effectiveness and Balanced Approach questions. Does Fingal accept that Regulation 598/2014 applies to this decision; if so, on what basis was that statement relied on, or left uncorrected, before the assessment proceeded as a Balanced Approach exercise under that Regulation?
18. daa’s Environmental Impact Assessment Report for the same application concludes that “No significant effects were found as a result of the Proposed Development” and that no new mitigation is required because the Noise Abatement Objective is forecast to be met; Fingal’s own assessment identifies a noise problem arising from the same application, requiring a noise-related action. State which finding the Authority adopts; if both, reconcile them otherwise than through the 2023 re-baseline (B.2.1).
19. Confirm whether the quieter departure route, a noise abatement operational procedure under Article 5(3)(c), was considered and costed before operating restrictions were excluded; if so, identify the record.
20. The noise abatement departure procedures assessment on which the decision’s write-down of

⁴¹⁶SEA Report (DRD), p. 12 (section 2.3.4).

that pillar rests was provided by the applicant, appears in the decision's schedule of documents only as a redacted file, and NRTG has been unable to locate it published on the Authority's website or elsewhere. Publish the report in full, or identify where it is published; identify what was redacted from the version the Authority holds, by whom and on what basis, and state whether the Authority's assessment was conducted on the redacted or the unredacted version; and state how the publication requirement of Action 5 of the Noise Action Plan 2019-2023 has been discharged, or confirm that it has not been.⁴¹⁷

21. The Draft Regulatory Decision Report summarises that assessment in three bullet points. Reconcile the summarised finding that approximately 73 per cent of departures already operate using NADP-1 with the Authority's own radar finding that NADP-2 is used for approximately 75 per cent of departures; and state the basis on which the decision reports daa's survey as showing that NADP-2 accounted for approximately 75.3 per cent of all departures, the applicant's own Section 19 return recording that figure as the share of departures operated by the thirteen airlines that responded.
22. The Authority's own review of the effectiveness of noise mitigation measures during 2024, prepared under section 21(2) of the 2019 Act, records that successive noise assessments since 2019 "have determined that noise related operating restrictions remain a necessary component of the noise management framework for Dublin Airport" and that their absence "has been an impediment to the delivery of the noise-limit aspect of the NAO during 2024"; the draft decision declares operating restrictions not required because the 2026 NAO's expected outcomes can be achieved without them. Reconcile the two findings; and state what action under section 21(4) the Authority has taken, or will take, on its own finding that the noise-limit aspect went undelivered (B.2.1).⁴¹⁸

The noise zones and the development plan

23. Fingal's own Tables 10-4 to 10-6 show that, with the development, the enforced 2007 night conditions would hold the night population above 55 dB L_{night} to 279 people in 2027 against 5,542

⁴¹⁷DRD Report, Appendix A (Schedule of Application Documents); DRD Report, pp. 98-99; daa Annual Compliance Report 2022, measure NA-3.

⁴¹⁸NMER 2024, pp. 32 and 34; Aircraft Noise (Dublin Airport) Regulation Act 2019, s.21(4).

under the regime the decision assumes, and the applicant’s own scenario definitions record that those conditions still deliver its 40 million passengers by about 2034. State why the quantified difference between the two presumptively valid night regimes played no part in the consideration of measures, and identify where in the decision that comparison is weighed (B.2.1).⁴¹⁹

24. The decision records that the airport noise zones “do not fully represent all areas that are or could be affected by aircraft noise” and defers their review to the Fingal Development Plan process, no date attached. State the date by which the zones will reflect the routes actually flown; and state how an insulation-scheme eligibility cut-off keyed to the adoption date of zones the Authority itself concedes unrepresentative can stand while that review is pending (B.2.1, B.2.5).⁴²⁰
25. ANCA recommended on 2 March 2026 that the updated Fingal Development Plan noise zones deliver “zoning alignment with current and forecasted airport operations and flightpaths”.⁴²¹ Confirm whether the review will therefore draw the zones on the routes as currently flown rather than on the routes assessed and permitted; and state how a review of the Fingal Development Plan is to address the population newly overflowed in County Meath, which lies outside that plan.
26. Fingal’s development plan declares that noise-sensitive development in Zone A, at 63 dB LAeq,16hr or 55 dB Lnight, “may be harmful to health or otherwise unacceptable” and is to be resisted. Reconcile that standard with a decision of the same Council that demotes the 55 dB Lnight outcome to a tracked indicator and offers residents already exposed at those levels insulation only from 60 dB Lden (B.2.1, B.2.2).⁴²²

The insulation scheme

27. The forecast review at Appendix B states its conclusion subject to a stated exception: “Overall, most aspects of the forecast appear reasonable (point 9 below is an exception)”, point 9 being an assumed growth of G0 aircraft in the night period which “does not appear to be in line with publicly announced fleet replacement plans”, including a ten-fold increase in movements

⁴¹⁹Draft Regulatory Decision Report (May 2026), Appendix E (Modelled Runway Use and Restriction Scenarios), p. 5; DRD Report, p. 90.

⁴²⁰DRD Report, pp. 114, 115, 119 and 127.

⁴²¹DRD Report, p. 114.

⁴²²NAO Report, p. 17 (Table A1-1, Zone A).

of the out-of-production B737-400. The Draft Regulatory Decision Report summarises the review as concluding that the forecasts “appear reasonable” with one issue, and nowhere mentions the exception. Publish the reconciliation of point 9; state which of the assumed G0 night movements are cargo operations; and state the sensitivity of the night-time noise forecasts, the noise-quota headroom modelling and the eligibility contours to that assumption (B.2.4).⁴²³

28. daa’s observation on the draft scheme estimates circa 2,500 eligible properties, “an estimated total cost of approximately €140 million”, and “some 15 years or more to deliver in practice”; the decision’s cost-effectiveness analysis prices Option 4’s incremental budget over the RSIGS at €3.7 to €4.1 million and nowhere engages the applicant’s figures. Reconcile the applicant’s and the Authority’s quantifications of the same scheme; state which the decision relies on; and state the completion deadline by which the last eligible dwelling will have received its works (B.2.5; Remedies 4 to 6).⁴²⁴
29. The Grant that defines the value of the only measure in the decision appears in the operative text as “up to [€40,000] (Index Linked)”, in square brackets, twice. State the grant value; state why it was bracketed for consultation; and confirm the figure consultees are taken to have commented on (B.2.5).⁴²⁵
30. State the cost-effectiveness ranking of the scheme options with costs scaled to the participation each option assumes, rather than to full uptake; state why no option offering full funding below 60 dB Lden was constructed; and confirm the quality-assurance status of the cost estimates underlying the grant value (B.2.2).⁴²⁶
31. For each forecast year, state how many dwellings above 55 dB Lnight fall outside the 60 dB Lden eligibility contour, and what a night-exposed dwelling outside that contour receives under this decision (B.2.2).⁴²⁷

⁴²³DRD Report, Appendix B (Key Conclusion and point 9); DRD Report, p. 83.

⁴²⁴DRD Report, Appendix I, p. 3; DRD Report, p. 139 (Table 12-11).

⁴²⁵Draft Regulatory Decision (F23A/0781), p. 12.

⁴²⁶DRD Report, Appendix J, pp. 18 and 22, and section 8 (Assessment of Likely Cost-Effectiveness, which restarts its own page numbering); DRD Report, p. 138.

⁴²⁷DRD Report, p. 130.

The departure route as a noise measure

32. Does Fingal accept that requiring a departure route, as a noise abatement operational procedure differentiated by flight path, is within its powers under section 9 of the 2019 Act? If not, state the basis. Fingal has itself, as planning authority, alleged that “[a]ircraft flight paths are not operating in accordance with the permitted flight paths” as a head of unauthorised development (Warning Letter ENF 22/166B, 21 September 2022), so the departure routing is not a matter beyond the Council’s remit; and the section 9 power is in any event a distinct statutory function, not contingent on the enforceability of any planning condition.⁴²⁸ The State’s own National Aviation Policy classes “adapting operational procedures to reduce noise impact on the ground” as one of the four principal elements of the Balanced Approach, so a departure route differentiated to reduce that impact is a noise-abatement operational procedure of the kind both that policy and Article 5(3)(c) contemplate.⁴²⁹
33. daa has told the Joint Committee on Transport that its flight-path review cannot advance until the North Runway relevant action sets a baseline. Does Fingal accept that a relevant action under the 2019 Act can only impose, revoke, revoke and replace, or amend an operating restriction, that departure routes are not operating restrictions, and that the route measure is therefore neither assessed by the relevant action nor lawfully deferred until it, daa having itself removed the departure routes from the change-to-permitted-operations application it was assessing and filed the relevant action (F20A/0668) for night operating conditions only?⁴³⁰
34. Identify any assessment, by Fingal, daa or AirNav Ireland, of the lower-noise straight departure that NRTG’s proposed 28L missed-approach deviation would enable; if none exists, confirm that the lower-noise route has not been assessed.
35. ICAO Doc 8168 provides that local noise-abatement committees are included in the planning of new departure routes. Identify the mechanism by which the affected communities were included in the planning of the North Runway departure routes; or confirm that they were not. The only consultation daa held on the routes, in 2016, was on routes that were never implemented and was confined to Fingal: no event, advertisement, leaflet or poster reached County Meath,

⁴²⁸Fingal County Council planning enforcement warning letter ENF 22/166B, 21 September 2022.

⁴²⁹National Aviation Policy for Ireland (2015), the four principal elements of the Balanced Approach.

⁴³⁰Planning permission F20A/0668 (December 2020), night-time operating conditions.

over which the overflight now falls, and only nine of the 261 survey respondents are identifiable as Meath residents.⁴³¹

The Routes Flown and the EIS Route

36. The Draft Regulatory Decision Report records that a further airspace adjustment was introduced in February 2023 affecting the westbound departure routes from the North Runway. Was that change assessed against the 2004 and 2005 EIS Route; identify the record, or confirm that it was not.⁴³²
37. ICAO Doc 8168 provides that safety shall always be the highest priority, and strongly recommends an aeronautical study where a State is required to deviate from PANS-OPS. The 28R departure turn is coded to begin at about the 120 m (394 ft) minimum the criteria permit. State whether any aeronautical study or equivalent safety assessment was conducted for the February 2023 departure routes; if none was, state the basis on which the safety effect of coding the turn to begin at that height was assessed.
38. daa's completed proforma answered, and the assessment adopted, that the development results in no change to the use of the airport's runways or airspace, with the result that those factors were "removed from further assessment". State the basis on which any change in the departure routes was excluded at the noise-problem-identification stage.
39. State whether daa supplied the comparison of the Routes Flown with the EIS Route and the five segregated operating-mode contour sets that Fingal's section 9 directions required, and if so, publish them. As to the comparison, daa has since confirmed that it holds no such record, so state instead whether Fingal ever established that the analysis it had directed did not exist. Where either was not supplied, identify the record of any step Fingal took to enforce its own direction; if no such step was taken, state the basis on which Fingal proceeded to a draft objective and decision built without analysis it had itself determined to be necessary.
40. daa began an Environmental Impact Statement in 2016/2017 for the change to permitted operations it consulted on that year, which included the departure routes, then abandoned the

⁴³¹ daa, North Runway Report (February 2017), sections 2.4.1, 2.6.1 and 2.6.2.

⁴³² DRD Report, p. 60.

routes element, dropped it from the application, and filed the relevant action (F20A/0668) for night operating conditions only, the assessment being completed as the Environmental Impact Assessment Report published in December 2020.⁴³³ The routes now flown have therefore never been assessed against the EIS Route in any completed assessment. Does Fingal accept that it cannot treat the route now flown as a settled given around which to build the objective when that route has never been assessed against the route the permission was granted on, and that the route cannot be said to await a relevant action from which daa itself removed it?

Single-event noise and schools

41. Identify the single-event maximum-level (L_{Amax}) and sound-exposure-level values, at Kilcoskan and St Margaret's National Schools, that Fingal relied on in setting the objective; or confirm that the objective contains no single-event metric.
42. Fingal's own commissioned Health Evidence Review found "a role for L_{Amax}-based metrics". State the basis on which no single-event or L_{Amax} metric was adopted as an outcome of the Noise Abatement Objective, given that finding.
43. The draft decision's insulation remedy is confined to residential dwellings, leaving schools to the 2016 Schools Sound Insulation Scheme, which is keyed to an averaged indoor metric and to a contour predicted before the Routes Flown changed in February 2023. State the basis on which no single-event or updated provision for schools was adopted, given Fingal's own commissioned evidence that the in-class harm is driven by individual overflights, and that reducing aircraft noise at a school improves children's reading at any level of exposure.

The Strategic Environmental Assessment and Appropriate Assessment

44. Identify the reasonable alternatives assessed in the Strategic Environmental Assessment, as Article 5(1) of Directive 2001/42/EC requires; if none were assessed, state the basis.

⁴³³ daa's 2016/2017 draft Environmental Impact Statement (RPS document MDE0951Rp0015), released under access-to-information request AIE 2607, internal-review decision of 26 May 2026; Commissioner for Environmental Information, OCE-93474-R9M5N9 (31 March 2021), recording the suspension of work on the draft pending the Aircraft Noise (Dublin Airport) Regulation Act 2019, its resumption in June 2019 and its completion as the Environmental Impact Assessment Report published in December 2020. See Annex F, section 3.

45. The Strategic Environmental Assessment for the Draft Regulatory Decision defines the “Plan” as the DRD alone, the amendments to the NAO being “subject to a separate environmental assessment”, while its Figure 2-2 depicts the amended NAO, the Noise Action Plan and the Regulatory Decision as a single tiered programme and classifies the plan as a driver of passenger growth. State the basis on which one programme was assessed in two separate strategic environmental assessments, and identify the assessment in which the programme’s effects are assessed as a whole.
46. State the basis on which “Noise and Vibration” was scoped out of the Strategic Environmental Assessment of a noise abatement objective, and reconcile that with the scoping-in of Population and Human Health for potential positive effects only: identify where any potential adverse effect of the amendments on the exposed population was assessed.
47. State the basis on which “Carbon and Climate Change” was scoped out while growth to roughly 40 million passengers in 2030 and 54 million from 2050 is built into the same assessment’s baseline.
48. Identify the monitoring of significant environmental effects provided for under Article 10 of Directive 2001/42/EC; if none, state the basis, given that both the EPA in scoping and Article 10 require it.
49. State the plan-specific basis, beyond reasonable scientific doubt and independent of the decision’s insulation-only scope, on which likely significant effect on the European sites was excluded, given the screening’s own finding that aircraft noise reaches 71 dB LAmax over those sites.
50. The Strategic Environmental Assessment of the amended objective tells consultees that “[s]eparate reduction rates have also been proposed for population HSD and HA”; the published amendment sets a single rate for both populations, and the NAO Report’s Consideration 10 records that separate rates were considered and refused. State whether the environmental report assessed the amendment as published; reconcile its account of the plan’s night protection with Consideration 10; and identify the “defined noise limits” within which each environmental report states that the instrument it assesses mandates operations to occur

(B.3.1, B.4.1).⁴³⁴

51. The EPA’s scoping submission directed that “[t]he environmental assessment should reflect the obligations under the ZPAP”, the Zero Pollution Action Plan whose Target 2 requires a 30 per cent reduction by 2030 in the share of people chronically disturbed by transport noise against 2017 levels. State how the amended objective and the draft decision contribute to that target measured from 2017; and identify where in either environmental report that assessment appears (B.3.1).⁴³⁵
52. The screening matrix’s in-combination row lists sixteen plans and concludes that there are “no additional sources for effects to Natura 2000 sites in combination with other projects or plans”; neither the Infrastructure Application nor the North Runway relevant action appears in the list. Identify where the plan was assessed in combination with those two projects, as Article 6(3) requires; or confirm that it was not (B.4.2).⁴³⁶
53. State the basis on which discrete aircraft overflights computed by the screening itself at 68 to 72 dB L_{Amax}, above the 60 dB sudden-noise threshold in its own cited literature, were treated as incapable of sudden-noise effects by classifying aircraft noise as continuous (B.4.2).⁴³⁷
54. State whether an Article 6(3) screening determination for the Draft Regulatory Decision has been made; if so, by whom, on what date, and where it may be inspected; and reconcile the decision’s statement that “[t]he AA Screening Determination is available for public inspection” with the screening report’s statement that “[a] screening determination is not being made at this juncture” (B.4.2).⁴³⁸

The Part A grounds, and the scope and statutory basis of this consultation

55. This consultation is Fingal’s regulatory decision (acting as ANCA) on planning application F23A/0781, the Infrastructure Application, referred to ANCA by the planning authority under section 34B of the Planning and Development Act 2000, on which ANCA found on 22 January

⁴³⁴SEA Report (NAO), pp. 16-17 and 33; SEA Report (DRD), p. 27.

⁴³⁵SEA Report (NAO), Appendix A1 (EPA scoping submission), p. 45; SEA Report (NAO), p. 20.

⁴³⁶AA Screening Report (NAO), pp. 29-30.

⁴³⁷AA Screening Report (NAO), pp. 11-12.

⁴³⁸Draft Regulatory Decision (F23A/0781), p. 7; AA Screening Report (DRD), p. 3.

2026 that a noise problem would arise from the carrying out of the development as proposed. Does Fingal accept that the departure routes, and the reference year against which their noise is measured, are within the scope of this consultation and not matters reserved to some other process? If it contends otherwise, state the basis on which the routing and the baseline that produce the noise problem ANCA has itself identified fall outside the decision it is taking on that application (A.1).⁴³⁹

56. State the basis on which the Authority considers that, in taking this decision, it is the competent authority “independent of any organisation which could be affected by noise-related action” that Article 3(2) of Regulation 598/2014 requires, identifying the functional separation relied on; or state that it does not address that question, and why not (A.3).
57. State who the Authority treats as “stakeholders” for the purposes of section 9(2)(e) of the 2019 Act and Article 5(2)(e) of Regulation 598/2014 in this process, and confirm whether local residents affected by air traffic noise, whom Article 6(2)(d)(i) names among the interested parties to be included at least, are within that category. If they are not, state the basis for adopting an operative definition narrower than the Regulation’s.⁴⁴⁰
58. State whether Fingal accepts that the correction of an unassessed change may be deferred until the consents that depend on that change have been obtained; if it does not accept that proposition, state what in this decision, which adopts the changed operation’s 2023 noise climate as the reference point while the change remains unassessed, is consistent with rejecting it; and state the date on which the relevant action was decided, what Fingal considers to remain outstanding in it, and the point at which the deferral of the route measure ends (A.2).
59. Insulation is the only mitigation measure this decision proposes while the route measure is deferred. Confirm that expenditure on the insulation scheme will not be treated, in any subsequent review or assessment of the departure routes, including the promised independent assessment and any future Balanced Approach exercise, as a factor weighing against a change of route; and if that confirmation cannot be given, identify the provision under which the expenditure would be so weighed, and by whom (B.2.5).

60. Appendix G section 2.8 assembles the criteria by which a noise problem may be identified, in-

⁴³⁹SEA Report (DRD), p. 5.

⁴⁴⁰Aircraft Noise (Dublin Airport) Regulation Act 2019, s.9(2)(e); Regulation (EU) No 598/2014, Articles 5(2)(e) and 6(2)(d)(i).

cluding aircraft noise exposure “increasing in the absence of an expansion of the airport”, an evolution of the noise likely to introduce a specific population “to a certain level of effect which they may not have previously observed”, and the recognition that a noise problem may be identified if one is “perceived”. State which of those criteria the 2019 to 2023 noise situation failed to meet; and if none, state why no noise problem was identified in respect of the routing change independently of the Infrastructure Application (A.3).⁴⁴¹

The right to a review of the substantive and procedural legality of the decision is guaranteed by Article 9 of the Aarhus Convention.⁴⁴² A decision that adopts the objective, the Draft Regulatory Decision or the Strategic Environmental Assessment without answering these questions, or that answers them only in general terms without identifying the record relied on, will be relied upon as evidence that Fingal did not take this submission into account, in any review of the decision, including any statutory appeal, judicial review before the High Court, the European Commission, and the Aarhus Convention Compliance Committee. And a decision that adopts these instruments without first curing the defects in Part A, the want of an independent competent authority and the unassessed baseline, will be relied on in each of those fora as evidence that the domestic remedy is illusory.

289 Submitted by:

290 Gareth O’Brien BE (Civil) MSc North Runway Technical Group gareth.obrien@dublin-north-runway.com Our ref: NRTG/2026/qfb Dated: 29 August 2026

291 All correspondence regarding this submission, including the statement under Article 9(1)(b) of Directive 2001/42/EC on adoption, should issue to the email address above, quoting our reference.

Annexes

⁴⁴¹DRD Report, Appendix G, pp. 9 and 13.

⁴⁴²Aarhus Convention, Article 9(2).

Annex	Exhibit	Status
A	What Fingal's section 9 directions demanded, and what daa supplied	bound in this pack
B	Single-event noise by route and community, North Runway 28R departures (2023)	bound in this pack
C	Routes Flown vs 2004/2005 EIS Route comparison	bound in this pack
D	Westerly-conditional Lden/Lnight, segregated-mode 28R-departure contribution	bound in this pack
E	Published single-event Lmax model, Kilcoskan/St Margaret's figures	deposited study, https://doi.org/10.5281/zenodo.19567721
F	Why every measure must be fixed, public and enforceable to a deadline: the documented record of daa, AirNav Ireland and the competent authority	bound in this pack
G	Fingal's and daa's own documents (measures table, exposure tables, completed proforma, contour maps)	bound in this pack
H	EIA-conformance GIS study: Routes Flown vs the 2004/2005 EIS Route, population newly overflowed and affected	deposited study, https://doi.org/10.5281/zenodo.19567671
I	The access-to-information record: design, routing and assessment materials sought, withheld, and on appeal	bound in this pack

Annex	Exhibit	Status
J	The regulator's own account: the ANCA consultation video of 18 July 2026, quoted verbatim and answered	bound in this pack
K	The corridor is not drawn around the coded departure procedure: runway-by-runway failure rates, the coded CA leg, where the fleet turns, and why correcting the corridor would still not measure the assessed route	bound in this pack

292 Annexes E and H are published studies deposited on Zenodo under the DOIs above, incorporated into this submission by reference; they are not bound into the pack, and the pack is complete without them. Each carries its full reproducibility package (source data, scripts and QGIS projects), and NRTG will supply either in full, in print or electronically, on request.

Appendix: the three documented forms of the route-term conflation

293 The four route terms are set out at the start and applied in B.2.6. Their conflation has been a persistent feature of how the route issue has been presented since the routes changed in 2022, recurring across the public record in three compounding forms.

294 First, the inversion of “Noise Preferential Route.” Internationally the NPR is the noise-minimising route, set first; daa applies the term to a corridor it draws around the procedure after it is designed, and, acting as ANCA, Fingal holds no record of how that corridor was built other than daa's own letter of 15 March 2023.⁴⁴³

295 Second, the misdescription of the IAA's safety approval as an approval of the routes. daa has pub-

⁴⁴³daa Noise Preferential Route corridor definition (daa letter, 15 March 2023); ANCA decision on AIE/2026/014, 15 May 2026 (no ANCA record of the corridor's geometry, width or calibration).

licly presented the routes as “approved” by the IAA, when the IAA approves the instrument procedure against mandatory safety criteria only, confirmed it did not check planning, NPR or noise compliance, and did not require the route chosen.⁴⁴⁴

- 296** Third, the delivery of the conflation to the public at scale. daa’s noise-complaint system has issued responses to more than 200,000 complaints using templates, many of which affirm that the aircraft complained of “remained within the airspace or the Noise Preferential Route (NPR or environmental corridor)”.⁴⁴⁵

Table of authorities

- 297** This list consolidates the authorities cited in the footnotes. The footnotes carry the per-claim citation; this table groups the sources.

Legislation, EU and international instruments, and guidance

- Aircraft Noise (Dublin Airport) Regulation Act 2019
- Local Government Act 2001 (s.149)
- Planning and Development Act 2000 (s.34B; s.177A; s.34(4B) as inserted by s.36 of the Dublin Airport (Passenger Capacity) Act 2026, not yet commenced)
- European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007)
- Directive 2003/4/EC (access to environmental information)
- Climate Action and Low Carbon Development Act 2015 (s.15(1))
- Dublin Airport (Passenger Capacity) Act 2026 (No. 25 of 2026; commenced 27 July 2026 by S.I. No. 366 of 2026, other than sections 36 and 37)
- Regulation (EU) No 598/2014

⁴⁴⁴Irish Aviation Authority role statements (JCTC-33-1126, 7 November 2023; FOI 2025.122, 13 May 2025).

⁴⁴⁵daa noise-complaint response templates, February to August 2024 (FOI noise-complaint responses); volume per the Aarhus Convention communication, paragraph 67.

- Regulation (EU) No 139/2014 (EASA aerodromes), ADR.OR.C.005
- Law no. 99-588 of 12 July 1999 (France), establishing the Autorité de contrôle des nuisances sonores aéroportuaires, since 2010 the Autorité de contrôle des nuisances aéroportuaires (ACNUSA); ACNUSA annual reports
- Directive 2001/42/EC (SEA Directive)
- Directive 92/43/EEC (Habitats Directive)
- Aarhus Convention
- ICAO Doc 8168 (PANS-OPS), Volume II (7th ed, 2020)
- ICAO Doc 9734, Safety Oversight Manual, Part A (3rd ed, 2017)
- ICAO Annex 19, Safety Management (2nd ed, 2016)
- National Aviation Policy for Ireland (2015), and its First (November 2016) and Second (February 2019) Progress Reports
- UK Civil Aviation Authority, CAP 1691, Departure Noise Mitigation (July 2018)
- European Commission Decision C(2026) 919 (10 February 2026)
- EPA, Guidance on Cumulative Effects Assessment in SEA (2020)
- UK Department for Transport track-keeping convention (DfT00393, 2017)
- ANCA Direction 01 (24 February 2021) and Appendix A; ANCA Direction ANCA/DI 02/2023 (19 October 2023), s.19(5)(a) directions on the F20A/0668 register and the ANCA website

Case law

- Commission v Ireland (Case C-215/06)
- Wells (Case C-201/02)
- Comune di Corridonia and Others (Joined Cases C-196/16 and C-197/16)
- Abraham and Others (Case C-2/07)
- Brussels Hoofdstedelijk Gewest and Others (Case C-275/09)
- Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen (Case C-411/17)
- Commission v Ireland (Derrybrien) (Case C-261/18)
- Landelijke Vereniging tot Behoud van de Waddenzee (Case C-127/02)
- Diamrem Ltd v Cliffs of Moher Visitor Centre Ltd [2021] IECA 291
- Friends of the Irish Environment and SMTW Environmental v Minister for Housing, Local Govern-

- ment and Heritage [2024] IEHC 588 (under appeal)
- Aer Lingus Limited v Irish Aviation Authority [2024] IEHC 624

Consultation documents (ANCA / daa, planning ref F23A/0781, May 2026)

- Noise Abatement Objective for Dublin Airport (May 2026)
- Noise Abatement Objective Report (May 2026) (cited as “NAO Report”)
- Draft Regulatory Decision (F23A/0781)
- Draft Regulatory Decision Report (May 2026), including Appendices B, C, G, I and J (cited as “DRD Report”)
- SEA Environmental Report for the Noise Abatement Objective (May 2026), including Appendix A1 (EPA scoping submission) (cited as “SEA Report (NAO)”)
- SEA Environmental Report for the Draft Regulatory Decision (May 2026) (cited as “SEA Report (DRD)”)
- Appropriate Assessment Screening Report for the Noise Abatement Objective (cited as “AA Screening Report (NAO)”)
- Appropriate Assessment Screening Report for the Draft Regulatory Decision (cited as “AA Screening Report (DRD)”)
- Professor Charlotte Clark, State of the Evidence for Aviation Noise Effects on Health and Wellbeing (January 2026), commissioned for the consultation (cited as “Clark (2026)”)

NRTG exhibits and deposited studies

- Annex A: What Fingal’s section 9 directions demanded, and what daa supplied
- Annex B: Single-event noise by route and community, North Runway 28R departures (2023)
- Annex C: Routes Flown against the 2004 and 2005 EIS Route
- Annex D: Westerly-conditional Lden/Lnight, segregated-mode 28R-departure contribution
- Annex E: G. O’Brien, Quantifying Single-Event Aircraft Noise: a Calibrated L_{Amax} Model for Dublin Airport North Runway Departures (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567721>
- Annex F: Why every measure must be fixed, public and enforceable to a deadline: the documented record of daa, AirNav Ireland and the competent authority (NRTG conduct and oversight

record)

- Annex G: Fingal's and daa's own documents (the Balanced Approach measures table, the population-exposure tables, daa's completed Aircraft Noise Change Considerations Proforma, and the 2021 and 2023 noise contour maps), reproduced from the consultation documents
- Annex H: G. O'Brien, Quantifying Noise Impact of Dublin Airport's North Runway Departure Routes: An EIA-Conformance Gap Analysis (2026), Zenodo, <https://doi.org/10.5281/zenodo.19567671>
- Annex I: The access-to-information record on the design, routing and assessment of the North Runway departures (requests, outcomes and appeal status, as at 29 August 2026)
- Annex J: The regulator's own account of the decision, the ANCA consultation video, in which Fingal's Director of Service acting as the competent authority describes, on the public record, the design this submission challenges

Correspondence and records

- daa response to information request AIE 2611 (Records 1, 3, 4, 5 and 6; Item 3 'no record' admission)
- Fingal (ANCA) decision on AIE/2026/014 (15 May 2026), including daa's letter of 15 March 2023
- AirNav Ireland access-to-information response (ref 57179)
- Irish Aviation Authority role statements (JCTC-33-1126, 7 November 2023; FOI 2025.122, 13 May 2025)
- Fingal County Council report, 22 July 2025
- ANCA, A review of the effectiveness of aircraft noise mitigation measures at Dublin Airport during 2024, section 21(2) statutory review (cited as "NMER 2024")
- Fingal County Council (planning authority) enforcement notice related to Condition 5, July 2023, as recorded in the Noise Action Plan for Dublin Airport 2024-2028
- Department of Transport FOI decision TRA-FOI-2025-0121 (30 June 2025), Aviation Division staffing and qualifications
- Department of Transport FOI decision TRA-FOI-2025-0110 (24 July 2025), Record 16 (26 April 2023)
- Department of Transport FOI decision TRA-FOI-2026-0085 (6 May 2026), schedule of external aviation-expertise engagements since 2020

- Office of the Ombudsman, OMB-158504-Q7T9Q4 (19 March 2026)
- Planning permission F04A/1755 (North Runway), Condition 1
- IAA Aeronautical Information Publication, chart AD 2.24-13
- New Tower and Parallel Runway Concept of Operations at Dublin Airport (daa/IAA-ANSP, ref DUB.AM.AIRS.CONOPS.DAP/IAA.790, 6 November 2020), released under AIE 2621
- daa, “North Runway: Consultation on Flight Paths and Change to Permitted Operations” (October 2016 booklet and display materials; February 2017 consultation report)
- daa, Briefing Note for the Department of Transport, December 2022, released under FOI
- daa, Regulation 598/2014 report (30 July 2021); daa Annual Compliance Report 2022 (measure NA-3)
- Anderson Acoustics, Departure Profiles Noise Investigation (ref 7669_001R_1-0_JN, October 2024)
- An Bord Pleanála, Inspector’s Report PL06F.217429 (2007) and Board Direction PL06F.217429 (2007); Inspector’s Report PL06F.314485 (29 May 2024)
- Planning permission F20A/0668 (December 2020); Fingal County Council planning enforcement warning letter ENF 22/166B (21 September 2022)
- Noise Action Plan for Dublin Airport 2024-2028
- ANCA responses to members of the public, Refs 2024/57, 2024/90, 2024/0119 and 2024/124
- Fingal (ANCA) decision on AIE-2026-016 (3 June 2026); Fingal (ANCA) decision on AIE/2026/014, ANCA’s letter of 28 February 2023
- ANCA document register for F20A/0668 and consultation page for F23A/0781, fingal.ie (captured 22 and 30 July 2026)
- AirNav Ireland: briefing note to the Department of Transport (13 May 2025, FOI 2025.122); response and presentation to the Department (8 and 18 May 2023); internal email of 5 November 2023; decision on the aeronautical-study request (20 May 2026)
- Irish Aviation Authority, State Plan for Aviation Safety 2023-2025, Volumes I and II; Irish Aviation Authority submission to An Bord Pleanála, case ABP-314485-22
- ASAP s.r.o., replies of 10 and 11 July 2026 to NRTG/2026/esb
- Civil/Military Letter of Agreement (2019)
- Department of Transport, Assistant Secretary (Aviation) role page, gov.ie, with Internet Archive

captures of 25 April 2025 and 11 March 2026; NRTG/2026/khe and reply TTAS-MO-03646-2026 (23 July 2026)

- European Union Aviation Safety Agency, Management Board, Irish members
- AECOM, Health Impact Analysis, and the Appraisal of Sustainability, for the draft Heathrow Airport Northwest Runway Airports National Policy Statement (2026)

Oireachtas records

- Joint Committee on Transport, Pre-Legislative Scrutiny Report on the Dublin Airport (Passenger Capacity) Bill 2026 (8 May 2026)
- Joint Committee on Transport, 4, 24 and 25 March 2026
- Joint Committee on Transport, Tourism and Sport, pre-legislative scrutiny of the General Scheme of the Aircraft Noise (Dublin Airport) Regulation Bill, 3 October 2018
- Dáil Éireann: Question No. 9 (oral), 11 October 2017; Aircraft Noise (Dublin Airport) Regulation Bill 2018, Second Stage, 12 December 2018; Dublin Airport (Passenger Capacity) Bill 2026, 23 and 30 June 2026
- Seanad Éireann, 8 July 2026
- Parliamentary Questions 246 [31817/26], 247 [31818/26], 248 [31820/26], 250 [31824/26], 251 [31825/26] and 252 [31827/26], 30 April 2026; 50 [52104/26] and 51 [52106/26], 8 July 2026