

Dublin Airport (Passenger Capacity) Bill 2026

Hari Gupta

Senior Parliamentary Researcher (Law)

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Abstract

The main purpose of the Dublin Airport (Passenger Capacity) Bill 2026 would be to confer a power on the Minister for Transport to make an order to amend or revoke a planning condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport. The Bill would also allow daa (formerly the Dublin Airport Authority) to apply to the Minister to make that order and would provide a process for environmental assessments to be carried out by An Coimisiún Pleanála. The proposed amendments in the Bill would limit the capacity of planning authorities to impose a passenger cap as a planning condition in the future. However, the Bill is designed such that it protects daa's live planning application and decisions made by the Aircraft Noise Competent Authority. Finally, the Bill would provide an exemption from the application of section 15 of the Climate Action and Low Carbon Development Act 2015.



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Email: library.and.research@oireachtas.ie

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Contact

Houses of the Oireachtas
Leinster House
Kildare Street
Dublin 2
D02 XR20

Tel: +353 (0)1 6183000

Twitter/X: @OireachtasNews

www.oireachtas.ie



Executive Summary

- The **Dublin Airport (Passenger Capacity) Bill 2026** (the 'Bill') and **Explanatory Memorandum** were published on 19 June 2025.
- The Bill is scheduled for Second Stage debate in Dáil Éireann on Tuesday, 23 June 2026.
- The Bill is comprised of 39 sections divided into seven (7) Parts.
- The main purpose of the Bill is to confer a power on the Minister for Transport (the 'Minister') to make an order (a 'Section 25 Order') to amend or revoke a planning condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport.
- The Bill would also allow daa (formerly the Dublin Airport Authority) to apply to the Minister to make that order and would provide a process for an Environmental Impact Assessment (EIA) and an Appropriate Assessment (AA) to be carried out by An Coimisiún Pleanála ('ACP').
- Proposed amendments in the Bill would limit the capacity of Fingal County Council ('FCC') or ACP to impose a passenger cap as a planning condition attached to a grant of planning permission in the future.
- The Bill would not interfere with FCC's or ACP's capacity to consider and deal with daa's live planning application or decisions made by the Aircraft Noise Competent Authority (the 'ANCA').
- The Bill would also provide an exemption from the application of **section 15 of the Climate Action and Low Carbon Development Act 2015**.
- According to the Explanatory Memorandum, the Bill confers the power on the Minister to make a Section 25 Order in the public interest, having regard to the strategic importance of Dublin Airport in supporting international connectivity, trade, tourism, investment and the movement of persons and cargo to, from and within the State.
- The **General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the 'General Scheme') was published on 12 February 2026.
- No Regulatory Impact Assessment was published for the Bill.
- On 13 February 2026, the Minister, Darragh O'Brien TD, referred the General Scheme to the Oireachtas Joint Committee on Transport (the 'Committee') for pre-legislative scrutiny (PLS), and, on 19 February 2026, the Committee invited members of the public, stakeholders and interested parties to submit written submissions, to assist the Committee with its pre-legislative scrutiny.
- The Committee conducted public hearings to engage with 22 key stakeholders as part of its PLS process on six separate days, **4 March 2026, 18 March 2026, 24 March 2026, 25 March 2026, 14 April 2026 and 15 April 2026**.
- The Committee published its **Report on Pre-Legislative Scrutiny of the General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026** on 8 May 2026 ('PLS Report'). The PLS report included 16 recommendations.

- The publication of the Bill follows three (3) consecutive calendar years for which the number of passengers landing into and departing from Dublin Airport exceeded 32 million passengers per annum, a figure that was first exceeded in 2019.
- On 19 March 2026, the Library and Research Service published a **Briefing Paper on the General Scheme of the Dublin Airport (Passenger Capacity) Bill**. The Briefing Paper focusses on the policy and legal context of the proposed legislation, drawing on some of the PLS process and other commentary.

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Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
A4A	Air Transport Association of America
AA	Appropriate Assessment
ABP	An Bord Pleanála
ACP	An Coimisiún Pleanála
Aircraft Noise Regulation	Regulation (EU) No 598/2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach
ANCA	The aircraft noise competent authority in Fingal County Council
Bill	Dublin Airport (Passenger Capacity) Bill 2026
Briefing Paper	Briefing Paper on the General Scheme of the Dublin Airport (Passenger Capacity) Bill
CJEU	Court of Justice of the European Union
Committee	Oireachtas Joint Committee on Transport
CORSIA	Carbon Offsetting and Reduction Scheme for International Aviation
daa	Dublin Airport Authority
Department	Department of Transport
EIA	Environmental Impact Assessment
ECHR	European Convention on Human Rights

Term	Meaning
FCC	Fingal County Council
General Scheme	General Scheme of the Dublin Airport (Passenger Capacity) Bill
IAA	Irish Aviation Authority
ICAO	International Civil Aviation Organization
Minister	Minister for Transport
NAP	2015 National Aviation Policy
NPF	Project Ireland 2040: National Planning Framework
PATM	Passenger Air Traffic Movement
PLS	Pre-legislative Scrutiny
S25 Decision	IAA's Final Decision on Summer 2025 Coordination Parameters at Dublin Airport
Section 25 Order	A Ministerial Order proposed under section 25 of the Bill to amend or revoke a planning condition relating to the number of air passengers that may use Dublin Airport
Slot Regulation	Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports
W24 Decision	Dublin Airport Winter 2024 Coordination Parameters

Source: Parliamentary Research Service (2026).

Introduction

The **Dublin Airport (Passenger Capacity) Bill 2026** (the 'Bill') was published on 19 June 2026 and is scheduled for Second Stage debate in Dáil Éireann on Tuesday, 23 June 2026. The Bill is made up of 39 sections divided into seven (7) Parts.

The purpose of the proposed Bill as specified in the **Government Legislative Programme, Summer 2026** is "... to address planning constraints impacting continued growth in air connectivity."

If enacted the Bill would empower the Minister for Transport (the 'Minister') to make an order to revoke or amend a planning condition (a 'Section 25 Order') which limits passenger capacity at Dublin Airport and restrict the capacity of a relevant planning authority to impose a planning condition limiting passenger numbers at Dublin Airport. The Bill would not interfere with the planning authority's capacity to consider daa's live planning application or decisions made by the **Aircraft Noise Competent Authority** (the 'ANCA').

The Bill would allow daa to apply to the Minister to make a Section 25 Order and would provide a process for an Environmental Impact Assessment (EIA) and an Appropriate Assessment (AA) to be carried out by An Coimisiún Pleanála ('ACP').

According to the Explanatory Memorandum, the Bill confers the power on the Minister to make a Section 25 Order in the public interest, having regard to the strategic importance of Dublin Airport in supporting international connectivity, trade, tourism, investment and the movement of persons and cargo to, from and within the State.

The Bill would also provide an exemption from the application of section 15 of the Climate Action and Low Carbon Development Act 2015.

The **General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the 'General Scheme') was published on 12 February 2026.

No Regulatory Impact Assessment was published for the Bill.

The publication of the Bill follows three consecutive calendar years for which the number of passengers landing into and departing from Dublin Airport exceeded 32 million passengers per annum, a figure that was first exceeded in 2019.¹ It also comes at a time when passenger numbers travelling through Dublin Airport were at record 36.4 million for the year 2025.²

¹ daa, Passenger Statistics, **2023, 2024, 2025**. See also CSO, **Transport Omnibus 2020: Aviation**.

² J Burns, '**Dublin Airport handled record 36.4 million passengers in 2025, says daa**', *Irish Independent*, 16 January 2026; daa, '**Passenger numbers at Dublin Airport up almost 10% in February**', *Press Release*, 9 March 2026.

The Policy and Legislative Briefing Paper and other LR&S papers

On 19 March 2026, the Library and Research Service published a **Briefing Paper on the General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the 'Briefing Paper'). The Briefing Paper focusses on the policy and legal context of the proposed legislation, drawing on some of the PLS process and other commentary. The Briefing Paper also offers background information on the Bill, providing a detailed overview of the planning and legal framework governing the imposition of a passenger cap on Dublin Airport. It also outlines the decision of the Irish Aviation Authority to consider the passenger cap as an operational constraint when allocating landing and departure slots, and of the possible effects of increasing or abolishing the Dublin Airport passenger cap.

The Briefing Paper was written to accompany this Bill Digest, and the majority of information contained in that paper will not be repeated here. Therefore, it is recommended to read the Briefing Paper in conjunction with this Digest.

The Bill Digest should also be read alongside previous Blog Posts (internal only) and LR&S Papers and Bill Digests including (but not limited to):

Infographic: Ireland's main airports: An economic profile (2026)

Policy and Legislative Briefing Paper: Proposed legislation affecting judicial review of planning decisions (2025)

Blog: Special Measures in the Public Interest (Derrybrien Wind Farm) Bill 2023 (2024)

Spotlight: Environmental, Social and Governance (ESG), and Sustainable Development: The Legal and Regulatory Framework in Ireland (2023)

Bill Digest: Climate Action and Low Carbon Development (Amendment) Bill 2021

Blog: Passenger numbers at Ireland's 5 main airports down 95% compared to same period in 2019 (2021)

Bill Digest: Air Navigation and Transport Bill 2020

Research Paper: A comparison of the planning systems in Ireland and Northern Ireland (2018)

Note: Airport noise restrictions (2018)

Bill Digest: Aircraft Noise (Dublin Airport) Regulation Bill 2018

Background

The Dublin Airport (Passenger Capacity) Bill 2026 (the ‘**Bill**’) was published on 19 June 2026 and is scheduled for Second Stage debate on Tuesday, 23 June 2026, in Dáil Éireann.

The Bill seeks to confer a power on the Minister for Transport (the ‘Minister’) to make an order to amend or revoke a planning condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport (a ‘Section 25 Order’), subject to conditions. The Bill would also allow daa to apply to the Minister to make a Section 25 Order and would provide a process for environmental assessments to be carried out by An Coimisiún Pleanála (ACP). The proposed amendments in the Bill would limit the capacity of planning authorities to impose a passenger cap as a planning condition in the future. Finally, the Bill also provides for an exemption from the application of **section 15 of the Climate Action and Low Carbon Development Act 2015**.

On 10 February 2026, the **General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the ‘General Scheme’) received government approval and was published on 12 February 2026.³

The Minister, Darragh O’Brien TD, referred the General Scheme to the Oireachtas Joint Committee on Transport (the ‘Committee’) for pre-legislative scrutiny (PLS), and, on 19 February 2026, the Committee invited submissions from members of the public, stakeholders and interested parties.⁴

The Committee conducted public hearings to engage with key stakeholders as part of its PLS process on six separate days, **4 March 2026, 18 March 2026, 24 March 2026, 25 March 2026, 14 April 2026 and 15 April 2026**.

The Committee published its **Report on Pre-Legislative Scrutiny of the General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026** on 8 May 2026 (‘PLS Report’). The PLS report included 16 recommendations that are set out later in this paper.

A brief history of the planning aspects of the Dublin Airport passenger cap

Dublin Airport is geographically situated within the boundaries of Fingal County Council (FCC). It follows that FCC is the relevant local planning authority charged with assessing planning applications related to development of Dublin Airport.

³ Department of Transport, ‘**Minister for Transport secures Cabinet approval to address the Dublin Airport Passenger Cap**’, *Press Release*, 10 February 2026; Department of Transport, ‘**General Scheme for the Dublin Airport (Passenger Capacity) Bill 2026**’, *Press Release*, 12 February 2026.

⁴ Joint Oireachtas Committee on Transport, ‘**Joint Committee on Transport calls for submissions from the public on the Dublin Airport (Passenger Cap) Bill**’, *Press Release*, 19 February 2026

The Dublin Airport passenger cap was set via conditions attached to the grant of planning permissions in 2007 and 2008, related to the construction of Terminal 2 and carrying out of extension works to Terminal 1 at Dublin Airport. The conditions were imposed by the then An Bord Pleanála ('ABP') (now An Coimisiún Pleanála ('ACP')) on appeal from planning decisions of FCC.⁵

For both grants of permission, ABP cited that it had considered the existing National Development Plan, the National Spatial Strategy, the Transport 21 policy, and other relevant planning documents. ABP noted that it also had regard to the existing National Climate Strategy when granting permission for the extension to Terminal 1.⁶

The main reasons given for imposing a passenger capacity limit on Dublin Airport was:

*"Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus."*⁷

Under the planning conditions, the combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum (ppa), unless otherwise authorised by a further grant of planning permission (the '32 million ppa conditions').⁸ The grants of permission did not specifically define the term 'passenger' and subsequent requests by daa (formerly the Dublin Airport Authority) for clarification of the term passenger, and amendments to the 32 million ppa conditions to exclude transit passengers, were refused mainly on procedural grounds. However, the inspectors reports for these applications consistently provided that the 32 million ppa conditions cover all passenger types, including origin-destination and connecting/transfer passengers. Also, the counting of airport passenger numbers is subject to internationally accepted conventions, whereby a connecting/transfer passenger is counted as two passengers, arriving and departing.⁹

Figure 1 below shows the passenger numbers for Dublin Airport between 2016 and 2025. For the year 2026, from January till the end of April, there was an 8% growth in passenger numbers compared to the same period in 2025.¹⁰ Based on forecasts provided by the daa, the number of passengers traveling through Dublin Airport is predicted to rise to 55 million ppa by

⁵ Fingal County Council, [Application Details for Planning Reference F06A/1248](#) and [Application Details for Planning Reference F06A/1843](#). See also, An Coimisiún Pleanála, [An Bord Pleanála Reference Number: PL 06F.220670](#) and [An Bord Pleanála Reference Number: PL 06F.223469](#).

⁶ An Coimisiún Pleanála, [An Bord Pleanála Reference Number: PL 06F.220670](#), p. 3, and [An Bord Pleanála Reference Number: PL 06F.223469](#), p. 2.

⁷ An Coimisiún Pleanála, [An Bord Pleanála Reference Number: PL 06F.220670](#), condition 3 and [An Bord Pleanála Reference Number: PL 06F.223469](#), condition 2.

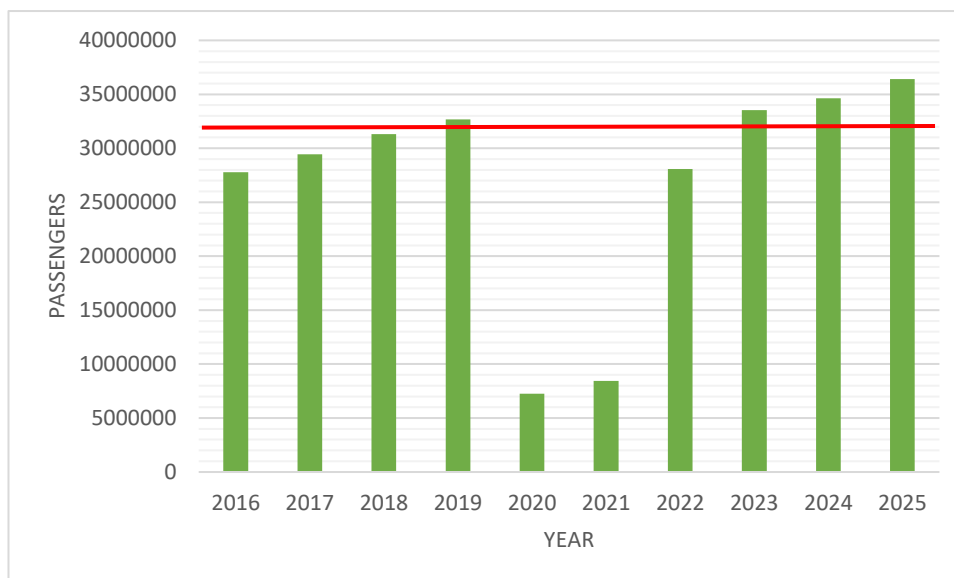
⁸ An Coimisiún Pleanála, [An Bord Pleanála Reference Number: PL 06F.220670](#), condition 3 and [An Bord Pleanála Reference Number: PL 06F.223469](#), condition 2.

⁹ [Inspector's Report PL06F.220670 s. 146A](#), p. 3; [Inspector's Report ABP-305458-19](#), p. 15.

¹⁰ daa, [Passenger Statistics, April 2026](#).

2055. FCC currently holds an Infrastructure Application lodged by daa, covering a number of projects to help accommodate an increase in numbers to 40 million ppa.¹¹

Figure 1: Passenger Traffic at Dublin Airport, 2016-2025



Source: Compiled from daa and CSO statistics (red line shows 32 million ppa)

Other legitimate means of capping passenger numbers

As an EU Member State, Ireland is bound by the provisions of a number of **horizontal aviation agreements** including the **Air Transport Agreement between the European Union and the United States of America** and the **Agreement on Air Transport between Canada and the European Community and its Member States** (the 'Open Skies Agreements'). These agreements are designed to promote market freedom and operational flexibility in commercial aviation, allowing commercial airline operators to fly between any airports located within the borders of a signatory.¹² The Open Skies agreements include provisions that allow states to restrict air traffic for customs, technical, operational, or prescribed environmental reasons.¹³

Under EU law, passenger cap conditions may be imposed to help deal with capacity and congestion, and aircraft noise.

¹¹ Fingal County Council, '**Planning Authority receives Further Information from daa**', 13 November 2024.

¹² European Commission: Mobility and Transport, **Horizontal Agreements**.

¹³ J Mulligan, '**US airlines fear EU-wide impact of likely ruling on Dublin Airport passenger cap**', *Irish Independent*, 24 February 2026. **Air Transport Agreement between the European Union and the United States of America** Art. 3(4). See also **Agreement on Air Transport between Canada and the European Community and its Member States** Art. 13(2).

The EU **Slot Regulation** allows for the relevant competent authority to designate an airport as a 'schedule facilitated' airport or a 'coordinated' airport. These designations allow for capacity issues to be considered when allocating arrival and departure slots to airlines using the relevant airport. Before a designation is made, the competent authority must conduct a capacity analysis, considering environmental constraints, and the result of that analysis must show a serious shortfall in capacity that cannot be resolved through new or modified infrastructure, operational or other changes within a reasonable time frame.¹⁴

Once an airport is designated as 'coordinated', save for emergency situations, only airlines that have an allocated slot may arrive and depart from that airport.¹⁵ A coordinator, acting in an independent, neutral, non-discriminatory and transparent manner must be appointed to allocate slots for the airport.¹⁶ The coordination parameters for slot allocation must be determined twice yearly (for a summer season and a winter season), taking account of capacity and other relevant technical, operational and environmental constraints.¹⁷

Under **Article 3(5) of the Slots Regulation**, when capacity sufficient to meet actual or planned operations is provided at a coordinated airport, its designation as a coordinated airport must be lifted.

Under the EU **Aircraft Noise Regulation**,¹⁸ operational restrictions may be imposed on flight arrivals and departures at airports where a noise problem has been identified. However, Member States are required to ensure that the **Balanced Approach** of the International Civil Aviation Organization (ICAO) is adopted when trying to tackle the noise problem. The Balanced Approach aims to strike a balance between the needs of the aviation industry to develop and grow and the need to minimise and reduce noise in communities surrounding airports, while using the most cost-effective measure or measures to address the issue.¹⁹ Under the Balanced Approach, national authorities are expected to adhere to the following procedures:

1. Enforcing technology standards with a mind to reducing noise at source.
2. Making changes to land use planning and management to help reduce the effect of noise.
3. Instituting noise abatement operational procedures, such as setting noise preferential runways and routes, and using noise abatement procedures for take-off and landing.

¹⁴ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 3.

¹⁵ A 'slot' is defined as "permission given by a coordinator ... to use the full range of airport infrastructure necessary to operate an air service ... on a specific date and time for the purpose of landing or take-off": **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 2(a).

¹⁶ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 4.

¹⁷ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 6.

¹⁸ See also **Aircraft Noise (Dublin Airport) Regulation Act 2019**.

¹⁹ See daa, *Managing Noise*, webpage last accessed on 12 March 2026.

4. Applying operating restrictions (such as nighttime bans) but only as a last resort after consideration of the other three measures.²⁰

Slot allocation at Dublin airport

Dublin is the only coordinated airport in Ireland. It was one of 113 European coordinated airports (out of 218 worldwide) in the 2025 summer season and one of 89 coordinated airports in Europe over the previous winter season.

The Irish Aviation Authority (the 'IAA') is the authority empowered to set the conditions for allocating slots at Dublin Airport. When setting these conditions, the IAA takes account of a range of factors including runway and terminal capacity and airspace breaks.²¹ The IAA breaks up the year into a summer season, lasting seven months (from 30 March to 25 October), and a winter season, covering the remaining five months (from 26 October to 29 March).²²

When setting its winter 2024 slot coordination parameters (the 'W24 Decision') and its summer 2025 slot coordination parameter (the 'S25 Decision'), the IAA noted that the 32 million ppa conditions created a 'relevant operational constraint' on airport capacity. The IAA applied this relevant operational constraint to its conditions for allocating slots, setting a passenger air traffic movement (PATM) seat capacity coordination parameter of 14.4 million passengers in the W24 Decision and 25.2 million passengers in the S25 Decision.²³ When making these decisions, the IAA expressly stated that it did not consider itself as being responsible for the enforcement of, or daa's compliance with, planning conditions, including the 32 million ppa conditions.²⁴ In the S25 Decision, the IAA argued that it did "not believe that slot series entitlements are in the nature of property rights" and therefore airlines were not

²⁰ Oireachtas Library & Research Service, 2018, *L&RS Note: Airport noise restrictions*. See also International Civil Aviation Organization, *Aircraft Noise: Balanced Approach to Aircraft Noise Management*, webpage last accessed on 12 March 2026.

²¹ Council Regulation (EEC) No 95/93 of 18 January 1993, Art. 3. See also B O'Halloran, 'What the Dublin Airport passenger cap ruling means, and what happens next', *Irish Times*, 5 November 2024.

²² Council Regulation (EEC) No 95/93 of 18 January 1993, Art. 3. See also B O'Halloran, 'What the Dublin Airport passenger cap ruling means, and what happens next', *Irish Times*, 5 November 2024.

²³ Irish Aviation Authority, *Final Decision on Winter 2024 Coordination Parameters at Dublin Airport*, 7 May 2024 at [1.3]; Irish Aviation Authority, *Final Decision on Summer 2025 Coordination Parameters at Dublin Airport* at [1.2].

²⁴ Irish Aviation Authority, *Final Decision on Winter 2024 Coordination Parameters at Dublin Airport*, 7 May 2024 at [4.15]; Irish Aviation Authority, *Final Decision on Summer 2025 Coordination Parameters at Dublin Airport* at [4.22].

automatically be entitled to the same slots allocated to it in the equivalent season from the previous year.²⁵

Aer Lingus, Ryanair, the Air Transport Association of America (now known as A4A, comprising nine US-based member airlines and one Canadian associate member airline)) and three other US-based airlines commenced three sets of judicial review proceedings against the W24 Decision and the S25 Decision. In each case the applicant sought orders to quash the decisions of the IAA to establish a PATM seat capacity coordination parameter.²⁶

The application for judicial review did not involve a challenge to the 32 million ppa conditions. However, the applicants did challenge the IAA's decision to consider the 32 million ppa conditions in making the W24 Decision and the S25 Decision.²⁷ The grounds for the substantive challenge were multifaceted and complex and the Court accepted that they would take some time to resolve.²⁸

The airlines also applied to the High Court for injunctive relief, in the form of a partial stay of the S25 Decision. The application for an injunction rested on the claims of the applicants that if the stay were not granted, the PATM seat cap had the potential to cause them permanent, irreparable harm, including financial losses, losses of market share, losses of employees, increased passenger fares, reputational damage arising from cancellations and interference with their claimed rights to historic slots. Moreover, it was argued that it might not be possible for the Court to remedy this loss should the airlines succeed in their substantive claims.²⁹

The IAA did not oppose the application for an injunction and the Court granted the partial stay after noting that daa was the only party responsible for compliance with the 32 million ppa conditions.³⁰ The Court found that the potential harm to the airlines outweighed the public interest in requiring IAA to implement measures to ensure compliance with the 32 million ppa conditions.³¹ On 2 April 2025, the High Court issued a further stay, prohibiting IAA from considering the 32 million ppa conditions when issuing future coordination parameters in its

²⁵ Irish Aviation Authority, [Final Decision on Summer 2025 Coordination Parameters at Dublin Airport](#) at [4.121]. Rather, the IAA stated that slot allocation proceeds from an assessment of capacity and a declaration of coordination parameters flowing from that assessment. Therefore, according to the IAA, historical slot allocation may be affected by coordination parameters which take relevant capacity considerations into account – there is no guarantee that an airline will be allocated the same slots as they received in the previous season even if they satisfy the 80/20 rule: Irish Aviation Authority, [Final Decision on Summer 2025 Coordination Parameters at Dublin Airport](#) at [4.121] and [4.122].

²⁶ These cases were joined: [Aer Lingus Ltd v Irish Aviation Authority \[2024\] IEHC 624](#) at [1], [3].

²⁷ [Aer Lingus Ltd v Irish Aviation Authority \[2024\] IEHC 624](#) at [2].

²⁸ [Aer Lingus Ltd v Irish Aviation Authority \[2024\] IEHC 624](#) at [10].

²⁹ [Aer Lingus Ltd v Irish Aviation Authority \[2024\] IEHC 624](#) at [12].

³⁰ [Aer Lingus Ltd v Irish Aviation Authority \[2024\] IEHC 624](#) at [88].

³¹ [Aer Lingus Ltd v Irish Aviation Authority \[2024\] IEHC 624](#) at [95].

capacity as the competent authority under the Slots Regulation. The stay remains in place until the substantive case is determined.³²

In a separate hearing, all parties to the proceedings consented to a decision by the Court to refer questions on the substantive case to the Court of Justice of the European Union (CJEU).³³ The **Opinion of Advocate General Campos Sánchez-Bordona** (AG) was delivered to the CJEU on 12 February 2026. The AG was of the opinion that:

1. The technical, operational and environmental factors affecting airport capacity are not only comprised of physical or material factors but may also include legal constraints imposed by relevant rules (such as the ABP conditions). The IAA when setting coordination parameters must take the ABP conditions into account as an operational constraint affecting airport infrastructure.³⁴
2. Historical slots are not property rights. They are simply an authorisation to use airport infrastructure and must not be granted without first having regard to the airport's capacity, defined by the coordination parameters. Furthermore, the elimination or reduction of historical slots does not compromise the freedom to conduct a business under Article 17 of the **Charter of Fundamental Rights of the European Union**.³⁵
3. The closure of an airport in order to comply with a requirement that is known well in advance would be an excessively drastic and detrimental measure not provided for in the regulation.³⁶

An opinion of the Advocate General is not binding on the CJEU and the final decision of the CJEU is pending as at the time of writing this paper.³⁷ Should the CJEU apply the opinion of the Advocate General, it would validate the decision of the IAA to set slot capacity restrictions under the Slot Regulation, based on the operational constraint set by the 32 million ppa

³² ***Aer Lingus Ltd v Irish Aviation Authority* [2025] IEHC 190.**

³³ ***Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 758** at [11], [12].

³⁴ ***DAA v Irish Aviation Authority C-857/24 SCLI:EU:C:2026*** at [50], [58] and [59]. See also '**Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem**', Press Release No 17/26, 12 February 2026.

³⁵ ***DAA v Irish Aviation Authority C-857/24 SCLI:EU:C:2026*** at [73], [77] - [89]. See also '**Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem**', Press Release No 17/26, 12 February 2026.

³⁶ ***DAA v Irish Aviation Authority C-857/24 SCLI:EU:C:2026*** at [99] - [102]. See also '**Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem**', Press Release No 17/26, 12 February 2026.

³⁷ It is the role of an Advocate General to "propose to the Court, in complete independence, a legal solution to the cases for which they are responsible": see Note to '**Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem**', Press Release No 17/26, 12 February 2026.

conditions. This would also appear to validate the decisions of the IAA with regard to the Open Skies Agreements, which allow for exceptions based on operational reasons.³⁸

The IAA did not include a PATM seat capacity coordination parameter in its winter 2025, summer 2026 or winter 2026 slot coordination parameters.³⁹

That said, none of the IAA decisions affect the application of the original 32 million ppa conditions (as an ongoing planning condition), and the entitlement of FCC to take whatever steps “they deem necessary or appropriate under their governing legislation to address any concerns they may have about compliance with planning conditions”.⁴⁰

Noise restrictions at Dublin Airport

On 13 September 2021 the daa lodged a planning application to amend the use of the Dublin Airport North Runway at night (**PA FCC Ref No F20A/0668**).⁴¹ On 8 August 2022, FCC decided to grant permission in relation to this application. This decision was appealed to ABP and on 16 July 2025, ACP granted permission subject to a number of conditions (**ABP Ref No PL06F.314485; PA FCC Ref No F20A/0668**). **Conditions 1 to 3 of the ACP permission** (the ‘Noise-restrictions Decision’) set a Noise Quota Scheme for flights arriving and departing between 23:00 and 07:00 (local time), prohibited the use of the North Runway for take-off or landing between 00:00 and 06:00, and set an annual aircraft movement limit of 35,672 between the nighttime hours of 23:00 and 07:00, subject to specified exemptions. Ryanair appealed the Noise-restrictions Decision by way of judicial review in the High Court, and the decision was also independently reviewed by the European Commission, in line with its powers under the EU Aircraft Noise Regulation.⁴²

The European Commission found that the Noise-restrictions Decision was made without any proper assessment of whether measures from the other three pillars of the Balanced Approach could have achieved a similar objective. The European Commission concluded that the Noise-

³⁸ See Article 3(4) of the **Air Transport Agreement between the European Union and the United States of America** and Article 13(2) of the **Agreement on Air Transport between Canada and the European Community and its Member States**. See also J Mulligan, ‘US airlines fear EU-wide impact of likely ruling on Dublin Airport passenger cap’, *Irish Independent*, 24 February 2026.

³⁹ Irish Aviation Authority, **Final Decision on Winter 2025 Coordination Parameters at Dublin Airport**, 2 May 2025 at [4.13]; Irish Aviation Authority, **Final Decision on Summer 2026 Coordination Parameters at Dublin Airport**, 2 October 2025 at [4.15]; Irish Aviation Authority, **Final Decision on Winter 2026 Coordination Parameters at Dublin Airport**, 30 April 2026 at [4.16].

⁴⁰ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [92].

⁴¹ **Dáil Éireann Debate, Tuesday - 4 March 2025, ‘Airport Policy’**.

⁴² Ryanair, ‘**Ryanair to appeal Bord Pleanála’s unlawful second cap at Dublin Airport**’, *Press Release*, 9 September 2025.

restrictions Decision was not made in conformity with the EU Aircraft Noise Regulation, returning the matter to ACP for reconsideration.⁴³

The regulator for aircraft noise at Dublin Airport under the EU Noise Regulation is the Aircraft Noise Competent Authority (ANCA), established within FCC. In 2022, ANCA published a **Noise Abatement Objective Report** for Dublin Airport ('NAO report') with an aim to limit and reduce the long-term adverse effects of aircraft noise on health and quality of life, particularly at night, as part of the sustainable development of Dublin Airport.⁴⁴ The **PLS Report** of the Committee highlighted that the NAO for Dublin Airport has been breached continually since 2022, and although FCC issued a warning letter in September 2022 setting out nine criteria that daa would need to meet to comply with the NAO, only two have been enforced.⁴⁵ The PLS report also cited stakeholder claims that in the five years since the NAO report was published, ANCA has not issued any prosecutions, sanctions or fines, or required any flight restrictions.⁴⁶

⁴³ See **Commission Decision of 10.2.2026 on the process for introducing operating restrictions at Dublin Airport in accordance with Regulation (EU) 598/2014 of the European Parliament and of the Council, C (2026) 919 final**. See also An Coimisiún Pleanála, '**Statement on ABP-314485-22 relating to the night-time use of the runway system at Dublin Airport**', *Press Release*, 24 February 2026.

⁴⁴ Aircraft Noise Competent Authority, **Noise Abatement Objective Report for Dublin Airport**, 20 June 2022, p. 5.

⁴⁵ Joint Committee on Transport, **Report on Pre-Legislative Scrutiny (PLS) of the Dublin Airport (Passenger Capacity) Bill 2026**, p. 16.

⁴⁶ Joint Committee on Transport, **Report on Pre-Legislative Scrutiny (PLS) of the Dublin Airport (Passenger Capacity) Bill 2026**, p. 25.

Related legislation

Domestic legislation

The Dublin Airport (Passenger Capacity) Bill 2026 addresses a specific planning condition and does not make any specific amendments to the regulatory framework. However, the following legislation is related to the Bill:

- *Air Navigation and Transport Act 1936*
- *Air Navigation and Transport Act 1946*
- *Air Navigation and Transport Act 1950*
- *Irish Aviation Authority Act 1993*
- *Air Navigation and Transport (Amendment) Act 1998*
- *Planning and Development Act 2000* (the ‘2000 Act’)
- *Planning and Development Regulations 2001* (SI No 600 of 2001)
- *Aviation Regulation Act 2001*
- *European Convention on Human Rights Act 2003*
- *State Airports Act 2004*
- *European Communities (Birds and Natural Habitats) Regulations 2011* (SI No 477 of 2011)
- *Climate Action and Low Carbon Development Act 2015* (the ‘2015 Act’)
- *European Communities (Environmental Noise) Regulations 2018* (SI No 549 of 2018)
- *Aircraft Noise (Dublin Airport) Regulation Act 2019* (the ‘2019 Act’)
- *Planning and Development Act 2024* (the ‘2024 Act’)

EU law

- **Council Regulation (EEC) No 95/93** of 18 January 1993 on common rules for the allocation of slots at Community airports (the ‘Slot Regulation’)
- **European Convention on Human Rights (ECHR)**
- **Regulation (EU) No 598/2014** of the European Parliament and of the Council of 16 April 2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach (the ‘Aircraft Noise Regulation’)
- **Directive 2011/92/EU** of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (‘EIA Directive’)

- **Directive 2009/147/EC** of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds ('Birds Directive')
- **Council Directive 92/43/EEC** of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ('Habitats Directive')
- **Directive 2000/60/EC** of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ('Water Framework Directive')
- **Regulation (EU) 2018/842** of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013
- **Directive 2023/959/EU** of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system
- **Regulation (EU) 2023/2405** of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation)

International Agreements

Various horizontal air transport agreements including:

- **Air Transport Agreement between the European Community and the United States**
- **Agreement on Air Transport between Canada and the European Community and its Member States**

Regulatory Impact Assessment (RIA)

No Regulatory Impact Assessment has been published for the Bill.

Legal context

There are a number of legal considerations that arise in relation to the Bill which can be categorised into considerations relating to EU environmental law, planning law, constitutional law, the law on judicial review and domestic laws relating to the environment, health and quality of life.

EU environmental law considerations

EU environmental policy is based on four principles:

1. Precaution,
2. Prevention,
3. Rectifying pollution at source, and
4. Polluter pays.⁴⁷

This policy is legally supported by several EU laws.

The **Environmental Impact Assessment (EIA) Directive** (Directive 2011/92/EU)⁴⁸ and the **Strategic Environmental Assessment (SEA) Directive** (Directive 2001/42/EC)⁴⁹ are the two Directives that set out rules for assessing the environmental impact of development or activities before they may be brought into effect or permission may be granted. EIAs are required before commencing development or activities (private or public) that are likely to have significant effects on the environment, while SEAs are needed for public plans and programmes.⁵⁰

The EIA is the assessment process conducted by the competent authority. It should be distinguished from an EIA Report (formerly referred to as an Environmental Impact Statement (EIS)), which is the written statement lodged by an applicant for planning permission and must cover any effects that a development would have on the environment. The relevant competent

⁴⁷ European Parliament, 'Environmental policy: general principles and policy framework', *Fact Sheets on the European Union*.

⁴⁸ Transposed into Irish law primarily by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2001* (SI No 538 of 2001) and *Planning and Development Regulations 2001* (SI No 600 of 2001).

⁴⁹ Transposed into Irish law by *European Union (Land Use Planning – Strategic Environmental Assessment) Regulations 2025* (SI No 456 of 2025).

⁵⁰ European Parliament, 'Environmental policy: general principles and policy framework', *Fact Sheets on the European Union*.

authority must have, or have access to, sufficient expertise to examine the EIA report.⁵¹ An EIA must be completed for certain types of development, listed in Annex I (including the construction of airports) and, at the discretion of the Member State, those in Annex II of the EIA Directive. An EIA is also required at the discretion of the Member State for any change or extension of projects listed in Annexes I or II, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment.⁵² The question on whether or not a development may have significant adverse effects on the environment, and thereby require an EIA, is usually done through the ‘screening procedure’. The screening procedure is used to determine the effects of developments on the basis of thresholds/criteria or a case-by-case examination.⁵³

Under **Article 9a of the EIA Directive**, Member States must ensure that the relevant competent authority performing duties under the Directive must do so in an objective manner and they must avoid any conflict of interest.⁵⁴ The Supreme Court has found that a minister could, in principle, carry out an effective assessment or a screening procedure under the relevant EIA legislation - all that EU law requires is that an EIA of the project be completed before the relevant development consent is granted.⁵⁵

An Appropriate Assessment (AA) is an assessment of the potential adverse effects of proposed plans, developments or activities on European sites (Natura 2000 sites covering special areas of conservation and special protection areas). Appropriate Assessments are required under the **Habitats Directive** (Directive 92/43/EEC) and the **Birds Directive** (Directive 2009/147/EC), which have been transposed into Irish law by the **European Communities (Birds and Natural Habitats) Regulations 2011** (SI No 477 of 2011). According to the EU law, any plan/project/activity that directly affects a European Natura 2000 site must be assessed in relation to its potential impact on the integrity of the site. Furthermore, any development not directly connected with or necessary to the management of a European protected site may still require an AA if it is likely to have significant impacts on a European site.⁵⁶

⁵¹ See Environmental Protection Agency, **Environmental Impact Assessment; Environmental Impact Assessment (EIA) Directive** (Directive 2011/92/EU), Art. 5.

⁵² **Environmental Impact Assessment (EIA) Directive** (Directive 2011/92/EU), Annex I, cl. 7(a), Annex II cl. 13(a). An EIA must identify and assess effects (direct, indirect and cumulative effects) on human beings, flora and fauna, soil, water, air, climate and landscape, material assets and cultural heritage.

⁵³ See Office of Planning Regulator, ‘**Environmental Impact Assessment Screening**’, *OPR Practice Note PN02*, June 2021.

⁵⁴ Article 9a also provides “Where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive.”

⁵⁵ *Concerned Residents of Treascon and Clondoolusk v An Bord Pleanála* [2024] IESC 28 at [78]; *Martin v An Bord Pleanála* [2007] IESC 23

⁵⁶ **Habitats Directive** (Directive 92/43/EEC) Art. 6(3).

The **Water Framework Directive** (WFD) (Directive 2000/60/EC)⁵⁷ establishes a framework for the protection of inland surface waters (including streams, rivers and lakes), transitional waters (including estuaries), coastal waters and groundwater. A WFD assessment is required if a proposed development has the potential to adversely impact a WFD water body.

Planning law considerations

During PLS hearings, the Committee heard from a representative of Wild Ireland Defence (WID) who cited the case of *European Commission v Ireland*⁵⁸ (the Derrybrien case).⁵⁹

The Derrybrien case concerned the development of a wind farm at Derrybrien, County Galway for which it was subsequently found that inadequate environmental impact assessment (EIA) had been undertaken. Construction of roads linked to the development of the wind farm resulted in a major landslide of peat, affecting water quality and killing approximately 50,000 brown trout. In April 2005, the European Commission announced that it intended to take Ireland to Court over the incident and on 3 July 2008, the Court of Justice of the European Union (CJEU) held that Ireland had infringed the EIA Directive (**EIA Directive 85/337** at the time).⁶⁰

After a number of delays, the owner of the windfarm attempted to rectify the situation by means of retention permission and a non-statutory EIA. However, this was abandoned when the State eventually commenced an application for substitute consent under **Part XA of the Planning and Development Act 2000**. The Commission took Ireland to the CJEU again in 2018 for failing to regularise the situation. The CJEU judgments (in 2008 and again in 2018) provided that no entity should benefit where it has failed to fully adhere to environmental requirements. The CJEU also held that Ireland had failed to fulfil its obligations under EU law, imposing a lumpsum fine together with an ongoing periodic penalty payment. This ongoing

⁵⁷ Transposed into Irish law by **European Union (Water Policy) Regulations 2014** (SI No 350 of 2014). Note that the European Commission has referred Ireland to the CJEU for failing to correctly transpose the Water Framework Directive ('WFD'): see European Commission, '**Commission decides to refer IRELAND to the Court of Justice for failing to correctly transpose Water Framework Directive protecting waters from pollution**', News, 26 January 2023. The CJEU found Ireland to be in breach of its obligations under the WFD, finding systematic failures in Ireland water protection regulations, particularly in relation to water abstraction controls and the monitoring of physical alterations to waterways: *European Commission v Ireland* (Case C-204/24) **ECLI:EU:C:2025:912**.

⁵⁸ *European Commission v Ireland* (Case C-215/06) **ECLI:EU:C:2019:955**.

⁵⁹ Wild Ireland Defence '**General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion**', *Joint Committee on Transport Debate*, 15 April 2026.

⁶⁰ *Commission of the European Communities v Ireland* **ECLI:EU:C:2008:380**; see also '**Ireland no longer being fined €15,000 per day over wind farm**', *Irish Legal News*, 7 February 2023 and Department of Housing, Local Government and Heritage, '**European Commission confirms closing of Derrybrien infringement case**', *Press release*, 3 February 2023.

penalty continued until 4 February 2022, the date on which ABP issued its decision refusing substitute consent on grounds that it would be impossible to undo the damage cause by the landslide, originally.⁶¹

At the PLS hearing on the General Scheme of the Bill, the WID representative cited the precedent set in Derrybrien and stated:

“Legislative removal of the cap risks regularising unauthorised development outside of the substitute consent regime. This approach is contrary to EU law”⁶²

WID argued that as daa were allegedly in breach of the 32 million ppa conditions, as evidenced by the enforcement notice sent to daa from FCC in June 2025, it could be said that daa was operating in a manner that amounted to unauthorised development.⁶³ WID went on the state:

“... the legal framework set out in Irish and European law is that if unauthorised development exists, as it does in this case because the airport has knowingly breached the cap over four years, then there is only one route for it to take and that is substitute consent.”⁶⁴

It is noteworthy that in July 2021 the Supreme Court found that the use of the substitute consent procedure needed to comply with EU law, such as the Environmental Impact Assessment (EIA) Directive.⁶⁵ It held that:

⁶¹ *Commission of the European Communities v Ireland* ECLI:EU:C:2008:380; *Commission of the European Communities v Ireland* ECLI:EU:C:2019:955; Senator Michael McDowell, ‘Special Measures in the Public Interest (Derrybrien Wind Farm) Bill 2023: Second Stage’, *Seanad Éireann Debate*, 20 February 2024. See also ‘Ireland no longer being fined €15,000 per day over wind farm’, *Irish Legal News*, 7 February 2023 and Department of Housing, Local Government and Heritage, ‘European Commission confirms closing of Derrybrien infringement case’, *Press release*, 3 February 2023.

⁶² Wild Ireland Defence at Joint Committee on Transport, ‘General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion’, *Debates*, 15 April 2026.

⁶³ Fingal County Council, *Planning and Development Enforcement*. See also, for example, Dun Laoghaire Rathdown County Council, *Planning Enforcement: Unauthorised Development*. Under the *section 2 of the Planning and Development Act 2000* and *section 2 of the Planning and Development Act 2024*, ‘unauthorised development’ means unauthorised works or unauthorised use. Wild Ireland Defence at Joint Committee on Transport, ‘General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion’, *Debates*, 15 April 2026.

⁶⁴ The substitute consent procedure allows for retrospective planning or retention planning permission: *Planning and Development Act 2000 Part XA*.

⁶⁵ The judgment deals with three joined appeal cases also known as the Ballysax/ McQuaid case which looked at planning permission and two quarries (*An Taisce v An Bord Pleanála*, *An Taisce v An Bord Pleanála*, and *Sweetman v An Bord Pleanála* [2020] IESC 39 at [89]).

“When the Court of Justice [CJEU] refers to retrospective regularisation as having to remain the exception, its justification is that otherwise developers may be incentivised to ignore or disregard the requirements of a prior consent EIA: in other words, national measures cannot act as an inducement to avoid EIA compliance Therefore, such regularisation must remain the exception, rather than the rule. Consequently, the relevant provisions of domestic law cannot permit, allow or facilitate a situation whereby the obtaining of, as in this jurisdiction, a retention permission becomes in any way standard, typical or routine.”⁶⁶

As noted by WID, as with the Derrybrien case, if daa has failed to adhere to the conditions of the relevant planning permissions, it could also be said that irreparable damage has occurred due to the “impacts from those additional passengers on wastewater etc.”⁶⁷ WID also highlighted that daa’s operations have continued in spite of the enforcement notice and in the absence of a formal assessment of the environmental impact and the wastewater impact of the extra passengers numbers.⁶⁸

On 14 December 2023, a group of six Independent Senators introduced the **Special Measures in the Public Interest (Derrybrien Wind Farm) Bill 2023** into the Seanad. This was a private members bill (PMB) that aimed at restricting the capacity of the local authority to enforce any aspect of non-compliance with planning or environmental law or any aspect of any decision of ABP relating to the Derrybrien windfarm and thereby regularise the development.⁶⁹

The PMB did not progress past second stage debate, at which time the then Minister for State at the Department of Rural and Community Development, then Deputy Joe O'Brien, stated:

“The provisions in this Bill could set an undesirable precedent that would severely undermine the integrity of the planning system.”⁷⁰

Constitutional considerations

Article 28A of the Irish Constitution was inserted by the **Twentieth Amendment of the Constitution Act 1999**, following a **referendum held on 11 June 1999**. The text of the Article is reproduced in the text box below.

⁶⁶ *An Taisce v An Bord Pleanála* [2020] IESC 39 at [89].

⁶⁷ Wild Ireland Defence at Joint Committee on Transport, ‘**General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion**’, *Debates*, 15 April 2026.

⁶⁸ Wild Ireland Defence at Joint Committee on Transport, ‘**General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion**’, *Debates*, 15 April 2026.

⁶⁹ See ‘**Special Measures in the Public Interest (Derrybrien Wind Farm) Bill 2023: Second Stage**’, *Seanad Éireann Debate*, 20 February 2024.

⁷⁰ Then Deputy Joe O’Brien, ‘**Special Measures in the Public Interest (Derrybrien Wind Farm) Bill 2023: Second Stage**’, *Seanad Éireann Debate*, 20 February 2024.

Article 28A of the Constitution

- 1 The State recognises the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interests of such communities.
- 2 There shall be such directly elected local authorities as may be determined by law and their powers and functions shall, subject to the provisions of this Constitution, be so determined and shall be exercised and performed in accordance with law.
- 3 Elections for members of such local authorities shall be held in accordance with law not later than the end of the fifth year after the year in which they were last held.
- 4 Every citizen who has the right to vote at an election for members of Dáil Éireann and such other persons as may be determined by law shall have the right to vote at an election for members of such of the local authorities referred to in section 2 of this Article as shall be determined by law.
- 5 Casual vacancies in the membership of local authorities referred to in section 2 of this Article shall be filled in accordance with law.

The [Article](#) provides a constitutional basis for the role of local government in Ireland, providing a forum for the democratic representation of communities and a forum for exercising and performing powers conferred by law.

In *Conway v An Bord Pleanála*,⁷¹ the Supreme Court considered the constitutional validity of a legislative provision empowering the Minister to issue specific planning policy guidelines to which local planning authorities (and ABP/ACP) must have regard in the performance of their functions. The Court held that the relevant legislative provision was not in breach of the Constitution.

The Court held that the Oireachtas was fully entitled to ensure local authority powers were exercised in a manner conforming to national policy standards as expressed in the ministerial policy guidelines.⁷²

It is noteworthy that the potential issues affecting the Bill are different to those discussed in the Conway case. In Conway, the Court examined whether an Act of the Oireachtas can bind local authorities and ABP/ACP. As these planning authorities derive their powers from law,

⁷¹ [\[2024\] IESC 34.](#)

⁷² [\[2024\] IESC 34.](#)

those powers can also be amended and curtailed by law. The question remains as to whether a Ministerial Order grounded in an Act of the Oireachtas can be used to directly overrule a planning decision.⁷³

On 18 February 2026, it was reported that members of FCC called plans to remove the passenger cap at Dublin Airport “undemocratic”. It was argued that:

*“The original cap came through the planning process and any attempt to remove the cap should have the same level of democratic scrutiny”.*⁷⁴

However, it stands to note that in his judgment in the Conway case, Justice Hogan stated what the Court found to be the constitutional foundations and limits of local government:

*“... while the State must provide for a system of local government with some real powers which are exercisable at local level, this does not mean that the exercise of these powers by local authorities is in some way inviolable or beyond the reach of ministerial controls.”*⁷⁵

The law on judicial review

In December 2025 the Library and Research Service published a [Policy and Legislative Briefing Paper on Proposed legislation affecting judicial review of planning decisions](#). That briefing paper provides a comprehensive review of the law on judicial review in Ireland. Therefore, the information contained in that paper will not be repeated here. It is recommended to read that Briefing Paper in conjunction with this Digest.

Judicial review proceedings taken under the Bill are subject to the legal cost provisions in the Bill. These provisions do not distinguish between actions taken on grounds related to the EIA and AA processes (derived from EU Directives, which have been transposed into domestic law) and other grounds of action, such as one related to administrative error or failure to meet a statutory duty. This may impact on the State’s capacity to meet its access to justice obligations associated with the [Aarhus Convention](#). Further detail on Ireland’s EU law obligations with respect to the [Aarhus Convention](#) may be found in the [Policy and Legislative Briefing Paper on Proposed legislation affecting judicial review of planning decisions](#).

Environment, health and quality of life considerations

As noted in the [Policy and Legislative Briefing Paper, Ireland’s Long-term Strategy on Greenhouse Gas Emissions Reduction](#) stated:

⁷³ A direct interference in the exercise of a local authority power appears to be unprecedented.

⁷⁴ A Riaz, ‘[Fingal councillors claim scrapping Dublin Airport passenger cap would be “undemocratic”](#)’, *Irish Independent*, 18 February 2026.

⁷⁵ *Conway v An Bord Pleanála* [2024] IESC 34 at [54] per Hogan J.

“... emissions from international aviation and from shipping remain outside national emissions targets for EU Member States and are not covered by the Paris Agreement”.⁷⁶

Yet, on 5 June 2023, **Directive (EU) 2023/958** came into force, aiming to limit and reduce carbon emissions from international aviation by requiring airlines to offset emissions that exceed 2019 levels.⁷⁷ Furthermore, the European Commission has committed to assessing whether more action is required to regulate emissions from international flights, by July 2026, in line with criteria set in the **EU ETS Directive**.⁷⁸

The **Policy and Legislative Briefing Paper** discusses the implications of disapplying **section 15 of the Climate Action and Low Carbon Development Act 2015**. Since that paper was published, the **Critical Infrastructure Bill 2026** that contains a similar provision has been the subject of **Oireachtas debates** and has progressed through both Houses of the Oireachtas, unamended.

The **Policy and Legislative Briefing Paper** also covers some of the potential impacts on the quality of life of residents in the vicinity of Dublin Airport. This paper will not replicate that information. That said, some of the PLS process concentrated on potential impacts on local communities, and, where relevant these will be discussed below within the context of the PLS process as a whole.

⁷⁶ Government of Ireland, **Ireland’s Long-term Strategy on Greenhouse Gas Emissions Reduction**, 2024, p. 55.

⁷⁷ **Directive (EU) 2023/958**, Article 3.

⁷⁸ European Commission: Energy, Climate Change and Environment, **Reducing emissions from aviation**, webpage last accessed on 12 March 2026.

Legislative proposal

The Dublin Airport (Passenger Capacity) Bill 2026 (the ‘**Bill**’) was published on 19 June 2026 and scheduled for Second Stage debate on Tuesday, 23 June 2026, in Dáil Éireann.

The Bill seeks to confer a power on the Minister for Transport (the ‘Minister’) to make an order to amend or revoke a planning condition relating to the number of air passengers that may fly into and out of Dublin Airport. The Bill would also allow daa (formerly the Dublin Airport Authority, DAA) to apply to the Minister to make that order and provide a process for environmental assessments to be conducted by An Coimisiún Pleanála (‘ACP’). The proposed amendments in the Bill would limit the capacity of planning authorities to impose a passenger cap as a planning condition in the future. Finally, the Bill would provide an exemption from the application of [section 15 of the *Climate Action and Low Carbon Development Act 2015*](#).

The following L&RS legislative analysis for this Bill does not purport to provide blanket coverage of the Bill but instead seeks to comprehensively examine selected elements. In so doing, the analysis focuses on the issues that are most likely to affect ongoing debate on the topic, decided by reference to media reports and debates held during the PLS process.

It should be noted that the L&RS legislative materials for this Bill were prepared with a tight turnaround time as the Bill was published on the Oireachtas website two (2) working days before the date scheduled for Second Stage debate in Dáil Éireann.

Principal provisions of the Bill

In the following section of the Bill Digest, to make a clear distinction between statutory obligations in the Bill and discretionary powers, the words **must** and **may** have been highlighted in bold.⁷⁹

Preliminary provisions

The Bill includes six (6) preliminary provisions covering:

- the short title and commencement provisions, (section 1)
- definitions, (section 2)
- powers to make regulations and orders and obligations to lay them before the Houses of the Oireachtas, (section 3)

⁷⁹ Also, the section below is written using grammar to avoid the excessive use of the conditional tense. It should be qualified by a statement that it refers to what the Bill seeks to achieve, if it were enacted and commence in its current form. The use of the present indicative tense should not be taken to be a presumption that the Bill will come into force as initiated in the Dáil.

- expenses incurred by the Minister, (section 4)
- service of documents, (section 5) and
- a power of the Minister to give directions to daa. (section 6)

The Minister **may** give a formal direction to daa that would be legally binding on daa for any purpose relating to the Bill, including relating to provision of information and the provision of reports or further information for environmental assessments, within a specified period. (section 6)

Application by daa

The Bill provides that daa may make a formal application to the Minister,⁸⁰ for the Minister to make an order amending a passenger capacity planning condition in accordance with section 25. (section 7(1))

The Minister **may** then consult with relevant people and bodies. (section 7(3))

In response to an application from daa, the Minister **must** issue a notice to daa of an intention to accept the application as is or with a variation and also give notice to daa of an intention to make an order under section 25 of the Bill varying a passenger capacity planning condition (a ‘Section 25 Order’) as proposed.⁸¹ (section 7(5)) Such notice may include a direction for daa to provide (within a specified timeframe) the Minister with an Environmental Impact Assessment (EIA) report and a Natura impact statement (NIS) (section 7(6)).

In the alternative, the Minister **must** give notice of a decision to refuse the application (and **must** give reasons). (section 7(5))

An EIA report **must** be prepared by a competent expert and contain specified information and consider results of other relevant assessments. The EIA report **must** cover the status of water bodies, to ensure compliance with the **EU Water Framework Directive** (the ‘WFD’) (Directive 2000/60/EC).⁸² (sections 11(3) and 13(2))

Where the EIA report is found by ACP to be missing specified information, ACP **must** request additional information from the Minister within four weeks of receipt of the EIA report (section 14(2)).

A NIS **must** be prepared by a person with the necessary competence to prepare it after having regard to all potential significant effects on a relevant European site. The NIS **must** include

⁸⁰ The form of the application is set out in section 7(2) of the Bill.

⁸¹ Before issuing a notice, the Minister may have regard to certain matters outlined in section 7(4) of the Bill.

⁸² The **General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026** had an entire Head (Head 8) dedicated to regulating a distinct assessment under the WFD.

specified information, identify any measures proposed to be taken for the purposes of avoiding or reducing any adverse effects, and include a conclusion on whether the proposal may or will not adversely affect the integrity of a European site. (section 19(2))

Environmental assessments

The Bill proposes that where the Minister has given a notice to daa under section 7(5)(a), the Minister **may** apply to ACP for an EIA and **may** submit an EIA Report prepared by daa to ACP. (section 13(1))

Within eight weeks of receiving an application for an EIA, ACP **may** request further information to help it carry out the assessment. ACP **may** also consult with others. (section 14(3))

Where ACP considers that the further or additional information relates to likely significant effects on the environment, both the ACP and the Minister **must** publish the information and the ACP **must** make the information publicly available for inspection, provide a copy of the information to specified people and bodies, and invite submissions. (section 14(4))

Before applying for an EIA, the Minister **may** request a 'scoping opinion' from ACP outlining the detail required in the EIA report, to be given within six (6) weeks. ACP **must** consult with relevant bodies before drafting the scoping opinion. (section 12(1) and (3)) Any EIA report prepared and submitted **must** cover details outlined in the scoping opinion. (section 12(6)) However, where a scoping opinion is issued after the six-week deadline it will not affect the Minister's power to apply for an EIA. (section 12(5))

If an EIA Report is submitted to ACP by the Minister, the Minister **must**, within five (5) days, publish notice that an application has been made, an EIA Report has been submitted, the EIA Report will be publicly available and open to public submissions. (section 13(3))

Within a period of two weeks prior to the EIA Report being submitted, daa **must** upload specified information to the [EIA portal](#). (Section 13(4))

Within five (5) days of receipt of an EIA application ACP **must** give a copy of the application and EIA report to specified people and bodies, publish the EIA report and make it publicly available. ACP **must** also invite submissions.

Where ACP receives an application for an EIA it **must** carry out an EIA after considering the specified factors, the EIA report, any further and additional information, results of consultations and any submissions received in response to invitations to submit. (section 15(1)-(4)) ACP **must** treat the application for an EIA as a priority application and take all necessary steps to expedite the decision-making process. (section 10)

ACP has 20 weeks from the date of receipt of the application in which to reach a reasoned conclusion on the significant effects (if any) of the proposal on the environment. (section 15(5)) The 20-week deadline **may** be lengthened by up to four (4) weeks (or a longer period as determined by the Minister) to cover any extra time taken by the Minister to satisfy a request for additional specified information. (Section 15(6))

Alongside its reasoned conclusion, ACP **may** recommend an environmental condition to be attached to a Section 25 Order, that ACP considers necessary and appropriate to mitigate significant adverse effects on the environment and establish appropriate monitoring measures. (section 15(10))

ACP **must** publish its reasoned conclusion and make a copy of it publicly accessible. It **must** also formally inform the Minister of the reasoned conclusion and of any proposed environmental condition and provide the main reason for the condition. (section 15(11))

If, after one (1) year from the date of the reasoned conclusion, the Minister has not made an order under section 25 of the Bill (a 'Section 25 Order'), the Minister **must** request ACP to review the reasoned conclusion, to ensure it is up to date. ACP has 12 weeks from the date of the Minister's request in which to set aside the assess the original conclusion using the same powers it had to assess the original application, and in which it **must** replace the original conclusion with a new reasoned conclusion. (section 15(8)-(9))

Appropriate Assessment

Under the Bill, where the Minister has given notice to daa under section 7(5)(a), the Minister **may** apply to ACP for an Appropriate Assessment (AA) AND **may** submit a NIS prepared by daa to ACP. (section 19(1)) Within five (5) days of receipt of a NIS, ACP **must** publish the NIS, make a copy of the NIS publicly available and publish a notice inviting submissions from the public for a 30-day period from the date of the notice. (Section 20)

Within eight (8) weeks of receiving an application for an AA, ACP **may** request further information to help it carry out the assessment. ACP **may** also consult with others. (section 21(2))

ACP **must** carry out an AA, considering the NIS, any further information received from the Minister, results of consultations and any other information ACP considers relevant. ACP **must** also work with the best scientific knowledge and have regard to conservation objectives linked to the relevant European site when identifying and assessing likely significant effects on the European site and when considering effectiveness of any mitigation measures proposed in the NIS or by or by the Minister. (section 21(1), (3) and (4)) ACP **must** treat the application for an AA as a priority application and take all necessary steps to expedite the decision-making process. (section 10)

ACP has 20 weeks from the date of receipt of the application in which to determine whether or not any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site. (section 21(5), (9)) Where there is no scientific doubt that there are no significant adverse effects, the determination **must** make this clear and where such a determination is reliant on a proposed mitigation measure, ACP **may** require that mitigation measure to be specified as a condition in a Section 25 Order. (section 21(6)-(7))

The 20-week deadline **may** be lengthened by up to four weeks (or a longer period as determined by the Minister) to cover any extra time taken to satisfy a request for additional information. (Section 21(10))

Where ACP concludes that reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, it **must** invite the Minister to make an assessment on whether imperative reasons of overriding public importance exist, whether there is no suitable alternative solution and whether any proposed compensatory measures are adequate to ensure that the overall coherence of the Natura 2000 network is protected. (sections 21(8) and 22(1)) The imperative reasons may be of a social or economic nature where the relevant European site does not host a priority site. However, where the assessment relates to a priority site, the imperative reasons may only be related to human health, public safety or a matter of primary importance to the environment, or where, in the opinion of the EU Commission, there are other imperative reasons of overriding public interest. The Minister **may** decide not to take up the invitation to make an assessment but **must** notify ACP of that decision. (section 22(2)-(4), (9)) The Minister **may** consult various people and bodies in relation to an assessment and request further information or clarification from daa to allow a better assessment of proposed compensatory measures. (section 22(5)-(6))

Where the Minister carries out an assessment the Minister **must** make a determination in line with any findings and give notice to ACP of the determination. The assessment may find that there are or are not alternative solutions to the proposal, imperative reasons of overriding public interest exist or do not exist, or compensatory measures proposed are or are not adequate to ensure that the overall coherence of the Natura 2000 network is protected. Where the Minister determines that compensatory measures are adequate, these measures **must** be included as a condition to be specified in a section 25 Order, and the Minister **must** notify the EU Commission and the Minister for Housing, Local Government and Heritage of the inclusion of such a condition. (Section 22(7), (8), (10) and (11))

As soon as is practicable after it has been made, ACP **must** publish its determination, make it publicly available and give notice of it in writing to the Minister and the Minister for Housing, Local Government and Heritage. ACP **must** also give written notice to the Minister for Housing, Local Government and Heritage and publish and make available to the public an invitation made to the Minister to make an assessment of imperative reasons of overriding public importance, and a decision or determination of the Minister in relation to such an assessment. (section 23)

ACP, when dealing with an application for an AA related to a European site, **must** take appropriate steps to avoid the deterioration of natural habitats and the habitats of species as well as the disturbance of the species for which the site has been designated. (section 17)

The provisions of the *European Communities (Birds and Natural Habitats) Regulations 2011* (SI No 477 of 2011) are effectively disapplied for an application and proposal made by daa under section 7 of the Bill and for a Section 25 Order. (section 18) The reason given in the *Explanatory Memorandum to the Bill* is that the Bill provides a specific procedure to deal with

the AA procedure under the **EU Habitats Directive** (Council Directive 92/43/EEC) and the **EU Birds Directive** (Directive 2009/147/EC).

Where ACP is required to carry out both an EIA and an AA, it **may** carry them out either jointly or simultaneously and make a determination with reasons (section 9). ACP **must** act in an expeditious manner and avoid any undue delays (section 10).

Amendment of planning condition at Dublin airport via a Section 25 Order

The Bill provides that the Minister **may** make an order (a 'Section 25 Order') to amend or revoke a passenger capacity condition attached to a planning permission where the Minister is of the opinion that the condition is causing or is likely to cause serious harm to the economy of the State, international connectivity or the international reputation of the State in respect of air transport. (section 25(1))

Before making a Section 25 Order, the Minister **may** consult with people and bodies. When making a Section 25 Order, the Minister **may** have regard to policies, plans and strategies as the Minister considers appropriate. (section 25(1), (2) and (7))

The Minister **must not** make a Section 25 Order unless ACP has carried out an EIA of the proposal to amend or revoke a passenger capacity planning condition and has issued a reasoned conclusion. The Minister is also **prohibited** from making a Section 25 Order until after ACP has carried out an AA of the proposal, and either ACP or the Minister has made a relevant determination on the proposal. (section 24)

Where, as a result of the EIA the ACP has recommended an environmental condition, the Minister **must** consider the condition and the reasoned conclusion of ACP. The Minister **may** then decide not to include the condition in the Section 25 Order or include the condition (as recommended or after variation) in the Section 25 Order and specify the period within which daa is required to comply with it. (section 25(3), (4) and (5)) The Minister **may**, after consulting with the Minister for Housing, Local Government and Heritage, provide in the Section 25 Order that any development undertaken pursuant to attached conditions is classified as exempted development for the purposes of the planning legislation. (section 25(6))

The Section 25 Order **must** specify how the relevant passenger capacity condition is to be amended or revoked and include any conditions attached to the order, resulting from the EIA and AA. It **must** also reproduce the reasoned conclusion of ACP, specify the date on which the order takes effect and include a direction to FCC to update the planning register. FCC **must** enter the particulars of the Section 25 Order on their planning register. (Section 25(8) and (11))

As soon as possible after making the Section 25 Order, the Minister **must** serve a copy of the order on the Minister for Housing, Local Government and Heritage, FCC, ACP and daa. Within the period specified in the order, FCC **must** serve notice on daa and other persons specified in the order informing them of the effect of the order and the requirement to comply with the relevant amended planning permission. (section 25(9) and (10))

Upon the making of a Section 25 Order the relevant passenger capacity planning condition will be amended or revoked in accordance with the order, with effect from the date specified in the order. (section 25(11)) As soon as may be after the order is made, it must be laid before each House of the Oireachtas. The order may be annulled by resolution in either House, but without prejudice to the validity of anything previously done under the order. (section 3(3))

Transitional arrangements

Under section 26 of the Bill, a Section 25 Order that has been made will remain in place until the relevant passenger capacity planning condition is superseded by another planning decision. The planning decision may be a decision by FCC or an appeal decision by ACP or a further decision made by FCC or ACP following judicial review proceedings.

As noted in the [Explanatory Memorandum to the Bill](#), this section aims to protect daa's live Infrastructure Application (planning reference number F23A/0781), currently being considered by Fingal County Council, allowing it to proceed to decision. It also protects any future planning application made in relation to a passenger capacity planning condition from a Section 25 Order.

Judicial Reviews

Part 5 of the Bill covers legal challenges related to a Section 25 Order.

The Bill provides that the only method by which a person may legally challenge decisions, actions or omissions related to the Bill is by way of an application for judicial review. (Section 28) An application for leave to apply for judicial review must be taken before the expiration of the period of eight (8) weeks from the date when the grounds of the application arose, unless this period is extended by the High Court. (section 29(1) and (2)) The High Court must not grant leave unless the applicant has sufficient interest in the matter and the applicant has substantial grounds for contending that the relevant decision or act is invalid or ought to be quashed, or the relevant omission is unlawful. (section 29(3))

During the judicial review, the applicant is limited to relying on their initial stated grounds and the applicant may not amend those grounds without leave of the Court. (section 30) The Minister or another affected body may seek a stay on the judicial review proceedings pending the making of a decision by a relevant body under the Bill. (section 31) The decision of the High Court will be final. It is not subject to appeal, except on the basis of an application for leave to the Supreme Court on a constitutional issue or where the Supreme Court asserts appellate jurisdiction under [Article 34.5.4° of the Constitution](#). (section 32)

In judicial review proceedings, the High Court may order a person (with sufficient jurisdiction) to make an amendment or correct an error within a specified timeframe instead of quashing a decision or invalidating an action. Where the amendment or correction effectively renders moot a successful ground of appeal, the Court may strike out the ground. (section 33) Without affecting its other powers, the Court may quash or declare invalid any particular, provision or

aspect of a decision, and remit that part of the decision back to the relevant body, with a direction to take additional steps or refrain from taking action. (section 34)

For judicial review proceedings under the Bill, the default position is that each party must bear their own costs. However, the Court retains a discretion to award costs or a portion of costs to the extent that the applicant obtains relief. The Court also has the power to order costs deemed to result from a frivolous or vexatious claim, where a party is in contempt of court, because of the manner in which a party conducts the proceedings or where the Court considers that the proceedings were brought for the sole purpose of delaying the making of a Section 25 Order or for securing the payment of money, gifts, consideration or other inducement. (section 35)

Amendments to other Acts

Part 6 of the Bill proposes amendments to the *Planning and Development Act 2000* (the ‘2000 Act’), the *Planning and Development Act 2024* (the ‘2024 Act’) and the *Aircraft Noise (Dublin Airport) Regulation Act 2019* (the ‘2019 Act’).

The proposed amendments to the 2000 Act and the 2024 Act seek to preclude FCC and ACP from imposing a passenger capacity planning condition on development at Dublin Airport in the future. This prohibition would not apply to daa’s live Infrastructure Application (planning reference number F23A/0781) nor to a decision by the Aircraft Noise Competent Authority. (section 36 and 37)

The proposed amendments to the 2019 Act seek to align the definition of ‘operating restriction’ in the 2019 Act with the definition in *Regulation (EU) No 598/2014* (the ‘EU Aircraft Noise Regulation’) and delete two transitional provisions that are now redundant. The Bill proposes to introduce a new section 30A of the 2019 Act which would provide that a passenger capacity planning condition is not an ‘operating restriction’ under the 2019 Act unless it relates to a noise-related operating restriction under Article 14 of the EU Aircraft Noise Regulation.

Disapplication of duty to consider climate action when performing public duties

Part 7 of the Bill (section 39) proposes to disapply section 15 of the *Climate Action and Low Carbon Development Act 2015* (the ‘2015 Act’). This would mean that relevant bodies for the purposes of the 2015 Act would not be obliged to consider climate action when performing their duties under the Bill. The *Explanatory Memorandum to the Bill* states “the passenger cap planning condition is not a targeted climate action measure and international aviation emissions are outside the scope of the climate action plan.”

A similar provision was included in the *Critical Infrastructure Bill 2026*, and that Bill has been enacted without amendment.

Potential legal uncertainty

Section 7(6) of the Bill provides a discretionary power to the Minister to direct daa to prepare and give the Minister an EIA report. This would not oblige the Minister to submit the EIA report to ACP. Rather, section 13(1) provides that the Minister may submit an EIA report to ACP. This is a discretionary power and so the Minister is not statutorily obliged to do so. Meanwhile, section 13(4) provides:

“... daa shall, within the period of 2 weeks before the submission of an environmental impact assessment report to the Commission [by the Minister], provide information relating to the proposal to the EIA portal.”

Confusion may arise as while the Minister is required to give notice of intentions under section 7(5)), it is not obligatory in that notice for the Minister to inform daa of an intention to submit an EIA report to ACP. Therefore, daa may not know if the Minister intends to submit an EIA report to ACP, limiting the capacity of daa to meet its statutory obligation under subsection 13(4).

The Minister is only obliged to publicly notify that an EIA report has been submitted not later than five (5) days after submission (under section 13(3)).

Pre-legislative scrutiny

Overview of pre-legislative scrutiny (PLS)

On 13 February 2026, the Minister for Transport (the ‘Minister’), Darragh O’Brien TD, referred the General Scheme to the Oireachtas Joint Committee on Transport (the ‘Committee’) for pre-legislative scrutiny (PLS), and, on 19 February 2026, the Committee invited members of the public, stakeholders and interested parties to submit written submissions, to assist the Committee with its pre-legislative scrutiny.⁸³ The Committee conducted public hearings to engage with 22 key stakeholders as part of its PLS process on six separate days, **4 March 2026, 18 March 2026, 24 March 2026, 25 March 2026, 14 April 2026** and **15 April 2026**. The Committee published its **Report on Pre-Legislative Scrutiny of the General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026** on 8 May 2026 (‘PLS Report’).

The PLS report included 16 recommendations that are set out in the table below.

Key issues raised in the PLS process

The Committee introduced its **PLS Report** by recognising the strategic importance of Dublin Airport to the national economy and to Ireland's international connectivity. The Committee then identified three specific issues with the General Scheme and another 13 general issues that were found to affect the policy behind the legislation.

A substantial part of the Committee’s **PLS Report** was dedicated to issues relating to noise and the effects on the quality of life of those residing in the area affected by the operations of Dublin Airport. This focus is reflected in the recommendations in the **PLS Report**.

The **PLS Report** also considered the effects on linked services such as electricity supply and wastewater treatment, and it cited stakeholder views on the potential economic and environmental impacts of the proposed legislation.

In the **PLS Report**, the Committee concluded that the Government should act urgently to ensure that legislation is enacted and commenced, and a ministerial order issued, before 1 October 2026, when the IAA must make its capacity declaration for summer 2027.

Table summary of PLS recommendations

This section seeks to assess the extent to which the Committee’s recommendations have been addressed in the Bill, as presented for Second Stage. To do this, a traffic light system is used by the L&RS, indicating whether a key issue is accepted and reflected in the Bill, whether a consistent or unclear approach is used, and whether the recommendation has not been

⁸³ Joint Oireachtas Committee on Transport, ‘**Joint Committee on Transport calls for submissions from the public on the Dublin Airport (Passenger Cap) Bill**’, *Press Release*, 19 February 2026

accepted or is not reflected in the Bill. This traffic light approach represents the L&RS’s own, independent analysis of the Bill, and a key to this dashboard is shown in below.

The L&RS is grateful to the Department for providing its commentary as to whether the Committee’s recommendations have been incorporated into the final Bill and this is included verbatim in the table below, along with the traffic light icon as determined by L&RS.

Where relevant, an additional categorisation is used for recommendations that were not implemented in the Bill, but where additional considerations are present. For example, where Committee recommendations relate to policy objectives, it may not be possible to progress these objectives in the legislation.

Table 2 Key to traffic light dashboard comparing the Bill as published with Committee PLS recommendations

L&RS categorisation of the Department’s response in the Bill to the Committee’s key issue	Traffic light dashboard used in Table summary of PLS recommendations to highlight impact of the Committee’s PLS conclusion
Key issue has clearly been accepted and is reflected in the Bill	
The Bill may be described as adopting an approach consistent with the key issue or the impact of the key issue is unclear	
Key issue has not been accepted or implemented in the Bill	
Recommendation has not been implemented in the Bill, but additional considerations are present, for example the recommendation may relate to something outside the scope of the Bill	

Source: Compiled by the L&RS.

Table 3 Traffic light dashboard comparing the Bill as published with Committee PLS recommendations.

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
Recommendation 1		
1. The Committee recommends that Head 4(6) should be amended to include a specific timeframe with regard to the Minister's power to revoke or amend any planning condition with no screening requirement, after which time, the power should be reviewable.		Yes, addressed in the Bill –section 26 Under section 26 of the Bill, several transitional provisions have been included. This section provides that an order will remain in place until superseded by a planning decision which amends or revokes the same planning condition. daa have a live planning application currently being considered by Fingal County Council which seeks to increase passenger numbers to 40m along with providing for infrastructure to accommodate future growth. The legislation has been drafted to ensure that planning application can continue unimpeded and the final planning decision on that application will supersede any Ministerial order in relation to the passenger cap planning condition.
Recommendation 2		
2. The Committee recommends that Head 5 should be amended to ensure that the Minister's power to revoke or amend planning conditions is limited		Yes, addressed in the Bill – section 2 Under section 2 of the Bill the term “passenger capacity condition” has been defined to mean a condition relating to the number of passengers that may use Dublin airport for the

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
solely to the passenger cap condition.		purpose of travelling by air to or from another airport in any period. As such the Minister's power to make an order only relates to an amendment or revocation of a planning condition that limits passenger capacity at Dublin Airport.
Recommendation 3		
3. The Committee recommends the addition of a new Head requiring a comprehensive independent assessment of the environmental and climate implications of removing the cap.		Yes, addressed in the Bill - section 24 The screening provisions under the environmental impact assessment directive and Habitats directive have been removed and under section 24 of the Bill the Minister is prohibited from making an order until the environmental assessments under Part 3 of the Bill have been independently carried out by An Coimisiún Pleanála
Recommendation 4		
4. The Committee recommends that an independent assessment of all flight paths and noise modelling should be carried out.		No, not addressed in the Bill. However, the Minister has committed to ensuring that an independent assessment of the flight paths will be undertaken at the appropriate time, most likely when a final decision is made in relation to the North Runway Relevant Action, to ensure appropriate solutions are identified having regard to the most accurate information.

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill
Recommendation 5	
5. The Committee recommends that meaningful engagement is undertaken by the daa with local communities to mitigate the impact of noise from the north runway.	No, not addressed in the Bill The Minister has consistently emphasised the importance of daa acting as a good neighbour and the need for meaningful engagement with local communities affected by airport operations. In this regard, the Minister wrote to daa in October last year and March this year reiterating this point and highlighting the need for sustained engagement by daa with local communities most directly impacted by aircraft noise. The Minister also requested updates on what measures daa was considering to strengthen its noise mitigation programme. daa advised that under the relevant planning conditions, eligibility for all three noise mitigation schemes is subject to review every two years, with the next review due to commence in the coming months. This review will be based on 2025 operational and noise data, ensuring that the assessment accurately reflects the actual noise environment experienced by local communities. This is an important mechanism to ensure that supports remain aligned with real-world impacts. It is worth noting that the Aircraft Noise Competent Authority (ANCA) published its draft regulatory decision in relation to daa's Infrastructure Application on 28 May and is currently undertaking a 14-week public consultation process in relation to that decision and the

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
		measures proposed to address any noise impacts on foot of a grant of permission for that planning application. The Minister encourages anybody interested in the outcome of that assessment to participate in that process.
Recommendation 6		
6. The Committee recommends the prioritisation of updating the National Aviation Policy which would include setting out the Government's objectives for the long-term development of Dublin Airport, while being mindful of balanced regional development and community protections.		No, not addressed in the Bill. Preliminary work has commenced on a review of the National Aviation Policy (NAP) and that it is intended to undertake extensive consultation as part of the process of developing the new NAP. As part of the consultation process, stakeholders will have the opportunity to express their views on the key issues for the aviation industry in Ireland. The consultation approach and timeline are currently being considered, and it is anticipated that stakeholder consultation will commence later this year.
Recommendation 7		
7. The Committee notes the capacity constraints at the Ringsend wastewater treatment plant and the additional demand growth at Dublin Airport will place on the facility. The Committee recommends that there should be an assessment		No, not addressed in the Bill. The Minister intends to write to his colleague, the Minister for Housing, Local Government and Heritage to highlight the concerns raised by the Committee.

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
carried out to analyse further expansion of this facility.		
Recommendation 8		
8. The Committee heard evidence that noise procedures are standard across European Airports. Dublin Airport has existing noise abatement procedures. However, the Committee recommends these should be reviewed to ensure that they are in line with standards procedures in comparable European airports.		No, not addressed in the Bill. Noise abatement procedures in place in Ireland are fully consistent with the requirements of the Environmental Noise Directive 2002/49/EC and EU Regulation 598/2014, which together establish the common European framework for the assessment and management of aircraft noise. Dublin Airport's procedures operate within this framework and are therefore in full alignment with the standard European procedures.
Recommendation 9		
9. The Committee recommends 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		No, not addressed in the Bill Under the Aircraft Noise (Dublin Airport) Regulation Act 2019, EU Regulation 598/2014 has been implemented in full, and the Minister is satisfied that the Aircraft Noise Competent Authority (ANCA) fully meets the functionally separated requirements of the EU Regulation. ANCA, whilst functionally independent, is part of Fingal Country Council, carrying out an executive function. This

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
technical expertise. The current structure — whereby ANCA is a department within Fingal County Council and is 100% funded by the daa — breaches the functional independence requirement of EU Regulation 598/2014.		organisational structure is not unusual in Ireland, where local authorities can often have a wide range of statutory-based regulatory functions and enforcement roles. Further, it is not unusual for a regulatory body to be funded by an entity it is responsible for regulating, in the form of a levy or charge on that entity. Notwithstanding that position, in line with the requirement set out in section 3 of the 2019 Act, a review of the performance by ANCA of its functions as the competent authority is underway and independent consultants have been appointed by the Department of Transport to undertake this role. The outcome of this Review 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.
Recommendation 10		
10. The Committee recommends the complaints process should be made independent of the daa — noise complaint data should not be collected by the regulated body. No other regulated industry allows the offender to		No, not addressed in the Bill. Noise mitigation at Dublin Airport is subject to substantial regulation and oversight as well as best practice mitigation measures. Dublin Airport is required to monitor aircraft noise around the airport and in communities in line with its responsibilities under the Aircraft Noise (Dublin Airport)

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
collect the data on which the regulator relies.		Regulation Act 2019 and as required by ANCA. Reports are prepared by the airport authority and ANCA on a quarterly and annual basis respectively relating to noise management and compliance with noise mitigation measures.
Recommendation 11		
11. The Committee recommends that ANCA engages with local communities' representative groups as part of its review of noise abatement objectives.		No, not addressed in the Bill. Any proposed amendment to the noise abatement objective (NAO) by ANCA is subject to a strategic environmental assessment which includes an extensive public consultation process. ANCA published its proposed updated NAO on 28 May 2026, and a public consultation has commenced which will close on 3 September, giving any person the opportunity to make a submission within that 14-week period.
Recommendation 12		
12. The Committee recommends that the Government should commission a comprehensive economic assessment of Dublin Airport on the model of the Schiphol assessment conducted by CE Delft, which examined the full climate, health,		No, not addressed in the Bill. Preliminary work has commenced on a new National Aviation Policy which will include a long-term strategy for Irish airports. As part of this work, a study will be conducted to examine future airport capacity needs across the island to ensure economic growth is supported while balancing regional development.

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
congestion and community costs of different capacity scenarios.		
Recommendation 13		
13. The Committee recommends that the Government should act urgently to ensure that legislation is enacted, commenced and a ministerial order issued before 1 October 2026, when the IAA must make its capacity declaration for summer 2027.		No, not addressed in the Bill. It is the Minister's intention to progress the legislation through to enactment as early as possible in 2026 and before the summer recess if possible. Once enacted, the Minister intends to immediately commence the process for the environmental assessments required for the making of an order as soon as possible.
Recommendation 14		
14. The Committee recommends that the electricity grid capacity requirements of Dublin Airport should fully assess the impact of passenger growth beyond the existing cap on forecasted electricity capacity for housing and services in North Dublin.		No, not addressed in the Bill. The Minister has raised the Committee's concerns with daa and is aware that daa is continuing its effort to decarbonise the built environment and its fleet through electrification. daa advise that it has surpassed its 2030 energy efficiency target, achieving a reduction of 57% versus 2006-2008 average baseline in 2025. daa continue to actively work to reduce electricity demand at Dublin airport through measures including installation of a 9MWp Solar Farm, and the planning

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
		of a 14.4MWp solar farm alongside 2 battery storage systems of up to 30MWh. daa is also increasing energy efficiency by implementing building management systems and energy reduction measures (including LED lighting and lighting management in underused areas). daa regularly meet with the ESNB and the Commission for the Regulation of Utilities to understand the forecasted load demand for the next decade and beyond and in agreement with ESNB, daa are developing a load demand management system to ensure that the electrical loads on site are in line with the maximum import capacity allowed by ESNB.
Recommendation 15		
15. The Committee recommends a review of the daa's Improved insulation and buyout schemes. The voluntary buyout scheme should be updated to reflect current Dublin property values using a compulsory purchase order model of valuation including disturbance and reinstatement costs.		No, not addressed in the Bill The Minister has no role in determining the criteria for the insulation or buyout schemes. However, he wrote to daa in October last year and March this year in relation to their noise mitigation programme to ensure it is kept under review. The Minister is aware that under the terms of the planning conditions, the Residential Noise Insulation Scheme (RNIS), the Voluntary Dwelling Purchase Scheme (VDPS) and the School Insulation Scheme (SIS), eligibility for all three schemes is subject to review every

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
		two years, with the next review due to commence in the coming months. This review will utilise 2025 operational and noise data, ensuring that the assessment accurately reflects the noise environment experienced by local communities. It is further noted that under the VDPS, that eligible homeowners receive 30% above the current market value of their property. It is open to homeowners to have their property independently evaluated at daa's expense and daa will also cover the cost of conveyancing fees, stamp duty, tax advice and moving costs. It is understood that daa has extended the voluntary purchase scheme to August 2028. ANCA published its draft regulatory decision in relation to daa's Infrastructure Application on 28 May and a public consultation in relation to its proposed measures to mitigate against any noise problem is open until 3 September.
Recommendation 16		
16. The Committee recommends that a voluntary buyout scheme for night-time noise should be established as a matter of urgency — currently no such scheme		No, not addressed in the Bill The assessment of noise issues at Dublin Airport, areas around the airport significantly affected by aircraft noise, and noise abatement measures are the statutory responsibility of ANCA.

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
exists despite night-time noise being the biggest problem for affected residents and despite a 343% breach of ANCA's own night-time noise abatement criteria.		Night-time noise at the airport has been assessed by ANCA as part of the North Runway Relevant Action and Fingal County Council made a decision on that application which incorporated the measures proposed by ANCA to mitigate against night-time noise. Those measures included a noise-quota scheme, prohibition of the use of the North Runway between 12am and 6am and a residential noise insulation scheme. That decision was appealed to An Coimisiún Pleanála (ACP) who made its decision in July 2025 agreeing with the proposals by ANCA and including an additional aircraft movement cap. The EU Commission notified the State in February this year, that ACP did not follow the balanced approach in concluding the need for an aircraft movement cap and ACP is currently considering its next steps. Once the final decision is made and the noise mitigation measures are implemented, ANCA will monitor their implementation and effectiveness. It is important to note that ANCA have an ongoing noise monitoring role and have the ability at any time to undertake a noise assessment where it determines that a noise problem exists.

Source: Department of Transport, compiled by the L&RS.