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27th February 2026

Public Consultation on General Scheme of Dublin Airport (Passenger Cap) Bill 2026

An Taisce welcomes the opportunity to make a submission to help inform the Pre-Legislative Scrutiny process for the General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026.

While we recognise the value of Dublin Airport for trade and tourism in an island nation such as Ireland, and its importance as a transportation hub, An Taisce is opposed to the proposed capacity expansion, including in passenger numbers, and the negative environmental and community impacts this will lead to. We submit that the economic growth justifications put forward are overly prioritised in comparison to environmental and social considerations, therefore demonstrating an imbalance in the weighting of these three pillars of sustainability. A recent Transport & Environment report (2025)[1] highlights how other jurisdictions have begun to question the narrow economic growth justifications for airport expansion at the expense of social and environmental goals:

> *"The decision by the French government to cancel the approved expansion of Paris Charles de Gaulle Airport in 2021, however, went against the grain. The decision highlighted that the balance of trade-offs between environmental and economic goals may be starting to shift. Similarly, at Schiphol Airport in the Netherlands, a conversation which was once about expansion has pivoted to sustainability and even shrinkage. Supporting this shift were several studies commissioned by government and industry in the Netherlands, which raised doubts about the strength of the economic arguments in favour of growth"* (p. 6)

Furthermore, this General Scheme to lift the passenger cap and disapply planning controls comes at a time when all other sectors across the country must make significant and costly changes to adhere to ambitious, challenging and legally binding carbon budgets and sectoral emission ceilings. The aviation sector should not be exempt from rapid and deep emissions cuts.

[1] Chapman A., & Pot, F. 2025. The Economics of Air Transport in Europe: Part One – Air Transport and Growth. The New Economics Foundation. https://www.transportenvironment.org/uploads/files/The-economics-of-air-transport-in-Europe_Final.pdf

The EPA shows that Ireland is already significantly off track for meeting the carbon budgets[2] which means that all sectors, including aviation, need to take more action to reduce their emissions:

> *"Budget period 1 (2021-2025) of 295 Mt CO2eq is projected to be exceeded by between 8 to 12 Mt CO2eq. Budget period 2 (2026-2030) of 200 Mt CO2eq is also expected to be exceeded by a significant margin of 77 to 114 Mt CO2eq (with carryover from Budget period 1)."*

Aviation emissions constitute a major source of greenhouse gas (GHG) emissions from transport. As an area which is proving difficult to decarbonise, managing the growth in demand for air travel is essential to limit the negative impacts of short, medium and long-haul flights. Of consequence for climate action is whether emissions in a sector or project are going down quickly enough for alignment with the 1.5 ºC target or whether the project is enabling other sectors to reduce their emissions quickly enough to compensate for that project's impact. It is our view that neither of these hold true for this proposed lifting of the passenger cap within the General Scheme due to additional and increasing emissions being the inevitable outcome. Therefore, any proposed expansion to increase airport capacity to handle more flights and passengers represents a retrograde move which runs completely counter to Ireland's ambitious climate and emissions reduction objectives under the Climate Action and Low Carbon Development (Amendment) Act 2021 and the Paris Agreement. In particular, we would highlight the 'National Climate Objective' under Article 5 of the Climate Act 2021:

> *"The State shall, so as to reduce the extent of further global warming, pursue and achieve, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy".*

Additionally, we bring the Committee's attention to Article 2 of the Paris Agreement, specifically the aims of *"Holding the increase in the global average temperature to well below 2 ºC above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5ºC above pre-industrial levels", as well as to "..foster climate resilience and low greenhouse gas emissions development..".* Expanding the capacity of Dublin Airport would seriously threaten the attainment of these vital objectives due to the associated increase in GHG emissions. In fact, findings from the 'Climate Trace' database, as unveiled at COP27, show that Dublin Airport was the largest emitter of GHGs in Ireland in 2025, responsible for 2.92 million tonnes of CO2 equivalent over a 100-year period (tCO2e100yr). It has also been the highest emitter consistently since 2023. As a result, this proposal to expand the airport by lifting the existing passenger cap and consequentially further increase emissions cannot be deemed acceptable in the face of the stringent cross-sectoral efforts required to reduce emissions. As noted by Transport & Environment[3]:

> *"While Europe ramps up action to cut emissions to net zero by 2050 and sectors across the economy, particularly heat and electricity, deliver decarbonisation at pace, air transport lags behind. The sector has delivered increased emissions and lacks a viable within-sector route to net zero for the medium to long term"* (p. 4)

An increase in passenger numbers and aviation emissions also contravenes Ireland's fair share contribution to reduction of global emissions, as enshrined within the principle of common but differentiated responsibilities under the Paris Agreement. Data shows that the richest half of the world

[2] https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/07875-EPA-GHG-Projections-Report-FINAL.pdf

[3] Chapman A., & Pot, F. 2025. The Economics of Air Transport in Europe: Part One – Air Transport and Growth. The New Economics Foundation. https://www.transportenvironment.org/uploads/files/The-economics-of-air-transport-in-Europe_Final.pdf

(high and upper-middle-income countries) were responsible for 90% of air travel emissions.[4] As a result, Ireland is a significant contributor to these emissions due to the large proportion of frequent flyers and long-haul flights undertaken. Pursuing the lifting of the existing passenger cap via the General Scheme reneges on our international responsibilities to sharply reduce emissions, while accepting adverse climate consequences for the poorest regions of the world which have contributed least to climate change and which also emit just 1% of aviation emissions.[5]

The aviation sector is a significant contributor of both CO2 and non-CO2 emissions and has a high environmental impact due to the high altitudes at which aircraft operate. With Dublin airport being recognised as a key secondary hub within an EU-wide airport network, these emissions are set to increase via the proposed lifting of the passenger cap and associated airport expansion. Dublin Airport has already experienced record levels of Air Traffic Movements (ATMs) in 2025, with 255,000 being recorded[6], raising serious concerns over the growth in aviation emissions in the midst of a climate emergency. This has been forecasted to increase to 265,000 ATMs by 2030, according to Section 8.5.3 of the Fingal County Development Plan 2023-2029, with this projection likely to be surpassed given current trends. The proposed lifting of the passenger cap will cause these numbers to increase even further going into the 2030s and beyond.

Dublin Airport seeks to benefit from an increase in demand for flights by expanding its operations, passenger numbers and number of flights. Such ambitions are embedded within a context of economic growth and is bolstered by the policy aims of the Eastern and Midlands Regional Spatial and Economic Strategy (RSES), the Fingal County Development Plan 2023-2029, the Dublin Airport Local Area Plan 2020 and the National Aviation Policy for Ireland 2015. Problematically from a climate perspective, each of these policy documents supports the growth of movements and passengers at Dublin Airport which entails a large increase in associated emissions from the activities. Connectivity, trade and tourism markets are the key arguments for advocating the airport expansion throughout these documents. Yet the RSES and the Fingal County Development Plan also contain strong climate policy objectives, including on the need for emissions reduction. However, the stronger focus on economic growth neglects social and environmental considerations which raises serious doubts about the sustainability of General Scheme as currently articulated and grave concerns about the current administration's abandonment of ambitious climate action.

Airport expansion is completely at odds with the regulation of Scope 3 emissions. The International Council on Clean Transportation's Airport Tracker tool[7] shows that 49.1% of flights from Dublin Airport are long-haul, representing a significant portion of the 2.59 million tonnes of CO2 total flight emissions of passengers already coming from the airport, which represents the CO2 emissions attributed to carrying passengers, but excludes those created by carrying cargo. When freight is taken into account, this figure increases to 2.8 million tonnes of CO2, which equates to the yearly emissions of 1.4 million cars. The amount of total air pollution attributable to the airport is 1,246 tonnes of NOx.

Given the requirements of the precautionary principle throughout EU environmental laws such as the EIA Directive, the General Scheme as currently proposed is short-sighted as it will expand these emissions and thus intensify the environmental impact of the airport. The preliminary section 2 of the EIA Directive states:

[4] https://ourworldindata.org/breakdown-co2-aviation
[5] https://ourworldindata.org/breakdown-co2-aviation
[6] https://www.dublinairport.com/latest-news/2026/01/16/record-36.4-million-passengers-travelled-through-dublin-airport-in-2025
[7] https://airporttracker.org/

> *"Pursuant to Article 191 of the Treaty on the Functioning of the European Union, Union policy on the environment is based on the precautionary principle and on the principles that preventive action be taken…Effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision-making processes".*[8]

It should be ensured that the General Scheme respects this principle from the EIA Directive. As noted by Transport & Environment (2025):

> *"Threatening Europe's net zero ambitions are industry plans for rapid growth over the coming years. Proposals for growth make achieving net zero harder and appear at odds with the precautionary principle established in European law in the Treaty on the Functioning of the European Union."* (p.4)

To adhere to this requirement for early consideration of environmental impacts, we also submit that the General Scheme should be assessed in light of the figures provided by the aforementioned Airport Tracker tool. It could also be used for scenario analysis by comparing the current total flight emissions of passengers from Dublin Airport (36mppa), with airports currently operating at passenger volumes which Dublin Airport is projected to reach in the coming decades. This will allow for a determination of how emissions may increase.

The aviation sector is a significant contributor of both CO2 and non-CO2 emissions and has a high environmental impact due to the high altitudes at which aircraft operate. With Dublin airport being recognised as a key secondary hub within an EU-wide airport network, these emissions are set to increase via the proposed airport expansion.

As noted by the European Union Aviation Safety Agency (EASA):

> *the Effective Radiative Forcing (ERF) from the sum of non-CO2 impacts yields a net positive (warming) that accounts for more than half (66%) of aviation net forcing in 2018".*[9]

Lifting of the passenger cap is likely to increase the total flow of non-CO2 emissions, which entails significant air quality and warming impacts due to non-CO2 climate forcing being double or triple that of CO2. Pushing forward with a proposal that will increase high emitting air traffic movements would constitute an unacceptable level of risk and damage to the climate system, with implications for human and non-human health, given that the effects of climate change are projected to increase and that climate change is known to be a threat multiplier.

Another issue is the complete lack of focus on demand management, which is urgently required to offset the increased amount of passengers that will outweigh any GHG savings from efficiency measures. Increased demand for flights outweighs proposed efficiency and SAF mitigation measures by increasing overall emissions. As a result, as recognised by Transport & Environment, demand management is a crucial means to reduce aviation emissions.[10] Furthermore, the creation of demand

[8] Directive 2011/92/EU of the European Parliament and of the Council. EIA Directive. 2011. https://eur-lex.europa.eu/eli/dir/2011/92/oj

[9] Updated analysis of the non-CO2 climate impacts of aviation. EASA. September 2020 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2020:277:FIN

[10] Roadmap to climate neutral aviation in Europe. March 2022. Transport and Environment. https://www.transportenvironment.org/wp-content/uploads/2022/03/TE-aviation-decarbonisation-roadmap-FINAL.pdf

through additional transport connectivity does not automatically entail a more positive outcome for society, especially given additional emissions to the climate system and increased road traffic congestion in the vicinity of the airport, and it can also manufacture a perceived need for expansion:

> *"Induced demand is a concept now widely accepted in research in the road transport field. It is the idea that simply through the expansion of transport infrastructure capacity, you can encourage greater use. The existence of this demand, however, does not designate that there is a 'need' per se, nor that the fulfilment of the demand represents the best outcome for society."* (p. 9)[11]

The importance of swift demand management is intensified by the fact that sustainable aviation fuels and lower-emitting aircraft are yet to be proven effective, let alone scaled-up. Projections for the widespread availability of these technologies indicate that they will arrive too late, if they are viable at all, meaning that reducing the demand for flights is one of the only effective solutions to reaching net zero by 2050. Given the significant scientific, technical and economic uncertainties around sustainable aviation fuels and lower-emissions aircraft, it is premature and inappropriate for the General Scheme to advance in its current form of highly centralised Ministerial power and disapplication of the Climate Act given the context of a climate emergency. The scientific consensus is that significant demand reductions are necessary for aviation to meet the goals of the Paris agreement.[12] [13]

Furthermore, the international climate implications of the General Scheme must be considered in light of proposals to remove nighttime flight restrictions and to expand the US pre-clearance facility. The impact of GHG emissions is not spatially bound to the immediate surrounds of the airport site, and emissions combine cumulatively with Europe-wide and global aviation activity. Therefore, the proposed airport expansion undermines Ireland's overall GHG emissions targets under the Climate Act 2021 and the Paris Agreement.

Indirect Scope 3 emissions emanating from an expanded airport need to be considered in the context of the urgency required to meet GHG reduction targets. Focusing on Scope 1 and 2 emissions mitigation measures alone is inadequate if Scope 3 emissions continue to be neglected. Consequently, the lifting of the passenger cap cannot be justified from a social and environmental standpoint due to the rise in emissions that will result from increased air movements arriving to and departing from the airport. While the Minister may claim that Ireland has no control over international aviation emissions and these fall under international policies and regulation such as the EU ETS (Emissions Trading Scheme) and CORSIA (Carbon Reduction and Offsetting Scheme for International Aviation), he can and should exercise agency in emissions mitigation by not seeking to lift the passenger cap. Having a total reliance on market-based measures as the main GHG-limiting mechanisms for international aviation emissions raises efficacy concerns due to free emissions allowances afforded to airlines and perverse incentives stemming from carbon offsetting.

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[11] Chapman A., & Pot, F. 2025. The Economics of Air Transport in Europe: Part One – Air Transport and Growth. The New Economics Foundation. https://www.transportenvironment.org/uploads/files/The-economics-of-air-transport-in-Europe_Final.pdf

[12] Sharmina, M., Edelenbosch, O.Y., Wilson, C., Freeman, R., Gernaat, D.E.H.J., Gilbert, P., Larkin, A., Littleton, E.W., Traut, M., Vuuren, D.P. van, Vaughan, N.E., Wood, F.R., Quéré, C.L., 2020. Decarbonising the critical sectors of aviation, shipping, road freight and industry to limit warming to 1.5–2°C. Climate Policy 0, 1–20. https://doi.org/10.1080/14693062.2020.1831430

[13] Quiggin, D. 2023. Net zero and the role of the aviation industry: How flying less frequently and less far can buy time for decarbonisation solutions. Environment and Society Centre. https://www.chathamhouse.org/sites/default/files/2023-11/2023-11-14-net-zero-aviation-quiggin_0.pdf

Additionally, a Transport & Environment report shows how implementing CORSIA will not necessarily incentivise emissions reductions within the aviation sector.[14] They highlight how it may actually be cheaper for airlines to continue polluting by purchasing carbon offsets rather than accelerating moves to increase the share of sustainable aviation fuels in the conventional fuel mix. The costs of compliance with CORSIA are also set to be a minor share of airlines' overall costs, which represents a perverse incentive to continue business-as-usual aviation practices. Consequently, in the absence of an expanded EU ETS scheme to account for international flights and their emissions, this application relies on regulating emissions via an international scheme, the adequacy of which is questionable. Therefore, there is an implicit deflection of accountability for international aviation emissions which is a recurring issue with airport expansion plans such as the subject proposal. While the EC will review the sufficiency of CORSIA in 2025 to determine whether the ETS scheme should be expanded to include all flights departing from the EEA, there is no guarantee an expanded ETS will happen. In any case, the fact that the ETS has granted free CO2 permits to polluting airlines, €683 million to the top ten polluting airlines in 2021 alone, raises serious concerns about the scheme.[15]

International Law Obligations

The Bill seeks to eliminate the existing passenger cap at Dublin Airport, which is occurring within the context of increased international law obligations for States to reduce harms to the climate system, as per the International Court of Justice (ICJ) Advisory Opinion issued in July 2025 on the Obligations of States with regard to climate change. This obligation has been affirmed most recently in a report on Ireland by the United Nations (UN) Special Rapporteur on the human tight to a clean, healthy and sustainable environment:

> *"The International Court of Justice's (ICJ) advisory opinion on the Obligations of States with regards to climate change, rendered in July 20256 is key for clarifying and advancing Ireland's obligations on climate change. It concludes that the human right to a healthy environment is a precondition for the enjoyment of all other human rights, including the right to life and health, and that the right to a healthy environment is a result of the interdependence between human rights and the environment. The ICJ also clarified that all States have the obligation under customary international law to protect the environment and the climate system, and thus, to implement effective actions to avoid harms, including transboundary ones, related to mitigation, adaptation and restoration. It highlights that States must act with strict due diligence in relation to the environment and the climate system, derived from the high risk that harm to it can imply."*

It is submitted that the Heads of Bill as currently proposed contravene these international law obligations by willingly allowing for increased climate harms as a result of aviation emissions.

The Rapporteur also highlighted the following with regard to the simplification narrative being promoted by vested interest groups and government administration:

[14] Briefing on the assessment of ICAO's offsetting scheme. March 2021. Transport and Environment. https://www.transportenvironment.org/wp-content/uploads/2021/07/2021_03_Briefing_Corsia_EU_assessement_2021.pdf

[15] https://www.transportenvironment.org/discover/europes-dirtiest-airlines-received-millions-in-free-pollution-permits-in-2021/

"I reiterate that regulatory reform must not undermine the rule of law or weaken protection mechanisms established to safeguard the public interest, nor should a misunderstood simplification process be allowed to increase potential risks to the environment and human rights, including regarding life and health."

Lifting of the Dublin Airport passenger cap is also recognised as being devoid of thorough assessment:

"Moreover, decisions such as the EU nitrates derogation, and the Government proposals for new liquefied gas infrastructure to be used as Strategic Gas Emergency Reserve, and lifting the Dublin Airport passenger cap, are yet to include adequate, comprehensive and scientifically based assessments of environmental and climate impacts. Contradicting policies and exclusion of climate and environmental considerations create uncertainty even among economic sectors, in addition to increased risks."

…

Recently it has been announced that the 2007 Dublin airport passenger cap of 32 million would be removed through legislation and is being taken based on intentions to increase connectivity and the economy, without considering climate impacts nor comprehensive assessment on economic growth either"

These issues require rectification as a preliminary matter to ensure that a thorough independent impact assessment of environmental and climate impacts arising from the General Scheme are conducted.

Domestic Law Obligations

The Heads of Bill are being proposed in the context of the recent Coolglass judgment which clarified the scope of obligation on public bodies under Section 15 of the Climate Act, where they must carry out their functions in a manner consistent with the climate objectives listed:

"108...It applies to the functions of all relevant bodies, and obliges such bodies to exercise those functions consistently with the climate objectives so far as possible. This operates as a form of climate sense check, and to ensure that decisions and actions of public sector bodies are all aligned with the climate objectives."

On-time compliance with all carbon budget and sectoral ceiling emissions tonnages is legally binding per the Climate Act 2015 (as amended). However, the Heads of Bill appear to simply toss out genuine compliance with the carbon budgets and other provisions of the Climate Act via Head 12 which states that *"Any function or exercise undertaken under this Act shall be exempt from the provisions of section 15 of the Act of 2015."* The underlying rationale concerningly states *"This Head provides that the provisions of section 15 of the Climate Action and Low Carbon Development Act 2015 do not apply to any functions or exercises undertaken under this Bill."* This establishes an alarming precedent of disapplying climate obligations and relinquishing climate action to facilitate emissions-intensive activity and raises significant legal questions. This risks reputational damage for the Oireachtas and the State at a time when Ireland assumes the European Council Presidency in 2026, with an elevated leadership role for COP31, and when Ireland reaffirmed its commitment to enhanced EU emissions reduction targets and accelerated domestic decarbonisation efforts during the latest COPs (29 and 30).

Arguments commonly arise that International Aviation and Shipping (IAS) emissions are outside the scope of the Climate Act. However, we would consider these to still be covered by s.15 of the Climate

Act due to s.15(d) which seeks furtherance of the National Climate Objective (NCO) and to meet the NCO, carbon budgeting must be consistent with Article 2 of the Paris Agreement which contains the fair share contribution to reduction of global emissions under the Common but Differentiated Responsibilities and Respective Capabilities principles.

In light of the foregoing considerations, we advocate for the full deletion of Head 12 given how it seeks to disapply the legal provisions of the Climate Act, including consistency obligations in terms of climate action plans, carbon budgets and sectoral emissions ceilings. We would consider this to be legally impermissible and deeply problematic on administrative and environmental law grounds as it provides excessive discretionary powers to decision-makers to deviate from existing climate law to approve an emissions-intensive facility, establishing a concerning precedent for other facilities of a similar nature. Furthermore, the carefully formulated legal architecture of Ireland's Climate Act also contributes to meeting our EU climate law obligations.

We strongly recommend that the Bill is independently assessed against our national, European and international legal obligations, including but certainly not limited to the Aarhus Convention on the rights to public participation and access to justice, the Environmental Impact Assessment Directive, the Habitats and Birds Directives, the Water Framework Directive, the Espoo Convention, etc., etc. Such assessments should be made publicly available. Of course, we also submit that the Heads need to be assessed against the Climate Act.

All evidence, data and rationale that have informed the development of this proposed legislation should also be made publicly available.

Head-Specific Comments

The following Head-specific comments are in no way exhaustive as we are still very much in the process of studying the Heads of Bill given the expedited timeframe (we very much recognise and appreciate that the Committee is scrutinising the General Scheme under these expedited timeframes as well).

Head 4 – Planning Conditions

It is noted that the Head seeks to remove the ability of a planning authority or An Coimisiún Pleanála to impose planning conditions at Dublin Airport which limit passenger numbers. We would consider this to set an concerning precedent for selective relinquishing of planning control, a responsibility which has been reserved for planning authorities given their expertise and decision-making independence. It is considered that this is an instance of central government overreach and elimination of a form of check and balance upon development. We would highlight that the initial airport passenger cap of 32 million was put in place due to road capacity concerns, an issue which we would argue has only exacerbated in that timeframe given population growth and congestion visible on the M50, including approaches to the airport, and given that the Metro Link project remains in the earliest phases of development. The General Scheme will add to existing traffic congestion, with implications for transportation emissions and sectoral emission ceilings under the Climate Act, as well as arguably undermining the economic viability of the city. A recent Inrix report alarmingly ranked Dublin as the 11th most congested city in the world, which the General Scheme is likely to worsen.[16]

[16] https://inrix.com/scorecard-city/?city=Dublin&index=16

Head 5 – Order

We would express concern at the proposed provisions under Head 5(1)(a)(ii) which allows for the Minister to revoke or amend a planning condition considered to impact the economy of the State:

> *"The Minister may, for stated reasons, make an order to revoke or amend a planning condition where the Minister is of the opinion that –*
>
> *(a) a planning condition is causing or will cause serious harm to:*
> *…*
> *(ii) the economy of the State, including without limitation to tourism or foreign direct investment,"*

The question arises as to where safeguards and oversight regarding the Minister's power to invoke such a provision are articulated, and the concerns of environmental and other safeguards being easily disapplied to facilitate purely economic aspirations without acknowledgements of limits to growth and planetary boundaries. A recent study from the New Economics Foundation demonstrates that air traffic growth is driven by the higher income of citizens who engage in outbound tourism, rather than directly increasing prosperity and economic growth.[17]

Head 6 – Environmental Impact Assessment

This Head relating to Environmental Impact Assessment (EIA) should be independently reviewed for compliance with the EIA Directive.

Head 6(20) states: *"An Coimisiún shall carry out an environmental impact assessment under this head within a specified timeframe, which shall identify, describe and assess the direct and indirect significant effects of the making of an order under Head 5…"*

The *"within a specified timeframe"* wording is repeated throughout the head and accompanying explanatory note in reference to completing the EIA process. Anywhere where timelines for decisions or processes are to be introduced or amended, it must be ensured that they are appropriate to the development type, its complexity, etc. Inappropriate or unrealistic timelines can incentivise rushed or poorer quality decision making, thereby increasing the possibility of unlawful decisions and legal challenges. Furthermore, without sufficient resourcing, delivering on decision timelines will not be possible, also increasing the possibility for flawed decision making and increasing the likelihood of delay.

Head 7 – Assessment under the Habitats Directive

This Head relating to Appropriate Assessment (AA) should be independently reviewed for compliance with the Habitats and Birds Directives.

The framing of Heads 26-30 suggests that a determination of imperative reasons of overriding public interest (IROPI) to allow for the development to proceed is inevitable and that compensation measures must be accepted by An Coimisiún from the Minister. However, we consider that this

[17] https://www.transportenvironment.org/articles/new-analysis-debunks-the-assumption-that-air-passenger-growth-drives-economic-growth

disregards the intended purpose of the Habitats Directive for IROPI to be highly restrictive and a last resort.

It is also noted that none of the Heads appear to refer to Ireland's obligations under the Aarhus Convention, particularly Article 9 which provides for broad access to justice and wide sufficient interest criteria. A wide access to justice is also enshrined in Article 11(3) of the EIA Directive which the Heads of Bill should acknowledge. The CJEU has provided a general appraisal of access to justice by identifying access to justice as an environmental protection measure (Case C-72/12, para. 28):

> *"28. Although it is true that that extension may have the effect, in practice, of delaying the completion of the projects involved, a disadvantage of that kind is inherent in the review of the legality of decisions, acts or omissions falling within the scope of Directive 85/337, a review in which the legislature of the European Union has, in accordance with the objectives of the Aarhus Convention, sought to involve members of the public concerned having a sufficient interest in bringing proceedings or maintaining the impairment of a right, with a view to contributing to preserving, protecting and improving the quality of the environment and protecting human health."*

It should be ensured that the Heads as proposed are assessed against these access to justice requirements and a broad conception of sufficient interest for legal standing, especially considering the transboundary and diffuse nature of aviation emissions entering the climate system.

We also note that Head 7 appears to fail to specify the competent authority for the purposes of Appropriate Assessment which would be An Coimisiún Pleanála and should be clarified as a preliminary matter.

While this Head does provide under subsection 25 for An Coimisiún Pleanála to give reasons for their Appropriate Assessment determination, it does not specify that the reasons should include specific justifications for any conditions imposed. Nor does it specify that where the Ministerial decision differs from An Coimisiún's recommendation, the reasons for the deviation must be stated. The issue of lack of reasons in a planning decision has been the subject of multiple successful legal challenges and clarification by the CJEU and domestic courts (see Case C-721/21 Eco Advocacy CLG v ABP; O'Donnell v ABP [2023] IEHC 381; Konisberry v ABP [2024] IEHC 194; Connelly v An Bord Pleanála [2018] IESC 31; Sexton v An Bord Pleanála [2025] IEHC 449; Ballyboden Tidy Towns Group v An Bord Pleanála [2022] IEHC 7. The requirement to give reasons interacts with European law, and was applied in *Connelly*, in the context of an Appropriate Assessment regarding the requirement to make clear, precise and definitive findings. It also arises under the EIA Directive, where there is an expressed requirement on the decision maker conducting an EIA to give a reasoned decision. Strict adherence to the requirement for reasons in the making of any decision is essential.

Public Consultation

Public comment should be provided for on the application in its entirety, rather than being confined to specific environmental matters such as the information contained within a Natura Impact Statement (NIS), Environmental Impact Assessment Report (EIAR) and Water Framework Directive (WFD) Assessment Report. Members of the public and civil society groups may have very important and valuable contributions and comments on multiple aspects of a proposal, including personal impacts to people or property, that do not fall under what is proposed in the Head. It is also important to note that third party observations can bring to light key issues and deficiencies with application materials that may go unnoticed otherwise and that could lead to flawed decisions if they are uncorrected.

Additionally, we consider a 30-day minimum consultation period to be insufficient. It is less than the five weeks for standard planning applications and significantly less than the six-week minimum period for Strategic Infrastructure applications. We recommend that a minimum of six weeks be provided, given the inevitable length and complexity of the documentation that the public will need to review, as well as the climate and traffic implications of the proposal.

We would highlight that effective public participation is a requirement under the Aarhus Convention on the rights to public participation, access to justice, and access to information in environmental matters, to which both Ireland and the EU are parties. We do not consider that consultation provided for here facilitates effective participation.

Head 10 – Noise Assessment

The proposed airport expansion will likely exacerbate the impact of airplane noise on residents who are already expressing concerns about existing levels of noise. Therefore, it may not adhere to the management of noise objective outlined in National Policy Objective 94 of the National Planning Framework. Managing noise at the current airport capacity appears to be challenging, and it is unclear how it will be effectively mitigated if the lifting of the passenger cap and associated increase in flights goes ahead under the General Scheme.

Head 12 – Exemption from the Act of 2015

In the first instance and for the avoidance of doubt, it should be clarified that the relevant section is 15(1) of the Climate Action and Low Carbon Development Act 2015 *as amended*. The 2021 amendments to the 2015 Climate Act significantly strengthened the requirements on relevant bodies as laid out in section 15.

An Taisce submits that Head 12 should be entirely removed as it circumvents and undermines the purpose and provisions of the Climate Act as formulated by the legislature at the time. It is submitted that relevant bodies are bound to perform their functions in a manner consistent with the carbon budgets and sectoral ceilings. The proposed provisions instead alter this role by disapplying the Climate Act and allowing for the Minister and An Coimisiún to operate outside the confines of legally binding climate action, essential in a time of worsening climate breakdown and urgent decarbonisation need across society.

We thank the Committee for their consideration of our input and would be happy to engage further, if the Committee wishes.

Is mise le meas,

Seán O'Callaghan
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