



An tÚdarás Inniúil um  
Thorann Aerárthaí  
Aircraft Noise  
Competent Authority

# ANCA

## **Appropriate Assessment Determination**

20th June 2022



# Appropriate Assessment Determination

## 1. Introduction

The Aircraft Noise Competent Authority (the **Competent Authority**) has prepared this Appropriate Assessment (AA) Determination in relation to the following plans, in accordance with the EU **Habitats Directive** (92/43/EEC)<sup>1</sup> and the EU Birds Directive (2009/147/EC)<sup>2</sup> (together, the Habitats Directive), as transposed in Ireland by the European Communities (Birds and Natural Habitats) **Regulations 2011**, SI 477/2011 (the Regulations of 2011):

- The Noise Abatement Objective for Dublin Airport (the **NAO**), as defined in accordance with Section 9(2)(a) of the Aircraft Noise (Dublin Airport) Regulation Act 2019 (the Act of 2019); and
- The Competent Authority's Regulatory Decision (the **Regulatory Decision**) in response to an application by the airport authority for Dublin Airport (**daa**) under Section 34C of the Planning and Development Act 2000 (as amended, in particular by the Act of 2019) (the **Act of 2000**), dated 18 December 2020 and referenced as F20A/0668. This application is for a "relevant action" as defined in Section 34C of the Act of 2000, seeking to amend prior planning conditions associated with night time aircraft activity at Dublin Airport.

Regulation 42(1) of the Regulations of 2011 requires the Competent Authority to carry out an AA screening to assess whether, on the basis of objective scientific information, the plan, individually or in-combination with other plans or projects, is likely to have a significant effect on a European site. Specifically, Regulation 42(1) states:

Subject to Regulation 42A, a screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site.

(Regulation 42A applies to AA in relation to plans or projects where the Minister for Housing, Local Government and Heritage is the relevant public authority proposing to adopt the plan or carry out the project, so is not applicable in this context).

Regulation 42(6) of the Regulations of 2011 goes on to provide that:

The public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.

<sup>1</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

<sup>2</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

By Chief Executive Order dated 18 August 2021, the Competent Authority issued an AA screening determination, which concluded that it could not be excluded, on the basis of objective scientific information, that the defining of the NAO and making of the Regulatory Decision, individually or in combination with other with other plans or projects, would have a significant effect on a European site(s). Accordingly, the Competent Authority determined that full AA of the NAO and Regulatory Decision, in view of the relevant European sites' conservation objectives, was required.

Regulation 42(16) of the Regulations of 2011 provides that a public authority shall undertake or adopt a plan only after having determined that the relevant plan shall not adversely affect the integrity of a European site. To inform its determination on AA, in accordance with the Regulations of 2011, the Competent Authority prepared a Natura Impact Statement (**NIS**), which is a report comprising the scientific examination of the NAO and draft Regulatory Decision and the relevant European sites, to identify and characterise any possible implications of the NAO and draft Regulatory Decision individually or in combination with other plans or projects in view of the conservation objectives of the site or sites, and any further information including, but not limited to, any plans, maps or drawings, scientific information or data required to enable the carrying out of the AA.

In carrying out AA, the Regulations of 2011 require the Competent Authority to take into account each of the following matters:

- The NIS;
- Any other plans that may, in-combination with the NAO and Regulatory Decision, adversely affect the integrity of a European site;
- Any supplemental information furnished in relation to any such report or statement;
- If appropriate, any additional information sought by the authority and furnished by the applicant in relation to the NIS. (This obligation only applies to the competent authority and "applicant" in respect of projects, and does not apply to public authorities in the making of plans);
- Any information or advice obtained by the public authority;
- If appropriate, any written submissions or observations made to the public authority in relation to the NAO and draft Regulatory Decision; and
- Any other relevant information.

The methodology for undertaking the assessment is presented in Section 3 of the NIS. European Sites potentially affected are presented in Section 4 of the NIS. A full list of the Conservation Objectives (**COs**) and Qualifying Interests (**QIs**)/Special Conservation Interests (**SCIs**) that each European site is designated for, as well as the attributes and targets to maintain or restore the QIs/SCIs to a favourable conservation condition are available from the National Parks and Wildlife Service (NPWS) website and were used in the assessment.

Plans with potential in-combination effects along with the NAO and Regulatory Decision were considered in the AA Screening Report and NIS, both of which concluded that there was no potential for the NAO and Regulatory Decision to have effects on European sites in combination with those other plans. In addition, the AA Screening Report and NIS concluded that there was no potential for the NAO and Regulatory Decision to have in-combination effects with any other projects. No further supplemental information was used (or furnished) and no additional information or advice was sought in relation to the NIS.

The relevant documentation is available at <https://www.fingal.ie/aircraftnoiseca/documents-f20a0668>.

## 2. Potential impacts

The AA Screening Report identified the following possible effects on European sites, which could arise as a result of noise management measures necessary to meet the requirements of the NAO and Regulatory Decision:

- The effects of increases in the level and frequency of noise, and visual disturbance events caused by increases in aircraft overflying of European sites and potentially, also by this overflying occurring at differing times of the day and night;
- The effects of changes to air quality, particularly increases in the concentrations of NO<sub>x</sub> and levels of nitrogen deposition, caused by increased numbers of aircraft overflying European sites; and
- The effect of emergency fuel dumping from overflying aircraft affecting European sites directly, or indirectly through surface water pathways.

## 3. Data sources and guidance documents

The desktop and other data sources that the Competent Authority used to inform its appropriate assessment of the NAO and Regulatory Decision, and the guidance documents referred to, are set out in full in Chapter 7 of the NIS.

## 4. AA Screening and AA

The Competent Authority carried out AA Screening in relation to the NAO and Regulatory Decision as required under Regulation 42(1) of the Regulations of 2011.

As noted, the conclusion of the AA Screening was that it could not be excluded on the basis of objective scientific information that the NAO and Regulatory Decision, individually or in-combination with other plans or projects, would have a significant effect on a European site or European sites. Again, this conclusion was reached based on the following possible effects on European sites, which could arise as a result of noise management measures necessary to meet the requirements of the NAO and Regulatory Decision:

- The effects of increases in the level and frequency of noise, and visual disturbance events caused by increases in aircraft overflying of European sites and potentially, also by this overflying occurring at differing times of the day and night;
- The effects of changes to air quality, particularly increases in the concentrations of NO<sub>x</sub> and levels of nitrogen deposition, caused by increased numbers of aircraft overflying European sites; and
- The effect of emergency fuel dumping from overflying aircraft affecting European sites directly, or indirectly through surface water pathways.

It was therefore concluded that, in accordance with Article 6(3) of the Habitats Directive, the implications of the NAO and Regulatory Decision for the relevant European sites were required to be subject to AA in view of the relevant sites' conservation objectives.

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of annexed habitats and annexed species of community interest for which a Special Area of Conservation (**SAC**) or Special Protection Area (**SPA**) has been designated. The COs for a European site are set out to ensure that the COs, QIs and SCIs of that site are maintained or restored to a favourable conservation condition. Maintenance of favourable conservation condition of habitats and species at a site level in turn contributes to maintaining or restoring favourable conservation status of habitats and species at a national level and ultimately at the European site network level. The COs and QIs/SCIs that each European site is designated for, as well as the attributes and targets to maintain or restore the QIs/SCIs to a favourable conservation condition, were taken into consideration as part of the AA process.

At Stage 2 of the AA process, the assessment evaluated the potential of the NAO and Regulatory Decision to adversely affect the integrity of a European site, taking account of the potential for direct, indirect and cumulative impacts alone or in-combination with other plans and projects. The Competent Authority identified a “Zone of Influence” (**Zoi**) for the purposes of identifying European sites potentially impacted by the NAO and Regulatory Decision, and therefore required to be subject to AA. The Zoi was identified based on the following factors, as set out in more detail in Chapter 3 of the NIS:

- NPWS Guidance (2010), which recommends a distance of 15km as the Zoi in respect of plans;
- The likely impacts of noise on key receptors of water birds; and
- Air quality impacts from aircraft emissions.

On the basis of the above factors, the Competent Authority concluded that a 15km Zoi was appropriate for assessing the impacts of both arriving and departing aircraft, and represented a precautionary approach to determining the **Zoi**. Details of the relevant European sites within this Zoi are provided in Section 4 of the NIS. The Competent Authority considered that this Zoi would cover noise effects to birds which are the interest features of the SPAs, those habitats which are interest features of the SACs, and other interest features such as mammals which might also occur.

Transboundary impacts to SACs and SPAs outside of Ireland have been considered, and the Competent Authority has determined that such impacts are unlikely to occur. The Competent Authority came to this conclusion as the Zoi, which lies within Ireland only, was defined by the Competent Authority to cover the maximum extent within which effects could possibly have occurred. Furthermore, as no effects are predicted by the Competent Authority, there would be no effects to species that are mobile and might move between Natura 2000 sites both within the Zoi and that occur elsewhere (including internationally).

In carrying out AA, the Competent Authority assessed the potential effect pathways that the NAO and Regulatory Decision could give rise to, as detailed above. In doing so, the Competent Authority also accounted for the fact that there is currently a passenger cap of 32 million passengers per annum (**mppa**) in place at Dublin Airport, although current policy is for passenger growth to occur beyond this cap (subject to a future planning application(s)). Accordingly, the appropriate assessment was against the “future baseline” position, which includes the permitted restrictions via conditions 3(d) and 5, but also allows for policy-directed passenger growth beyond the 32 mppa cap and specifically the effects that the NAO and RD would have upon this.

The Competent Authority therefore undertook an assessment of the period up to 2027 but with the 32mppa cap remaining in place. This mirrors the situation of the current planning application being granted, but no further growth occurring within the period to 2027 and takes account of the detailed information that is available for these impacts. Furthermore, the Competent Authority assessed the potential for effects that would occur as a result of implementation of the NAO and RD in the event that growth, in accordance with daa forecasts, occurred.

For both the “with the 32mppa cap in place” and the “without the 32mppa cap in place” scenarios the future baseline and the assessment case showed that the key change characteristics that have the potential to have

an adverse impact on the integrity of any European sites were the three effects identified in the AA Screening Report and detailed above.

For the reasons set out in the NIS, the Competent Authority is satisfied, on the basis of best scientific knowledge, that the implementation of the NAO and Regulatory Decision will not adversely affect the integrity of any European site, either individually or in combination with any other plan or project. This is due to a number of reasons including that

- Increases in overflying when compared with the likely future baseline (as outlined in the NIS) are generally limited;
- The altitudes and noise levels of aircraft when above identified European sites are outside of the ranges commonly considered, including by reference to the scientific literature reviewed, to be causes of disturbance;
- The interest features of the European sites have already become habituated to noise and overflying more generally, and any increase as a result of the NAO and Regulatory Decision is unlikely to have further effects;
- Although increases in night-time flights will occur, such increases will lead to no significant effects on the conservation objectives of the European sites within the relevant Zone of Influence;
- The increase in numbers of flights is limited enough that changes in air quality will also be small and will not affect the habitats within the SACs (and SPAs) such that there is deterioration; and
- Any potential fuel dumping will be infrequent and subject to control measures by the Airport which will reduce the likelihood for effects albeit the potential for such will be assessed in future planning applications or similar related for, for example, growth or airspace redesign.

## **5. Avoidance and reduction of impacts**

As noted above, the Competent Authority was satisfied that the NAO and Regulatory Decision would not have adverse impacts on the integrity of any European site. Accordingly, the Competent Authority is satisfied that no mitigation measures are required to be applied to the NAO and Regulatory Decision to ensure that the NAO and Regulatory Decision would not give rise to such impacts. The Competent Authority notes that more detailed changes in overflying will be assessed in future planning applications that may be necessary to enable growth at the Airport, and by the competent authority responsible for planning airspace design. These will be subject to AA, which may result in mitigation measures being applied as may be required.

## **6. Assessment of in-combination effects**

Under Article 6(3) of the Habitats Directive, an assessment of in-combination effects of the NAO and Regulatory Decision with other plans and projects is required. The plans identified for the purposes of the in-combination assessment are detailed in Section 2 of the NIS. As set out in Section 3 of the NIS, the Competent Authority was satisfied that the NAO and Regulatory Decision would be complementary to and in accordance with those other Plans, and therefore not in any way additional.

The Competent Authority was satisfied that there are no known projects occurring or in development that are contrary to, or additional to, the Plans set out.

For these reasons, the Competent Authority was satisfied that there would be no in-combination effects with any other plans or projects and therefore no adverse in-combination effects on the integrity of any European site will arise. This assessment used the best available information at the time of writing and the Competent Authority is satisfied that there are no lacunae or gaps in the information required for the AA including the "in-combination" assessment.



## 7. Response to consultation

The NIS for the NAO and draft Regulatory Decision was issued for public consultation on 11 November 2021, with consultation closing on 28 February 2022. A total of 1382 submissions were received, and are summarised in the Consultation Report. The Competent Authority reviewed all submissions and observations received, and identified those that were relevant to the assessment that was documented in the NIS. Section 3.5 of the Consultation Report sets out the Competent Authority's response to these submissions in more detail. In summary, however, the Competent Authority determined that:

- No changes were required to the NAO; and
- Further scientific literature and research, which was highlighted during consultation as being of relevance, was reviewed and considered. In addition, points of clarification raised in submissions were addressed. None of these amendments were considered to result in a material change to the assessment as initially set out in the NIS;
- Furthermore, none of the changes made as a result of work undertaken in response to consultation, affected the outcome of the assessment as documented in the NIS; and
- Amendments were required to the draft Regulatory Decision, although these amendments did not affect the assessment documented in the NIS.

The Competent Authority's reasons for the above outcomes are set out in Section 1.25 of the NIS and Section 3.5 of the Consultation Report

## 8. Determination

The Competent Authority is satisfied that no additional information was required for the purposes of AA and that the information presented in the NIS (as updated) was sufficient for a complete, precise and definitive assessment to be carried out with no lacunae or gaps. The Competent Authority has determined that the NAO and Regulatory Decision will not result in adverse effects on the integrity of any European site in view of their conservation objectives, either alone or in-combination with other plans.

This determination is based on the following considerations:

- Assessment and conclusions as presented in the NIS, as updated following consultation, which was prepared with the best available information at time of writing;
- Consideration of other relevant plans and projects that may in-combination with the NAO and Regulatory Decision, adversely affect the integrity of a European site, and the Competent Authority's conclusion that no such in-combination effects will arise;
- No supplemental information was furnished in relation to any such report or statement, as the Competent Authority was satisfied that no such supplemental information was required to enable the Competent Authority to carry out the AA;
- As the AA concerned a plan and not a project, there was no additional information sought by the Competent Authority from an applicant;
- No other information or advice was obtained by the Competent Authority, as the Competent Authority was satisfied that no such information or advice was necessary to enable the Competent Authority to carry out the AA;
- The written submissions or observations made to the Competent Authority in relation to the NAO and Regulatory Decision, to the extent relevant to the assessment in the NIS of the NAO and draft Regulatory Decision, as detailed in Section 1.25 of the NIS and Section 3.5 of the Consultation Report; and
- The Competent Authority was satisfied that no other information was required for the Competent Authority to carry out the AA.



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