Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

Decision of the Commissioner for Environmental Information

on an appeal made under article 12(5) of the European Communities

(Access to Information on the Environment) Regulations 2007 to 2018

(the AIE Regulations)

Case: OCE-108539-Y0R2X8

Date of decision: 12 October 2022

Appellant: Mr X

Public Authority: daa Public Limited Company (daa)

Issue: Whether daa is entitled to rely on article 9(2)(c) of the AIE Regulations to refuse disclosure of a draft EIS requested by the appellant

Summary of Commissioner's Decision: The Commissioner found that the interest in withholding limited sections of the draft EIS on the basis of article 9(2)(c) of the AIE Regulations outweighed the public interest in disclosure of the information and upheld daa's reliance on the exception in respect of those limited sections. He found that the public interest in disclosure of the remaining sections of the draft EIS (i.e. the majority of the draft EIS) outweighed the interest served by withholding it and accordingly directed partial release of the draft EIS.

Right of Appeal: A party to this appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision, as set out in article 13 of the AIE Regulations. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Background

1. The request which forms the subject matter of this appeal is the same request which was the subject of the Commissioner's decision in Case OCE-93474-R9M5N9 *Mr X and daa*. That request was made by the appellant on 8 May 2019 and sought "the latest EIS studies, whether draft or complete, undertaken by the DAA in relation to the new North Runway and/or any planned changes to permitted operations of all runways at Dublin Airport". EIS is an acronym for Environmental Impact Statement. Prior to the changes made to Directive 2011/92/EU by Directive 2014/52/EU, a developer submitted an Environmental Impact Statement for projects which required environmental impact assessment. Since 16 May 2017, a developer must submit an Environmental Impact Assessment Report (EIAR) for projects that require environmental impact assessment. The draft EIS was prepared to accompany an application to modify conditions of planning permission granted by Fingal County Council in 2007 with respect to the operation of the North Runway at Dublin Airport. As such, the "latest EIS studies" requested by the appellant are referred to in this decision as the draft EIS while the information subsequently published by daa to accompany its application to Fingal County Council is referred to as the completed EIAR.

2. As set out in this Office's decision on the matter, daa refused to provide the appellant with the draft EIS it had commenced in 2016 on the basis of article 9(2)(c) of the AIE Regulations, a decision that daa affirmed at internal review stage.

3. The appellant appealed to this office on 29 August 2019. In October 2019, daa provided a schedule of relevant documents, along with copies of those documents. The draft EIS provided consisted of three draft chapters with no accompanying appendices or additional documents.

4. On 31 March 2021, the Commissioner issued the decision in Case OCE-93474-R9M5N9 in which daa's reliance on the exception contained in article 9(2)(c) was upheld in respect of certain portions of the draft EIS. The public interest in disclosure of the remaining portion of the draft EIS was found to outweigh the interest served by withholding it and, accordingly, the decision directed release of that remaining portion.

5. Following that decision, daa sought clarity from this Office as to the application of that decision, on the basis that the records before the Commissioner at the time of the decision consisted only of an extract of the draft EIS, which was the subject of the appellant's original AIE request. It transpired that chapters 1-3, which formed the basis of that decision did not constitute the entirety of the information within the scope of the appellant's request. It is therefore necessary to issue a further decision with regard to the remaining portions of the draft EIS, which should have been before this Office at the time of the original decision but were not.

6. In April 2021, this Office wrote to daa seeking copies of the remaining portions of the draft EIS along with a Schedule of Records. This information was provided by daa in June 2021 and forms the basis of this review.

Scope of the Review

7. As outlined above, the review in this case is concerned with whether daa was justified in refusing access to the portions of the draft EIS, which existed at the time of the appellant's request on 8

May 2019, but which were not before this Office at the time of the decision of 31 March 2021 (referred to in this decision as the "remaining portions of the draft EIS"), on the basis of article 9(2)(c) of the Regulations.

Preliminary Matters

8. Before I proceed further, I would like to record this Office's disappointment that this Office was not provided, at the outset of the appeal, with all of the information within the scope of the appellant's request. This is a highly unusual situation. The practice of this Office is to seek a numbered copy of the subject records when notifying a public authority of an appeal, along with a schedule of those records listed sequentially by number and accompanied by the following information in respect of each record: the date of the record; the title of the record (where relevant); a brief description of the record; whether access to the record has been granted or refused; and, if access was refused, the relevant provisions of the Regulations on which the refusal was based. Such a request was made to daa on 13 September 2019.

9. As outlined above, daa provided this Office with a schedule of subject records, along with copies of those records, in October 2019. This included a copy of a draft EIS along with a copy of an EIS that had been submitted to Fingal County Council in 2004 and its associated appendices etc. The draft EIS consisted of three draft chapters with no accompanying appendices or additional documents.

10. daa's position is that a discussion took place by phone between a staff member of daa and a staff member of this Office during which this Office was informed that the draft EIS being provided was merely an extract and did not represent the entire document. There is no record of such discussion on this Office's case file, other than two passing references that some discussion had taken place with regard to the provision of the subject records.

11. In any event, a new Investigator was assigned to the case in February 2021. She sought clarification by phone on 11 February 2021 as to whether this Office had been provided with all documents within the scope of the appellant's request for "the latest EIS studies". She sent a further email to daa on 16 February 2021, attaching a copy of the draft EIS, which had been provided by daa. That email requested confirmation that the attached draft EIS was the only document withheld by daa, which would come within the scope of the request of 8 May 2019.

12. The email then sought explicit confirmation as to (i) whether there were any other records which would come within the scope of the appellant's request of 8 May 2019 and (ii) whether daa had any other information which it considered this Office should be aware of, having regard to the request. daa's response did not outline that the draft EIS provided was an extract or that a previous discussion had taken place with this Office to that effect and stated that "at the time of the request 8th May 2019, the only document withheld was the draft EIS/EIAR under Article 9.2 C".

13. It is entirely unsatisfactory that the previous decision does not capture the entirety of the information which was the subject of the AIE request under review. This has resulted in an additional investigation, which should not have been necessary.

14. I should also mention at this juncture that further delays were caused in the course of the second investigation due to the significant number of clarifications that needed to be obtained from daa as to the extent of the additional information held by it which had not been provided to this Office. This is dealt with in further detail below.

Submissions of the Parties

15. Both parties made a number of submissions with respect to the initial appeal in Case OCE-93474-R9M5N9. Those submissions are set out in the decision in that case. For completeness, I will summarise them briefly below.

16. daa submitted that it was entitled to rely on article 9(2)(c) to refuse access to the draft EIS and that the public interest in withholding that information outweighed the interest in its disclosure, for the following reasons:

    (i) daa submitted that the draft EIS was exempt from release under article 9(2)(c) of the AIE Regulations because it was unfinished, being worked on by daa and had not yet been completed.

    (ii) It submitted that its position was consistent with the Guidance document provided by the Minister for the Environment, Community and Local Government on the implementation of the AIE Regulations (the Minister's Guidance) which provides at 12.6 that: "public authorities are not obliged to make available material that is incomplete or in preliminary or other draft form; this might apply, in particular, to reports or studies". In this regard, daa also stated that it was consistent with previous decisions of this Office to the effect that the exception is relevant to documents which are being actively worked on. daa noted that, as per the Aarhus Guide:

> "the expression 'in the course of completion' relates to the process of preparation of the information or the document and not to any decision-making process for the purpose of which the given information or document has been prepared" and the wording "in the course of completion" suggests that "the document will have more work done on it within some reasonable timeframe".

    (iii) daa submitted that at the time of the request, daa was awaiting enactment of legislation to implement EU Regulation 598/2014 on the establishment of rules and procedures with regard to the introduction of noise related operating restrictions at European Union Airports within the Balanced Approach (Regulation 598/2014). Regulation 598/2014 provides for the appointment of a Competent Authority responsible for adopting and assessing noise-related operating restrictions at prescribed airports within the European Union, of which Dublin Airport is one. daa submitted that the draft EIS, which had been commenced in 2016, had been halted pending the enactment of the relevant implementing legislation, the Aircraft Noise (Dublin Airport) Regulation Act 2019, which was enacted in May 2019. Following enactment, daa immediately re-commenced work on the draft EIS. At the time of its submissions, in May 2020, the draft EIS was being worked on and the

planning application was expected to be made to Fingal County Council. The application was made in February 2021.

(iv) daa submitted that the public interest in allowing reliance on the exception outweighed any public interest in disclosing the information contained in the draft EIS in circumstances where:

a. No change to the operating conditions at Dublin Airport could be commenced until a planning process was completed. That planning process would fully vindicate all Aarhus Convention rights including access to the relevant environmental information through publication of the application documents (including the completed EIAR), advertisement of the application and public participation in the planning process.

b. Data, including baseline data for air quality and noise routinely gathered by daa, is already made available to the public by daa on the Dublin Airport website. Any public interest which may exist in the release of that data is therefore already satisfied.

c. The early provision of the draft EIS (which is incomplete) could serve to undermine the established public consultation process provided for under the planning system.

17. The appellant's submissions can be summarised as follows:

(i) The appellant argued that the draft EIS had effectively been completed. He relied on a number of documents in this regard including a document entitled "daa Consultation on Flight Paths and Change to Permitted Operations – Information Booklet – October 2016" and minutes of meetings of the North Runway Community Liaison Group and the Dublin Airport Environmental Working Group. The daa Consultation Document referred to an ongoing EIS process and to research which was being undertaken as part of that process, including noise and air quality monitoring as well as studies to assess the impact of vibration and odours. The appellant was of the view that "99% of this document must have been completed by 2016". He argued that, although it had been tweaked since then, the "further work" being carried out by daa was immaterial to the EIS in general.

(ii) He submitted that the work that had been completed should be made available in the public interest, which he identified as an interest in maintaining the health and well-being of local residents. He argued that the public had an entitlement to access the material contained in the current version of the EIS.

(iii) He submitted that if daa's arguments were accepted, the public would need to wait until the planning application was made to access the relevant information and that "the daa are not in a position soon to apply for planning permission to increase capacity at Dublin Airport and therefore there is no immediate requirement to remove operating restrictions, due to fall in demand for air travel [as a result of the Covid-19 pandemic]" and the public should not have to wait for the submission of a planning application to gain access to information which might affect their health.

18. Following the commencement of this investigation and receipt of the remaining portions of the draft EIS from daa in June 2021, the Investigator wrote to both parties to invite them to make any

additional submissions they wished with regard to the potential release of the remaining portions of the draft EIS.

19. daa provided additional submissions on 19 July 2021 in which it made the following arguments:

    (i) daa submitted that it was entitled to refuse access to the remaining portions of the draft EIS under article 9(2)(c) as those records were "material in the course of completion or unfinished documents or data".

    (ii) daa submitted that the appeal was moot in its entirety as the completed version of the draft EIS had been made available to the public as part of daa's planning application (F20A/0668) to Fingal County Council.

    (iii) daa argued that it was not in the public interest to release the remaining portions of the draft EIS for the following reasons:

        a. The remaining portions of the draft EIS were outdated and publication of this outdated information would make it more difficult for the public to easily identity relevant information such that they could efficiently participate in the planning process in respect of daa's planning application (F20A/0668). daa argued that this would undermine the integrity of the established public consultation process provided for under the planning system.

        b. Requiring daa to grant access to the incomplete and outdated remaining portions of the draft EIS would not reflect the iterative nature of the EIS / EIAR preparation process. daa submitted in this regard that a number of different versions of documents can be prepared during the course of the preparation of an EIS and that it is only when the document is finalised and submitted with the relevant application that it ceases to be "material in the course of completion". It submitted that its evaluation of the environmental impact of the proposed amendments to the operation of the North Runway evolved to adapt to the changing circumstances of recent times (including, for example, the Covid-19 pandemic and technological advances). It submitted that forcing public authorities to disclose incomplete or draft versions of EIARs would hamper the preparation of EIARs. It submitted that potential negative outcomes could include decisions in relation to planning or other permissions being made on the basis of less fulsome environmental impact assessments and more limited EIARs and could result in unnecessary legal costs being incurred in relation to judicial review challenges of decisions made as a result of such processes.

20. Following receipt of daa's submissions, the Investigator wrote again to the appellant to summarise daa's position and to invite him to make any submissions he wished to make in relation to the appeal.

21. The appellant made further submissions on 3 August 2021 in which he made the following arguments:

    (i) He argued that the issues raised in this appeal were not "moot" as no data beyond 2025 was included in the EIAR submitted for F20A/0668.

(ii) He refuted daa's contention that providing the remaining portions of the draft EIS would make it more difficult for the public to easily identify relevant information such that they could efficiently participate in the planning process in respect of daa's planning application (F20A/0668). He submitted that it was imperative that the public have access to the draft EIS in order to understand how the environmental data has changed. He submitted that any historical data that shed light on the environmental situation in the environs of Dublin Airport was of extreme public importance.

(iii) He argued that it is important that access to the draft EIS is provided given that the completed EIAR only presents data up to 2025 which, he argues, is contrary to the EPA Guidelines for an EIAR. He submitted that the material presented in the current EIAR only presented a partial picture of the environmental situation and that access to the older material would show the true full effects.

(iv) He submitted that the environmental data linked to the draft EIS impacts up to 500,000 people who will be potentially affected by noise at Dublin Airport and, on that basis, that the information contained in the draft EIS is of the utmost public interest.

(v) He refuted daa's contention that access to the information contained in the draft EIS could result in unnecessary legal costs being incurred. He submitted that the public were entitled to whatever mechanisms are available under Irish law to ensure that proper environmental scrutiny is applied to major infrastructure projects that have the potential to inflict harm on large portions of the population. He further submitted that any legal challenges brought by the public are financed by the public who will always be at a major disadvantage compared to a commercial entity such as the daa.

(vi) He noted with respect to the Commissioner's finding in case OCE-93474-RM5N9 that daa's position was that the preparation of an Environmental Impact Assessment in respect of its application was not legally required and was carried out on a voluntary basis, that daa's own consultants were of the view that an EIAR was necessary. He referred to section 1.2.2 of the Draft EIA Scoping Report prepared in September 2019 in this respect.

(vii) He noted that section 2.8 of Chapters 1-3 of the draft EIS which were provided to him following the Commissioner's decision in case OCE-93474-RM5N9, provides that "detailed descriptions and supporting data is presented in Appendix A, Volume 3" and queried whether those documents had been included by daa in the information it held within the scope of his request of 8 May 2019.

22. daa made further submissions in response, which can be summarised as follows:

(i) daa submitted that the "detailed descriptions and supporting data … presented in Appendix A, Volume 3" referred to in the draft EIS provided to the appellant had not been prepared at the time of his request on 8 May 2019 and was therefore outside the scope of the request;

(ii) daa rejected the appellant's contention that the appeal was not moot because no data beyond 2025 was included in the EIAR submitted for planning application F20A/0668. It

also noted that the completed EIAR was being revised in response to a request from Fingal County Council to include further noise forecasting reports up to 2040. daa noted that the modelling information was available on Fingal County Council's planning portal while the revised EIAR was expected to be submitted by September 2021.

(iii) daa refuted the appellant's contention that the EIAR had not been prepared in accordance with EPA Guidelines. As it is not a function of this Office to determine whether it was, I have not repeated the submissions provided by daa on this point here.

(iv) With regard to the appellant's assertion that it was imperative that the public have access to the draft EIS, daa noted that without clarification as to how the data was alleged to have changed, further detail as to the environmental situation being referenced and detail as to why the draft EIS was of extreme public importance, the appellant's submission should be disregarded. daa also submitted that the appellant's assertion "that the information contained in the draft EIS is of the utmost public interest" on the basis that the environmental data linked to the draft EIS impacts up to 500,000 people did not stand up to scrutiny.

(v) daa also made further submissions in response to the appellant's points regarding the incurring of legal costs.

(vi) daa agreed with the appellant's assertion that "the public is entitled to whatever mechanisms are available under Irish law to ensure that proper environmental scrutiny is applied to major infrastructure projects that have the potential to inflict harm on large portions of the population". It submitted however that such entitlement was satisfied through the planning process for application F20A/0668 which fully vindicated the rights provided for in the Aarhus Convention.

(vii) daa reiterated that it already made the type of information being sought by the appellant (i.e. noise contouring maps) available on its website and in its annual report.

(viii) It concluded any public interest in favour of the release of the information sought by the Applicant, which could exist, is already satisfied by the public availability of the EIAR.

(ix) daa also argued that access to all relevant information about the North Runway development "has been and is being provided in the current live planning process for this development in full accordance with the Aarhus Convention". It submitted that because the information in question has been made available to the public under planning legislation, it was removed from the scope of the AIE Regulations by article 4(1) of those Regulations.

Analysis and Findings

23. I am directed by the Commissioner to carry out a review of this matter. I have now completed this review under article 12(5) of the Regulations. In so doing, I have had regard to the submissions

made by the appellant and daa. I have also considered the remaining portions of the draft EIS. In addition, I have had regard to:

- the Guidance document provided by the Minister for the Environment, Community and Local Government on the implementation of the AIE Regulations (the Minister's Guidance);
- Directive 2003/4/EC (the AIE Directive), upon which the AIE Regulations are based;
- the 1998 United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention); and
- The Aarhus Convention—An Implementation Guide (Second edition, June 2014) ('the Aarhus Guide').

24. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Adequacy of Searches

25. As set out above, the appellant has noted that the material provided to him following this Office's decision in March 2021 makes reference to an appendix in which further information can be found (Appendix A, Volume 3). Appendix A, Volume 3 is not contained in the remaining portions of the draft EIS, which were submitted to this Office by daa in June 2021. In fact, there are no appendices contained in the additional information provided. That additional information did however include 94 pdf documents, which were not included in the Schedule of Records. The Schedule of Records also referred to three additional chapters, Chapters 23 to 25, which were not part of the remaining portions of the draft EIS provided to this Office.

26. Having reviewed the appellant's submissions, the Investigator wrote to daa to clarify the significance of the additional 94 documents and to clarify whether Appendix A, Volume 3 as referred to by the appellant, was in existence at the time of the appellant's request of 8 May 2019. daa's response indicated that Appendix A, Volume 3 was not in existence as of 8 May 2019 and for that reason had not been provided as part of the remaining portions of the draft EIS. It also explained that the 94 additional documents were noise contour figures associated with Chapter 13 of the draft EIS. It noted that while the ultimate location of these noise contour figures within the (then) draft EIS had not been decided at the time of the appellant's request, those figures would likely have been included as a Figure Appendix in either Volume 2 or 3 of the (then) draft EIS, which had not been brought into existence at the time of the request. Finally, it confirmed that Chapters 23 to 25 had not been provided as they were not in existence at the time of the appellant's request. It submitted that since those chapters were intended to summarise all of the impacts and measures outlined in other chapters, they were to be drafted last and were therefore not yet drafted at the date of the request.

27. Having regard to the fact that these documents had been referred to in the Schedule of Records provided to this Office in June 2021 and to the considerable confusion which had already arisen as

to the extent of the information held by or for daa within the scope of the appellant's request, the Investigator sought further clarification as to the steps that daa had taken to identify all relevant information. Having reviewed some of the remaining portions of the draft EIS provided by daa, the Investigator also noted that some of the comments contained in that additional information referred to appendices but that no such appendices had been provided as part of the information sent for the purposes of this review. She asked daa to explain its position in this regard. daa's response indicated that the comment which referred to appendices were "from previous versions of the draft EIS" and that "the appendices referenced in such comments were not incorporated into later versions of the EIS document (for example, the version that was in existence at the time of the request) such that "at the time of [the request] on 8 May 2019, no appendix formed part of the draft EIS".

28. daa also noted that in order to identify and locate information held by or for it within the scope of the request, the relevant project coordinator had conducted an online review of soft copy files on the daa's North Runway SharePoint site. daa did not undertake searches in any other department or area as it considered the project SharePoint site to have been the only area where relevant documents could have been held. Nor did it consider the possibility that any information relevant to the request could have been misfiled or misplaced as it was of the view that the North Runway team would have noticed any absent records as they were working with the relevant files at the time of the request. daa submitted that each member of the North Runway team had confirmed that no such absences were noted and that it did not believe that any relevant records were misfiled or misplaced. The Investigator also asked daa to provide details on how it was determined that documents relevant to the EIS/EIAR were not in existence at the time of the appellant's request (in particular Appendix A, Volume 3 and Chapters 23 to 25). daa's response dealt only with Chapters 23 to 25, noting that these would not have been drafted at the date of the appellant's request as they were intended to summarise all of the impacts and measures outlined in earlier chapters and therefore were to be drafted last.

29. I am not satisfied that daa has demonstrated that all reasonable steps have been taken to identify and locate all information held by or for it within the scope of the appellant's request. Neither am I satisfied with daa's explanations as to the basis on which the appendices are not considered to be within the scope of the appellant's request, which appears to be that appendices were included in earlier and later versions of the draft EIS but not the draft EIS in existence at the time of the appellant's request. While it would be open to me to seek further submissions from daa on the point, I am mindful that submissions have already been sought from daa on a number of occasions and of the significant delays which have already been occasioned in the resolution of this appeal.

30. I will therefore proceed with this review of the remaining portions of the draft EIS provided by daa but will remit the matter to it for the sole purpose of ascertaining that no further information within the scope of the request has been withheld from the appellant. daa should also consider whether it might be said that any information within the scope of the request is held "for" it by another entity. If further information exists, this information should be provided to the appellant unless daa can demonstrate that there are grounds for refusal which are provided for in the AIE Regulations and that the balancing test weighs in favour of refusal. If no further information is held

by or for daa, such that the remitted portion of the request is to be refused under article 7(5), daa must provide reasons for refusal in accordance with article 7(4) of the AIE Regulations.

Arguments in relation to mootness and the application of the AIE Regulations

31. As outlined above, daa has argued that this appeal should be considered moot in its entirety as the completed version of the draft EIS was published as part of daa's planning application (F20A/0668) to Fingal County Council. It also argues that "access to all relevant information about the North Runway development "has been and is being provided in the current live planning process for this development in full accordance with the Aarhus Convention" such that article 4(1) of the AIE Regulations removed the appellant's request from the scope of the Regulations. Article 4(1) provides that, subject to article 4(2), the AIE Regulations apply to environmental information other than information that is required to be made available to the public under any statutory provision apart from the Regulations.

32. I will deal firstly with the question of the applicability of the AIE Regulations. In the first instance, I consider daa's position to be confusing since it at all times dealt with the appellant's request under the AIE Regulations and only raised the issue of scope in August 2021, over two years after the original request. Secondly, what is at issue here is a request for access to draft documents, not the final version of those documents. There are in this case, as there will be in most cases where a draft document transitions to a final version, changes evident in the final document which do not appear in the draft version. As such, the fact that final versions of the EIAR were published as part of a planning application does not take the draft versions of those documents outside the scope of the AIE Regulations. In addition, I note that daa has not pointed to the statutory provision which it considers to displace its obligations under the AIE regime in accordance with article 4(1) of the AIE Regulations. However, I note that the planning application for the North Runway was made under section 34C of the Planning and Development Act 2000 (as amended). As far as I am aware, the requirement to make documents submitted as part of a planning application available to the public is contained in section 38 of the Planning and Development Act 2000 (as amended). Article 4(2) of the Regulations provides that environmental held by or on behalf of a public authority is to be made available in accordance with the AIE Regulations, notwithstanding section 38 of the 2000 Act. Article 4(1) of the Regulations is expressed to be subject to article 4(2) of the Regulations. I am satisfied therefore that the appellant's request comes within the scope of the AIE Regulations, notwithstanding the provisions of article 4(1).

33. The draft documents in this case are not identical to the final versions which have been published and are now publicly available. There is a public interest in the disclosure of draft documents as they provide an insight into the position of the public authority as it was at the time of the preparation of the draft, the disclosure of which contributes to the public understanding of that authority's environmental decision-making processes and functions.

34. I also note that when asked whether he considered it necessary to continue with his appeal in circumstances where a completed EIAR had been published, the appellant submitted that the completed EIAR did not contain all of the information which he believed was contained in the draft EIS he had requested in May 2019. In particular, he noted that the completed EIAR referred only to noise projections up to 2025, whereas the EIS Scoping Report prepared by RPS Consultants in June 2016 indicated that daa intended to include noise data projections up to 2037. The appellant asserted that such indications had also been provided at pre-planning consultation meetings in October 2019 and February 2020, where draft EIS Scoping Reports were provided and presentations were made, both of which referenced noise projections up to 2040. The appellant concluded that "the Covid-19 pandemic has provided an opportunity for the daa to change their planning application to reflect the lower passenger numbers and to apply to Fingal County Council for an application to amend the 2 planning conditions using data only up to 2025 which does not give a true reflection of the projected noise levels into the future" and that "the draft EIARs pre Covid containing projection years beyond 2025 are of exceptional public interest as they show what the noise situation is to be predicted in those years". I agreed with the appellant that the base and design years chosen for the draft EIS (i.e. 2022 and 2037) differed from those chosen for the completed EIAR (i.e. 2022 and 2025). As noted in Case OCE-93474-R9M5N9, the first three chapters were introductory chapters, which set out the background to daa's request for the amendment of the relevant operating conditions. The majority of the information contained in those chapters was general in nature and consisted largely of explanations on the part of daa as to why it considered that amendments to the operating conditions were necessary as opposed to the more detailed projections envisaged by the Scoping Reports to which the appellant referred. However, the remaining portions of the draft EIS contain significantly more detailed information than that contained in the first three chapters which formed the basis of the decision in Case OCE-93474-R9M5N9. Since that detailed information is not identical to the information contained in the completed EIAR, and since the AIE Regulations envisage an entitlement to access incomplete or draft documents (where the public interest in disclosure outweighs the interest in refusal), I do not consider a dispute in relation to access to the remaining portions of the draft EIS to be moot.

35. I note that daa, in submissions to this Office in August 2021, indicated that Fingal County Council has in fact requested additional detail including noise forecasting reports up to 2040. Modelling forecasts with such additional information are currently available on Fingal County Council's website while an updated EIAR was submitted in September 2021. I believe this weakens any argument with respect to mootness. Firstly, the additional detail had yet to be made publicly available in its entirety at the time of daa's submissions in August 2021. Secondly, since such information is now available, it is even more important that the public are in a position to compare the information contained in the draft EIS with that set out in the updated EIAR.

36. I therefore do not consider that the issue to be decided in this appeal i.e. whether or not daa is entitled to rely on article 9(2)(c) to refuse access to a draft document, is moot simply because the final version of that document has been released.

Article 9(2)(c) of the AIE Regulations

37. There are three issues I must address in this appeal, having regard to article 9(2)(c) and articles 10(3), 10(4) and 10(5) of the AIE Regulations:

    (i) Can the remaining portions of the draft EIS be considered "material in the course of completion, or unfinished documents or data" within the meaning of article 9(2)(c) of the AIE Regulations, having regard to the restrictive test mandated by article 10(4)?

    (ii) If so, does the interest served by refusal of the requested information outweigh the public interest in its disclosure?

    (iii) If so, is there any material contained in the draft EIS that can be separated from the information subject to the article 9(2)(c) exception, in respect of which partial disclosure could be made?

Is article 9(2)(c) applicable in this case?

38. The remaining portions of the draft EIS consist of:

    (i) 94 pdf documents consisting of noise contouring maps for varying aircraft types and times of year and day, for easterly and westerly arrivals and departures, and based on proposed and permitted operations for the years 2015, 2022 and 2037; and

    (ii) 20 Microsoft Word documents (Chapters 4 – 22 of the draft EIS) which have been prepared with tracked changes and comments.

39. I should say that I do not agree with daa's contention that it is only when the document is finalised and submitted with the relevant application that it ceases to be "material in the course of completion". This does not accord with the explanation of that term in the Aarhus Guide, which notes that "the words 'in the course of completion suggest that the term refers to individual documents that are actively being worked on by the public authority. Once those documents are no longer in the course of completion they may be released, even if they are still unfinished and even if the decision to which they pertain has not yet been resolved. 'In the course of completion' suggests that the document will have more work done on it within some reasonable timeframe". While I accept that the Aarhus Guide is an aid to interpretation, rather than a binding document, this interpretation accords with the wording of article 4(1)(d) of the AIE Directive and article 9(2)(c) of the Regulations. Had the EU legislature agreed with daa's interpretation of the phrase "material in the course of completion", there would have been no need to extend the exception in article 4(1)(d) of the Directive to "unfinished documents or data".

40. daa's position is that work had ceased on the 20 Microsoft Word documents at the time of the appellant's request pending the enactment of national legislation to implement Regulation 598/2014 on the establishment of rules and procedures with regard to the introduction of noise related operating restrictions at European Airports within the Balanced Approach. I am satisfied

that the documents were in the course of completion as it was anticipated that they would have further work done on them, with a view to completion, as soon as the legislation implementing Regulation 598/2014 had been enacted. Even if the draft EIS could not be said to be in the course of completion on the basis that daa were not actively working on it, I am satisfied that it is an unfinished document as the daa intended to re-commence work on the document with a view to its completion once Regulation 598/2014 was transposed. I am therefore satisfied that the 20 Microsoft Word documents were both incomplete and unfinished documents within the meaning set out at article 9(2)(c) of the AIE Regulations such that article 9(2)(c) can be said to apply in this case on a *prima facie* basis.

41. daa has confirmed in submissions to this Office that the 94 pdf documents provided are associated with the draft of Chapter 13 of the draft EIS which relates to Aircraft Noise and Vibration but that ultimate location of these noise contour figures within the (then) draft EIS had not been decided at the time of the appellant's request. It appears that these pdf documents do not reflect the projections and scenarios set out in the completed EIAR or the revised EIAR. daa has not provided any evidence to show that any further work was required, or would be undertaken on the content of the 94 pdf documents. Having examined these documents closely, there is nothing in them to indicate that they are incomplete or unfinished.

42. While it may have been envisaged that the 94 pdf documents would form part of the draft documents and while those documents may be based on projections which did not prove relevant to the completed planning application, they are not in themselves incomplete or unfinished documents. Therefore the exception in article 9(2)(c) does not apply to them. In circumstances where article 9(2)(c) does not apply and where daa has not established any other grounds for refusal of the 94 pdfs, the AIE Regulations require daa to release those pdfs to the appellant in their entirety.

Public Interest Test

43. In accordance with article 10(3), I now turn to whether the public interest served by the disclosure of the 20 Microsoft Word documents (i.e. Chapters 4 – 22) outweighs the interest served by its refusal. Article 10(3) of the AIE Regulations and Article 4 of the Directive make it clear that the public interest must be considered based on the individual circumstances of a case. A review by this office is considered *de novo* and therefore it is based on the circumstances of the case at the time of the review review. This approach has been endorsed by the decision of the High Court in *M50 Skip Hire Recycling Limited v the Commissioner for Environmental Information* [2020] IEHC 430.

44. In considering the public interest served by disclosure, I am mindful of the purpose of the AIE regime, as reflected in Recital 1 of the Preamble to the Directive, which provides that "increased public access to environmental information and the dissemination of such information contribute to greater public awareness of environmental decision-making and, eventually, to a better environment." As such, the AIE regime recognises a very strong public interest in openness and

transparency in relation to environmental decision-making. There is undoubtedly a strong public interest in transparency as to how public authorities, such as daa, carry out their functions with regard to environmental factors.

45. That being said, the AIE regime also acknowledges that there may be exceptions to the general rule of disclosure of information. Recital 16 of the AIE Directive provides that "public authorities should be permitted to refuse a request for environmental information in specific and clearly defined cases". One such case is in respect of unfinished documents or material in the course of completion. The general public interest in such an exception is evident from the Commission's Explanatory Memorandum on the AIE Directive, which notes that "it should also be acknowledged that public authorities should have the necessary space to think in private. To this end, public authorities will be entitled to refuse access if the request concerns material in the course of completion or internal communications. In each such case, the public interest served by the disclosure of such information should be taken into account". This was reiterated by the Court of Justice in Case C-619/19 *Land Baden-Württenberg v. DR* (paragraph 44).

46. I note that the information at issue in this case (i.e. Chapters 4 to 22) is significantly more detailed than the three introductory chapters of the draft EIS. As such, while some factors in favour of release and refusal will be the same as those applied in the Commissioner's previous decision, the analysis here must also take account of the differences in the information at issue, in accordance with the requirements of article 10(3) of the Regulations.

47. Having reviewed Chapters 4 to 22, I am of the view that the additional detail contained in those chapters lends further weight to the public interest in favour of disclosure as it will provide a greater insight to the public into daa's thinking process at the time of the appellant's request in May 2019. The appellant has argued in this regard that it is imperative that the public have access to the draft EIS in order to understand how the environmental data has changed. He has submitted that any historical data that sheds light on the environmental situation in the environs of Dublin Airport is of extreme public importance. As set out above, daa has submitted that without clarification as to how the data was alleged to have changed and further detail as to the environmental situation being referenced and as to why the draft EIS was of extreme public importance, the appellant's submission should be disregarded.

48. The appellant has provided detail as to the basis on which he believes disclosure of the information contained in the draft EIS is in the public interest. In particular, he considers such information to be of relevance to the health and wellbeing of the local community. Having reviewed the relevant chapters, I note that they do contain analysis on the potential impact on the health of the local community on the basis of projections, which I understand may since have changed. This lends weight to the appellant's argument that there is a public interest in allowing access to such information.

49. I do accept, as daa has submitted, that environmental impact assessments are iterative documents, reflecting an iterative process. However, in my view, this is a factor which weighs in favour of disclosure. Publication of the draft EIS would provide insight into daa's position as it was in May 2019, the disclosure of which would contribute to the public understanding of daa's environmental

decision-making processes and functions. There is a strong public interest in such insight. Providing access to the draft EIS so that the approach originally envisaged and reflected in that document can be compared with the completed EIAR is also in line with the purpose and aims of the Aarhus Convention, the AIE Directive and the Regulations. In particular, it will allow the public to assess whether the implications set out in the completed EIAR align with those set out in the draft EIS. This may in turn prompt increased awareness, free-exchange of views and more effective participation in environmental matters which are the fundamental purposes of the AIE regime. Therefore, I do not agree with daa's assertion that it is only in circumstances where a requester can demonstrate that information in a draft differs from that contained in the completed version that a public interest in the disclosure of the draft arises. The public interest lies in allowing the public access to all information, so that the public can draw its own conclusions as to the public authority's environmental decision-making process and the manner in which it carries out its functions, which in turn should allow for more informed public participation in environmental matters.

50. daa submitted that publication of the outdated information contained in the remaining portions of the draft EIS would make it more difficult for the public to easily identity relevant information such that they could efficiently participate in the planning process in respect of daa's planning application (F20A/0668). daa argued that this would undermine the integrity of the established public consultation process provided for under the planning system. I do not accept that the possibility of environmental information being misunderstood or misinterpreted is reason enough to refuse access to that information under the AIE regime. In addition, having regard to the particular circumstances of this case, I note that the consultation period for daa's planning application is now closed so there is no real prejudice to the ability of members of the public to participate effectively in that process. It is also open to daa to issue clarifications or explanations along with any parts of the remaining portions of the draft EIS which are publicly disclosed should it wish to do so. As such, I do not accept that this is a persuasive factor in favour of refusal of Chapters 4 to 22.

51. daa has also submitted that forcing public authorities to disclose incomplete or draft versions of EIARs would hamper the preparation of EIARs. It submitted that potential negative outcomes could include decisions in relation to planning or other permissions being made on the basis of less fulsome environmental impact assessments and more limited EIARs and could result in unnecessary legal costs being incurred in relation to judicial review challenges of decisions made on foot of such processes. However, it must be said that daa's submissions in this regard are somewhat confusing. It has not provided any detail as to the basis on which it considers that the disclosure of draft versions of EIARs would encourage the provision of less detailed information or contribute to a proliferation of judicial review proceedings. Neither has it addressed the fact that in most cases EIARs are prepared on foot of a legal requirement and the EIA Directive (2011/92/EU) and its implementing regulations set out clearly that certain information must be provided in such EIARs.

52. daa's position, as set out in the completed EIAR, was that the preparation of an Environmental Impact Assessment in respect of its application was not in fact legally required and was carried out on a voluntary basis. Paragraph 1.4 of the completed EIAR states that "this application to remove,

replace or vary Conditions No. 3(d) and No 5 of the North Runway permission is not an application for development consent for a 'project' within the meaning of the EIA Directive, and is therefore outside the scope of that Directive". The completed EIAR goes on to note that "strictly without prejudice to that position, daa is submitting an EIAR with the application out of an abundance of caution". This is reiterated in the revised EIAR prepared in response to a request from Fingal County Council for further information.

53. However, this point was not explicitly raised by daa in its submissions to this office. Instead it made a hypothetical argument that the provision of access to draft EIARs might give rise to the preparation of less detailed EIARs and could result in unnecessary legal costs being incurred in relation to judicial review challenges.

54. The appellant disputed daa's position that an EIAR was not legally required and pointed out that consultants involved in preparing the Draft Scoping Report noted at paragraph 1.2.2 that:

> "the Applicant is advised that the project classes and thresholds listed in the EIA Directive must be understood by reference to a wide scope and broad purpose, and has therefore determined that it is not possible to rule out the potential for significant environmental effects. An EIA is therefore required in respect of the CTPRO [Change to Permitted Runway Operations]".

55. This point was put to daa but was not addressed by it. The appellant also refuted daa's contention that access to the information contained in the draft EIS could result in unnecessary legal costs being incurred. He argued that any legal challenges brought by the public are financed by the public. In response, daa submitted that it had not made any submission in relation to the incurring of "unnecessary legal costs". This is despite the fact that daa had made submissions to this Office on this subject. daa set out that costs of judicial review proceedings challenging planning decisions were generally borne by the permitting authority such that public funds were at issue and that "the ability of a commercial entity such as daa to afford the costs of defending a case that is based on a misunderstanding arising from the release of incomplete data does not justify those costs actually being incurred when those costs are easily avoidable (i.e. by not releasing the information)". Again however, daa did not provide any basis on which to conclude that there was a real and substantial possibility that release of the remaining portions of the draft EIS would give rise to a misunderstanding from which unnecessary legal proceedings might arise. As the CJEU noted at paragraph 69 of its decision in *Land Baden-Württenberg v. DR*: "a public authority which adopts a decision refusing access to environmental information must set out the reasons why it considers that the disclosure of that information could specifically and actually undermine the interest protected by the exceptions relied upon. The risk of that interest being undermined must be reasonably foreseeable and not purely hypothetical".

56. I consider that the public interest requires me to take account of daa's position, as set out in the completed EIAR, that it did not consider the preparation of the draft EIS to be a legal requirement. I note that the view set out in the Draft Scoping Report, as detailed above, is expressed to be that of daa's consultants rather than daa itself and that the Draft Scoping Report was prepared in September 2019 whereas the completed EIAR dates from December 2020. In any case, I do not reach any conclusion in this decision as to whether the preparation of the EIS/EIAR was a legal

requirement in the circumstances of daa's particular planning application, nor is it a function of this office to do so. I am merely stating daa's position here, as set out in the completed EIAR. It appears to me that daa considered itself to be in a position where it could dispute that it was under a legal obligation to produce an EIAR in the circumstances. As such, I consider that requiring daa to publicly disclose all aspects of the draft EIS may discourage the preparation of such reports in future where a question arises as to its legal obligation to do so. I acknowledge that daa may be less inclined to voluntarily prepare an EIAR where it considers that exchanges with advisors in respect of the preparation of the document would be disclosed. This would be contrary to the public interest and to the general purpose of the AIE Regulations and Directive to ensure increased public access to environmental information and the dissemination of environmental information by public authorities to the widest extent possible, as outlined in Recitals 1 and 9 of the Directive.

57. In addition, whether or not an EIAR was legally required to accompany the relevant planning application, I am also conscious that at the time of the request, the draft EIS was unfinished and contained drafting notes from consultants commissioned by daa to provide expertise and guidance with a view to its completion. I consider that there may be a potential chilling effect were amendments to draft documents and discussions in relation to those amendments, either internally within a public authority or between that public authority and its advisors, subject to public disclosure. This is recognised by the need to protect the private thinking space of public authorities as provided for in article 9(2)(c). The purpose of an EIS/EIAR is to identify and predict the likely environmental impacts of a proposed development, to interpret and communicate information about likely impacts and to describe the means and extent by which those impacts could be prevented, reduced or ameliorated. There is thus a public interest in having an EIAR completed to a high standard, which in many cases will necessitate detailed discussions and communications with a variety of stakeholders, in particular expert advisors and consultants. There is therefore a strong interest in allowing a public authority the necessary space to think in private with regard to the completion of an EIAR, which, once completed, will be made publicly available and subject to a public consultation procedure.

58. As such, I must review the information contained in Chapters 4 to 22 bearing in mind the need to balance the necessity to ensure the adequate protection of daa's private thinking space with the public interest in disclosure of the information contained in those chapters, in particular the public interest which derives from the ability to track the evolution of daa's thinking with regard to its environmental decision-making functions. When considering the potential chilling effect, I must also bear in mind that the draft in question dates from 2017. I consider that the likelihood that disclosure would have a chilling effect on robust discussions and debate, which might otherwise take place in the private thinking space of a public authority, decreases with the passage of time as a result of which those discussions can generally be expected to become less sensitive.

59. I must now apply the considerations I have identified above to each of the following elements of Chapters 4 to 22:

    (i) The main body of text which has either been left unaltered or subject to additions made in tracked changes (the Undeleted Text);

(ii) Portions of the main body of text which have been deleted but which are still visible (in strikethrough form) as a result of the use of the track changes function in Microsoft Word (the Deleted Text); and

(iii) Comments from daa and its advisors on various aspects of those drafts which are contained in comment boxes in the Word document (the Comments).

Undeleted Text & Deleted Text

60. For the most part, I consider that the public interest in disclosure of the Undeleted and Deleted Text, almost three years after the appellant's request and approximately five years from the preparation of the draft itself, outweighs the interest in maintaining daa's private thinking space with respect to its preparation. There is a clear public interest in disclosure of this information as it provides an insight into the environmental decision-making process of daa. On the other hand, having regard to the general content of the text (and subject to the exceptions outlined below), I do not consider that its disclosure would undermine the maintenance of the "private thinking space" which the exemption in article 9(2)(c) of the Regulations is designed to protect.

61. There are however some portions of the Undeleted and Deleted Text in respect of which I consider that the interest in maintaining a private thinking space outweighs the public interest in disclosure, such that refusal is warranted. I have identified the relevant portions of text in Appendix 1. While, the detail that I can give about the content of the records and the extent to which I can describe certain matters is limited, I have set out my reasoning below in general terms.

62. Some of the excerpts which I consider may be withheld are akin to comments although they appear within the main body of text. The same logic that applies in relation to the Comments also applies to them. I consider that they can be refused to maintain daa's private thinking space.

63. Certain portions of the Undeleted Text are accompanied by comments which point out significant issues with their inclusion. In some instances, the Undeleted Text is flagged as materially incorrect, misleading or otherwise problematic. It must of course be acknowledged that the reader of a draft will not reasonably expect complete accuracy and there are certain cases where I do not consider the import sufficiently material to justify a conclusion that the public interest in disclosure should be outweighed by an interest in maintaining the private thinking space. However, there are other cases where I consider it justifiable to refuse the information in question, particularly where such information is flagged as materially inaccurate, as I consider there to be little public interest in the disclosure of incorrect information. Certain portions of the Deleted Text are flagged for similar reasons. However, it is implicit that the Deleted Text was not being relied on by daa even at the time the draft was prepared and therefore, for the most part, I have not considered that the Deleted Text should be removed merely because it was flagged as being potentially inaccurate or otherwise problematic. Where the Comments flagged significant issues with the inclusion of Deleted Text, I consider that it can be withheld to protect daa's private thinking space. This is the case with respect to very few portions of the Deleted Text.

64. Other portions of the Undeleted and Deleted Text deal with proposed mitigation measures. It is evident from the comments accompanying those portions of text that daa had yet to reach a

decision with respect to some of the proposed mitigation measures at the time of drafting and that robust discussion in relation to appropriate measures was ongoing. In those circumstances, there is a public interest in disclosing the Undeleted and Deleted Text relating to undecided potential measures as they demonstrate the evolution of daa's thinking. On the other hand, disclosing discussions of public authorities on mitigation measures before a final decision is reached may discourage the proposal of ambitious mitigation measures. On balance, I am of the view that the public interest lies in maintaining the private thinking space attaching to those discussions.

65. Finally, there are a number of Google images included in the remaining portions of the draft EIS. The accompanying comments suggest that no licence was in place at the time through which such images could be included in a published report. On that basis, it can be assumed that those images would not have been included in the draft EIS had the drafters anticipated its publication and I therefore consider that these images can be refused to protect daa's private thinking space.

The Comments

66. The deliberative space, which there is an interest in maintaining, arises most clearly in respect of the Comments, as those Comments include discussions between daa and its advisors with regard to the progression of the draft. There is a public interest in ensuring transparency and access to environmental information and a public interest in providing access to information which would contribute to a greater understanding of daa's environmental decision making processes and functions. However, this interest is satisfied to a large extent through the disclosure of the other portions of the draft EIS along with the publication of the completed EIAR and the revised EIAR. In addition, as I have already outlined, there is also a recognised interest in allowing public authorities a safe space in which to deliberate and this is explicitly recognised by the inclusion of the exception contained in article 9(2)(c) of the Regulations and article 4(1)(d) of the Directive. In this case, I am satisfied that requiring daa to make the Comments publicly available may impact the manner in which Environmental Impact Assessments are conducted in the future and impede the provision of robust feedback and the conducting of detailed deliberations with regard to the preparation of those assessments. It may also discourage a public authority from electing to prepare such assessment where there is a question as to its legal obligation to do so. I am also of the view that the Comments are not necessary in order to understand or make sense of the draft EIS, particularly in circumstances where the completed EIAR and a revised EIAR have now been published and changes which have occurred between the draft EIS and the completed and revised EIARs will for the most part be evident through a comparison of those reports. However, should daa wish to provide clarity with respect to any portion of the draft EIS in the absence of the Comments, it is of course free to accompany its disclosure of the draft EIS with explanatory information to help recipients of the information to understand its limitations and thereby avoid being misled.

Decision

67. Having carried out a review under article 12(5) of the AIE Regulations, on behalf of the Commissioner for Environmental Information, I vary daa's decision as follows:

    (i) I find that the grounds for refusal contained in article 9(2)(c) should apply only to the Comments and the Undeleted and Deleted Text identified in Appendix 1;

    (ii) I direct release of the remaining portions of the draft EIS which, for the avoidance of doubt, includes the 94 pdf documents.

68. I also direct daa to carry out a further search to ensure that there is no further information held by or for it which existed as of 8 May 2019, but has not been dealt with in either of the decisions on the matter. daa should provide written explanation to the appellant as to the basis on which it has reached its conclusion and, if further information is held, it should set out clearly why such information was not provided to the appellant in the first instance.

Appeal to the High Court

69. A party to the appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Deirdre McGoldrick
on behalf of the Commissioner for Environmental Information

12 October 2022

Appendix I

Excerpts, which may be withheld:

	Chapter	Page	Paragraph	Text
1.	**Chp 4**	19	1	From "*NPR" to "(March 2017)?"
2.		22	5	From "We" to "results".
3.		24	2	From "I believe" to "here".
4.		25	5	From "TAC" to "alternative?".
5.	**Chp 6**	3	5	From "Low cost carriers are" to "advantage".
6.	**Chp 8**	i	5	From "TBC" to "yet".
7.		vi	1	From "Insert" to "insulation".
8.		vi	2	Entirety of point 4 (i.e. from "Considering" to "environmental noise").
9.		vi	4	From "the airport" to "socio-economic pathways".
10.		65	Table 6.1	The final two rows of this table can be removed.
11.		65-66	6.20	From "the predicted" to "by that point".
12.		73	6.45	From "in both scenarios" to "international measures".
13.		81	7.6, 7.7 and 7.8	From "sound insulation" to "has not been quantified".
14.		82	7.11	From "however, this is likely" to "noise mitigation measure".
15.		83	7.13	Entirety of point 4 (i.e. from "considering" to "environmental noise").
16.		83	7.14	From "and" to "required".
17.		84	8.19	From "daa international" to "airports".
18.	**Chp 9**	2	3	From "The Dublin Airport" to "change permitted operations".
19.		7-8	Table 10.3	Table 10.3 and its accompanying notes can be removed.
20.		13	1	From "the estimated" to "Airport Campus".
21.		18-19	2	From "the extents of" to "PSZ policy" (including Table 10.10).
22.		20	2	From "some mitigation" to "8% risk reduction".
23.		20	Table 10.11	Table 10.11 can be removed.
24.		21	5	From "in summary" to "benefits".
25.		23-24	4	From "specific and detailed" to "set out earlier".
26.		24	3	From "overall" to "not significant".
27.		25	1	From "in the case" to "over the sea".
28.		27	Figure 1	Entirety of Figure 1
29.		29	Figure 2	Entirety of Figure 2

	Chapter	Page	Paragraph	Text
30.		31	Figure 4	Entirety of Figure 4
31.		32	Figure 5	Entirety of Figure 5
32.		37	8	From “a few percent” to “category period”
33.		38	1	From “the most recent estimates” to “summarised in Table 10A”
34.		38	1	The phrase between “and” and “are” can be removed.
35.		46	10A.3.4	From “however, for the north runway” to “provided in Section 10A.6”.
36.		55	2	From “for the approaches” to “approach operations”.
37.		55	5	From “given the identified” to “before that distance”.
38.		56	Table 10A.11	Table 10A.11 can be removed.
39.		57	2	From “the contour lengths” to “per annum contour”.
40.		57	6	From “for Runway 10L departures” to “in this area”.
41.		58	2	From “by reference” to “all commercial sites” (in Bullet point 1).
42.	**Chp 10**	42	8.4.1.2.1	From “based on” to “on a daily basis”.
43.		54-55	8.5.2.2	From “based on” to “the nearest whole number” (including Table 8.30 in its entirety).
44.			8.5.4.1	From “the following section” to “during the 17:00-18:00 time period” including Tables 8.41 to 8.45.
45.		68	3	From “this proposal” to “any such application”.
46.	**Chp 11**	1-2	4	From “concerns” to “insignificant”.
47.		8	5	From “the area” to “predominantly rural”.
48.		10	1	From “data” to “Table 11.5”.
49.		11-12	Table 11.4 and Table 11.5	The references to 2011 and 2012 can be removed.
50.		12	1 (underneath Table 11.5)	From “if” to “WHO guideline”.
51.		12	2	From “this suggests” to “assessment”.
52.		12	4	From “all of” to “highly unlikely”.
53.		13	2	From “the more stringent” to “this guideline”.
54.		19	2-3	From “and it is therefore unlikely” to “above this guideline”.
55.		29	1	From “the more stringent” to “this guideline”.
56.		29	3	From “this principally” to “section 11.2.2”.
57.		34	3	From “the more stringent” to “guideline”.
58.		39	5	From “a policy” to “after arrival”.
59.		39	Section 11.6.2	This section can be removed in its entirety.

	Chapter	Page	Paragraph	Text
60.	**Chp 12**	2	4	From "this is consistent" to "2015".
61.		2	5	From "when added" to "combined footprint".
62.		6	3	From "the European Union (EU)" to "in the EU ETS".
63.		6	4	From "Aircraft operators" to "CORSIA".
64.		7	3	From "the European Union (EU)" to "CORSIA".
65.		8	2	From "the grid electricity" to "not available".
66.		11	4	From "greenhouse gas emissions" to "this assessment".
67.		12	5-7	From "a similar approach" and "(ARUP, 2016)".
68.		13	1	From "as such" to "robust".
69.		20	2	From "the emissions" to "by 2037".
70.		20	4	From "considering" to "emissions".
71.	**Chp 13**	1	2	From "in summary" to "departing aircraft".
72.		2	2	From "concern" to "local area" (i.e. bullet point 5).
73.		2	2	From "DUBLIN" to "FEEDBACK?"
74.		3	1	From "desk-top study" to "included in the assessment".
75.		7	5	From "in this chapter" to "L_{night} index".
76.		9	2 (and Table 13.1)	From "the significance" to "$SEL - 10dB$" (including Table 13.1)
77.		10	1	From "50 dB $L_{Aeq,8h}$" to "SEL" (i.e. points (i) to (iii) under Night-time)
78.		18	Table 13.7	The table itself can be removed but the title of the table should remain.
79.		18-19	2	From "the contour" to "exposed to slight effects currently" (including footnote 6).
80.		19	Table 13.8	The table itself can be removed but the title of the table should remain.
81.		19	4	From "the 63 dB $L_{Aeq,8h}$" to "exposed to slight effects".
82.		20	7	From "during" to "easterly".
83.		21	3	From "the departure routes" to "runway centreline"
84.		24	3	From "these properties" to "defined by FCC".
85.		30	3	From "the 63 dB" to "Middletown".
86.		31	1	From "this significant" to "Do Minimum".
87.		31	2	From "the number" to "between the two scenarios".
88.		38	Tables 13.29, 13.30 and 13.31	The entirety of these tables can be withheld.
89.		39	1-3	From "the N70" to "dwelling counts".

	Chapter	Page	Paragraph	Text
90.		40	4	From “this is because” to “taken by one aircraft”.
91.		41	Table 13.36	The entirety of this table can be withheld.
92.		42	3-4	From “for the night-time” to “aircraft noise”.
93.		46	3	From “for the large majority” to “Appendix 13.7”.
94.		48	Table 13.40	This table can be removed in its entirety.
95.		48	1	From “based on” to “negligible”.
96.		50	2	From “it is generally accepted” to “St Margaret’s (P19)”.
97.		51	1-2	From “in the predicted baseline” to “significance under proposed operations”.
98.		51	5	From “under proposed operations” to “time of the night”.
99.		52	1	From “if this last hour” to “compared to permitted”.
100.		53	3	From “Table 13.44 below” to “adverse effects” (including Table 13.44).
101.		53	5	From “it can therefore not directly” to “insulation”.
102.		62	1	From “the scheme will be” to “proposed operations”.
103.		62	3-4	From “under proposed operations” to “sound insulation scheme”.
104.		62	6	From “the residual impact” to “outcome of this residual analysis.
105.		62	Table 13.46	The entirety of the table can be withheld.
106.		63	1-2	From “the above analysis” to “PERMITTED AND PROPOSED”.
107.	**Chp 14**	1	1	From “changes to” to “run up testing”.
108.		2	4 “Noise surveys”	Text between “in consultation with daa” and “a comprehensive baseline”.
109.		4	1	In the final bullet point, from “a detailed analysis” to “this assessment”.
110.		4	Footnote 2	From “(PM:” to “not used?”.
111.		6	Image	The image can be withheld.
112.		11	4	From “all properties” to “insulation criteria”.
113.		12	1	From “unattended noise” to “Image 14.2”.
114.		13	Image	Image 14.2 and the descriptive text underneath can be withheld.
115.		20	2	From “full details” to “Appendix 14.2”.
116.		37	Image	Image 14.3 and the descriptive text above it can be withheld.

	Chapter	Page	Paragraph	Text
117.		38	2	The text between “residential noise insulation” and “where, relevant” can be withheld.
118.	**Chp 15**	12	1	The text between “conservation” and “and contains” may be withheld.
119.		18	2	The text between “this landscape” and “there is no direct physical change” can be withheld.
120.	**Chp 17**	7	2	The text between “series mapping” and “detailed noted” can be withheld.
121.		40	Final row of table	From “need” to “ongoing”.
122.		50	2	From “there will be” to “(2022 and 2037)”.
123.		52	2	From “extra air traffic” to “predicted on water-courses”.
124.	**Chp 18**	7	Table 18.2 Row 4	From “further information on” to “runway design progresses”.
125.		9	4	From “the worst case” to “EPA,2015)”.
126.	**Chp 20**	11-12	Final paragraph of p 11 / First para of p12	From “the” to “hydrocarbons”.
127.	**Chp 21**	8	4	From “foul water” to “medium term”.
128.		8	5	From “the existing utilities” to “Terminals 1 and 2”.
129.		9	5	From “recreational amenities” to “study area”.
130.		11	3	From “the existing utilities” to “gas supply”.
131.	**Chp 22**	11	Image	The image can be withheld.
132.		32	Table 22.18	Rows 8 & 9 can be withheld (i.e. those between “Hollywoodrath House Gate Lodge” and “Saint Doolagh’s Church & Holy Well”).
133.		33	4	From “as per previous commitments” to “officer”.