

File With _____

SECTION 131 FORM

Appeal NO: ABP 320815-24

Defer Re O/H

Having considered the contents of the submission dated/ received 04-11-24

from

D.A.A. (IP)

I recommend that section 131 of the Planning and Development Act, 2000

be/not be invoked at this stage for the following reason(s): _____

E.O.: _____

Date: _____

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage.

Section 131 to be invoked – allow 2/4 weeks for reply.

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 320815-24

M _____

Please treat correspondence received on 04-11-24 as follows:

1. Update database with new agent for Applicant/Appellant _____ 2. Acknowledge with BP <u>20</u> 3. Keep copy of Board's Letter <input type="checkbox"/>	1. RETURN TO SENDER with BP _____ 2. Keep Envelope: <input type="checkbox"/> 3. Keep Copy of Board's letter <input type="checkbox"/>
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Amendments/Comments

DAA's 1st party response to 3rd party appeal received by email.

4. Attach to file (a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/> (b) GIS Processing <input type="checkbox"/> (e) Inspectorate <input type="checkbox"/> (c) Processing <input checked="" type="checkbox"/>	RETURN TO EO <input type="checkbox"/>
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	Plans Date Stamped <input type="checkbox"/> Date Stamped Filled in <input type="checkbox"/>
EO: <i>Daryl Cawelli</i>	AA: <i>Anthony McNally</i>
Date: <i>05-11-24</i>	Date: <i>06/11/2024</i>

J Sweeney

Dáire Littleton Caden

From: Jennifer Boyle <jennifer.boyle@dublinairport.com>
Sent: Dé Luain 4 Samhain 2024 11:12
To: Appeals2
Subject: ABP-320815-24 First Party Appeal Response to Third Party Appeal Liam O'Gradaigh SMTW
Attachments: daa First Party Appeal Response to Third Party Appeal Liam O'Gradaigh SMTW.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear All,

Please find attached a first party appeal response to a third party appeal - **ABP-320815-24**

Regards

Jennifer



Jennifer Boyle | INFRASTRUCTURE
Senior Planner MIPI

Cloghran House, Dublin Airport,
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daa proudly supporting - A Little Lifetime Foundation, Cliona's Foundation and Cork Penny Dinners - our 2024 Charities of the Year. **DISCLAIMER:** The information contained in this email and in any attachments is confidential and is designated solely for the attention and use of the intended Recipient(s). If you are not the intended recipient(s) of this email, you must not use, disclose, copy, distribute or retain this message, the attachment(s) or any part thereof. If you believe that you have received this email in error, please notify us immediately. Please also delete all copies of this email and any attachment(s) from your computer system. Unless expressly stated, this email is not intended to create any contractual relationship. If this email is not sent in the course of the senders employment or fulfilment of his/her duties to daa, daa accepts no liability whatsoever for the content of this message or any attachment(s). daa plc. Registered office: Dublin Airport, Co. Dublin. Registered Number: 9401 Ireland. **SÉANADH:** Tá an fhaisnéis sa ríomhphost seo agus i gceangaltáin ar bith faoi rún agus tá sé d'aird agus d'úsáid an Fhreagróra (na bhFreagróirí) dá bhfuil sé ceaptha amháin. Más rud é nach tusa an freagróir (na freagróirí) dá bhfuil an ríomhphost seo ceaptha, ní cheadaítear duit an teachtaireacht, an ceangaltá(i)n nó cuid ar bith dó a úsáid, a nochtadh, a chóipeáil, a scaipeadh nó a choinneáil. Má chreideann tú go bhfuair tú an ríomhphost seo trí earráid, bheimis buíoch dá gcuirfeá é sin in iúl dúinn láithreach. Scríos gach cóip den ríomhphost seo agus ceangaltá(i)n ar bith ó chóras do ríomhaire chomh maith le do thoil. Mura bhfuil sé luaite go sainráite, níl sé beartaithe leis an ríomhphost seo caidreamh conarthach ar bith a chruthú. Murar seoladh an

ríomhphost seo i gcúrsaí fhostaíocht an tseoltóra nó i gcomhlíonadh a dhualgas/a dualgas ní ghlacfaidh daa dliteanas ar bith as ábhar na teachtaireachta nó ceangaltá(i)n ar bith. daa cpr ifig
Chláraithe: Aerfort Bhaile Átha Cliath, Co. Bhaile Átha Cliath. Uimhir Chláraithe: 9401 Éire.

Document Classification: Class 1 - General

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Cloghran House,
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4th November 2024

RE: FIRST PARTY RESPONSE TO A THIRD PARTY APPEAL (SMTW), IN RESPECT OF THE NOTIFICATION TO GRANT PLANNING PERMISSION FOR DEVELOPMENT OF THE AIRFILED DRAINAGE PROJECT – AN BORD PLEANÁL REF: ABP-320815-24, FINGAL COUNTY COUNCIL REF: F23A/0636

The proposed development will consist of upgrades to existing drainage infrastructure and construction of additional drainage infrastructure to improve performance of the surface water management system at Dublin Airport and will consist of:

- a. a contamination detection and response (CD&R) system comprising detection devices, network decision points (DPs), control kiosks, and ancillary infrastructure including local access roads, local drainage and communications and power ducts;
- b. clean water supply pipelines consisting of large diameter trunk pipelines;
- c. airfield contaminated pipelines consisting of large diameter trunk pipelines;
- d. upgrades to the West Apron surface water collection network including reconfiguration of the existing network, construction of an underground attenuation tank, installation of a local CD&R system, network DPs and a control kiosks, construction of an underground pollution storage tank, a pumping station, and ancillary development including local ductwork, local access roads and local drainage;
- e. upgrades to the existing surface water collection network in the vicinity of the South Apron including reconfiguration of the existing network, construction of network DPs, upgrade of the existing flow diversion structure (FDS) and reconfiguration of the existing Cuckoo supply channel;
- f. a central pollution control facility (CPCF) consisting of underground pollution control storage tanks, a pumping station, a discharge pipeline to the Uisce Eireann network, mechanical and electrical equipment, a control building, an electrical substation, and ancillary development including a local access road, enhanced flood bund, local drainage and ducting;
- g. a CPCF pipeline consisting of a large diameter trunk pipeline;
- h. a central supervisory control and data acquisition (SCADA) system comprising kiosks and associated electrical power and signal connections;
- i. repurposing of the central section of the existing Airfield Trunk Culvert (ATC) as a contaminated pipeline; and
- j. ancillary and associated development including pipework, mechanical and electrical service connections and upgrades, temporary compounds and site works.

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Dear

daa welcomes Fingal County Council's (FCC) decision to issue a Notice of Decision to Grant Permission. The decision represents a good planning outcome. daa requests An Bord Pleanála upholds this decision.

The Airfield Drainage Project (ADP) proposes a series of upgrades to the existing drainage infrastructure on the airfield of Dublin Airport. The ADP will improve the protection of the Cuckoo Stream, improve efficiency of surface water management on site and increase hydraulic capacity of the drainage system.

The third-party appeal is largely based on per- and poly-fluoroalkylated substances (PFAS).

This issue has been thoroughly dealt with in the application documents, investigated in the further information request and response and assessed by the FCC Planner in the Chief Executives Order.


Furthermore, in 2021, daa retained Fehily Timoney to conduct surface water monitoring, groundwater monitoring and site investigations for PFAS and prepare an environmental monitoring report for the Dublin Airport site. The full report is available on the daa website¹.

The information provided in this appeal response will demonstrate that PFAS found on site can and will be managed in accordance with the appropriate licenses. It will also demonstrate that in the absence of regulation in Ireland daa is proactively monitoring and managing PFAS in line with best practice. It is noted that the proposed development is in accordance with all relevant legislation including the Habitats Directive and Water Framework Directive.

It is important to note that the ADP proposal is an integral part of daa's plan to address water quality objectives and is designed to contribute to improving the ecological condition of receiving waters. The ADP targets have been set out in the Dublin Airport Drainage Management Plan (DMaP), which is included in the original planning application documents. Since the decision was issued by FCC, the DMaP has been included in the 3rd Cycle River Basin Management Plan for Ireland².

We hope that this is to your satisfaction, but please do contact us if you require any further information.

Sincerely,



Jennifer Boyle

Senior Planner

INFRASTRUCTURE

¹ [2021-2023-Environmental-Monitoring-Report.pdf \(dublinairport.com\)](#)

² *River Basin Management Plan 2022-2027, Appendix 04 2024 03 11 National AFA with Catchment Projects identified, waterbody code, IE_EA_09M030500, Reasons for Selection: It is proposed that a framework for a phased approach to a diversion concentration limit for development of infrastructure at the Airport could be integrated in a Programme of Measures for the "At Risk" waterbodies or sub-catchments under the Third Cycle RBMP. For those waterbodies or sub-catchments draining the Airport campus- the phased approach could be contained in a "Drainage Management Plan"*

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Appeal Response

The appellant has not identified specific grounds of appeal. Instead, their appeal generally states the well documented issues with PFAS.

The structure of the appeal response is as follows:

- Key topics in the submission have been identified and addressed.
- Appendix 1: Relevant excerpts of the Fingal County Council Chief Executive's Order are provided.
- Appendix 2: Cuckoo Catchment Drawing

Key Topics of the 3rd Party Appeal

1. The conditions should require:
 - a. Full site investigation prior to construction and management of PFAS contaminated soil off site
 - b. Management of BOD Levels, including a public forum
2. Water draining to the north of the site, to food producers may contain PFAS.
3. The proposal should be refused until daa deal with all PFAS at Dublin Airport
4. Increase in passengers and flights and project splitting.

Response

1. *The conditions should require:*
 - a. *Full site investigation prior to construction*
 - b. *Management of BOD Levels, including a public forum*
 - c. *Management of PFAS contaminated soil off site*
- a. *Full site investigation prior to construction and management of PFAS contaminated soil off site - In 2021, daa retained Fehily Timoney to conduct surface water monitoring, groundwater monitoring and site investigations for PFAS and prepare an environmental monitoring report for the Dublin Airport site.*

This report provides an in-depth review of PFAS at Dublin Airport, allowing daa identify areas of high and low concentration. The subject site has not been identified as an area with high PFAS concentration. It is acknowledged within the application that further investigation will be required during the construction phase. To manage this risk the following mitigation has been proposed:

Mitigation Measure: Natura Impact Statement, Table 13 Soil Contamination
Soils within the airport will require the excavation and there is a possibility that these soils have been contaminated by airport-related activities in the past. Mitigation measures will be in place in relation to soils and soil movements within areas of excavation airside. A watching brief will be in place on site in consultation with the project ecologist. Each excavation area will be inspected for contamination. If the site is within 30m of a drain or watercourse or soil is to be removed off site, contamination testing by a registered facility will be carried out. If the soil contains contaminants above the compliance levels remedial action will be taken in line with legislative guidelines.

Condition 24 & 253 on the FCC Notice of Decision to Grant Permission also require a resource waste management plan (RBMP) and management of PFAS contaminated soil, both to be in

³ **Condition 24** Prior to the commencement of development, the applicant shall prepare a Construction and Demolition Resource Waste Management Plan (RWMP) as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021). The RWMP shall include details of the various waste streams and

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agreement with FCC. Condition 24 is based on the sample condition wording in the OPR practice Note PN03 Planning Conditions.

daa and FCC consider this is the appropriate method of managing PFAS on site during construction.

- b. *Management of BOD Levels, including a public forum* – Condition 9 of the FCC Notice of Decision to Grant Permission states: *Prior to commencement a surface water monitoring and annual reporting programme shall be submitted to the planning authority for their written agreement. The report shall expand on the existing surface water quality reporting programmes. This shall comprise agreement on the nature, frequency and location of water quality sampling, including the provision of sampling locations accessible to the Local Authority (i.e. not airside), downstream of the diversion facility and downstream of the outlet from the Central Pollution Control Facility overflow point. The sampling schedules shall be concentrated during the colder months. The format of reporting and frequency of sampling/relationship to de-icing events should form part of the agreed reporting.*

This condition aligns with daa's commitment in the Drainage Management Plan⁴ to form a Technical Working Group with key stakeholders, including Fingal County Council, Inland Fisheries Ireland, EPA, and LAWPRO who will provide comment on the surface water monitoring data, targets, measures and performance criteria from each waterbody.

daa notes the OPR Practice Note PN03 Planning Conditions Page 17 *Conditions requiring the applicant to agree details with bodies other than the planning authority do not meet with the six basic criteria for conditions ... and should not be imposed in any planning permission.* The above condition appropriately applies responsibility with the planning authority. It is not considered *reasonable, necessary or enforceable*⁵ to include a public forum in this condition. There is no precedence for this type of condition within the OPR practice Note PN03 Planning Conditions Sample Conditions.

2. *Water draining to the north of the site, to food producers may contain PFAS.* - The proposed development does not relate to catchments at the north of the airport and does not interact with the area highlighted in *Figure 1: Fruit and Food growers immediately adjacent to contaminated site downstream of surface runoff.* To demonstrate the extent of the proposed applicant and relevant catchment a drawing outlining the Cuckoo Catchment and red line boundary is included in **Appendix 2.**

expected tonnages which will be generated during site clearance, demolition and construction phases and any proposed exportation or importation of soil and stone material including destination/source locations, quantities and if any material will be assessed under By-Product notification. The RWMP shall also include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Condition 25 The Resource and Waste Management Plan shall include a detailed assessment of all potential ground contamination or contaminated soils linked with PFAS as part of the assessment prior to any works taking place with appropriate measures put in place to deal with any contaminated waste materials generated during site works. Any soil excavated during site preparation or construction phases contaminated with PFAS should be disposed of at an authorised facility and not reused on site. The disposal of PFAS contaminated materials should be agreed in writing by Fingal County Council prior to removal off site.

⁴ Drainage Management Plan included in the original planning application and available online [Drainage Management Plan](#).

⁵ Chapter 7 Drafting Planning Conditions Development Management Guidelines

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3. *The proposal should be refused until daa remediate all PFAS at Dublin Airport* – As detailed above the proposed development can be appropriately managed through mitigation measures and standard conditions to ensure there are no significant environmental effects. It is noted that the proposal will not compromise the achievement of good status in the Cuckoo Stream. This has been demonstrated in the application documents, relevant mitigation measures and accepted by FCC in their Notice of Decision to Grant Permission with conditions.

The proposed development will improve the protection of the Cuckoo Stream and is in accordance with all relevant legislation including:

- National Planning Framework
- Regional Spatial & Economic Strategy
- Fingal Development Plan 2023-2029
- Dublin Airport Local Area Plan (LAP) 2020
- Fingal Climate Change Action Plan 2019
- EIA Directive 2011/92/EU
- The EU Birds and Natural Habitats Regulations 2011-2015
- EU Water Framework Directive (WFD) (2000/60/EC)
- 3rd Cycle River Basin Management Plan 2022-2027

4. *Increase in passengers and flights* - The application does not propose intensification of passengers or flights. This is clearly detailed within the application documents, accepted by FCC in their report and conditioned in their decision⁶.

The application included an Environmental Impact Assessment Report (EIAR). This EIAR cumulatively assessed all relevant projects including other live daa projects and the Infrastructure Application relating to increasing the passenger capacity. Project splitting has not occurred.

⁶ FCC F23A/0636 Condition 2: This grant of permission relates solely to that detailed in the statutory public notices and does not refer to any other aspects of the development that may be shown in the lodged plans. No intensification of use is permitted and works described as re-naturalisation of the cuckoo stream are not authorised by the permission hereby consented.

Extracts from FCC Chief Executives Order

Page 117, 118 & 119: *The Council is aware of historic PFAS contamination from firefighting foam at the Airport. Recently the Airport published a report on the monitoring undertaken by them of the soils at contamination sites, groundwater and of streams draining the airport.*

The proposed works in this application are intended to address the ongoing pollution from de-icing activities and not intended to address PFAS contamination. The Planning authority consider it unnecessary to make the implementation of the proposal contingent on addressing PFAS contamination. There are measures to deal with the monitoring for contamination of excavated soils in this application and the disposal off site if they arise which is an acceptable mitigation measure.

The local authority has powers under the water pollution acts which are separate to the planning acts to require measures to abate water pollution or the risk of water pollution. The issue of PFAS pollution is subject of ongoing interaction with the Dublin Airport Authority.

It is noted in the application that contamination when excavating is a risk and may require special disposal off site. The reburied soil highlighted by the third parties, is not a part in this application and consultation held between different parties around PFAS at the airport is outside the remit of planning and is a matter that is dealt with under the water pollution act and the health and safety authority. The planning authority acknowledge PFAS contamination has been known since excavation of the North Runway in 2017 and it should be noted that Apron 5 development did not cause PFAS contamination however historic PFAS was identified and exported for disposal. Excavation of contaminated soils if they occur on this project will require them to be disposed of appropriately. Disposal off site of contaminated soils does not need to be considered as part of this application. The disposal site will require assessment under the appropriate legislation of the jurisdiction where the site is located.

Concerns were raised from third parties around USEPA Regional screening levels in the Materials Management Design Report, these levels refer to contamination at locations not subject to works in this application. The location of the water attenuation tank is not located in the area of works where highly contaminated has been found. The proposed works which address de-icer pollution should not be made contingent on a series of boreholes being installed to monitor groundwater and PFAS contamination.

The application including the underground tank is not to address PFAS contamination but to address de-icer contaminated runoff.

The Planning Authority notes that both the NIS and EIAR submitted as part of this application set out that works will be carried out in accordance will all relevant legislation and to best practice requirements. In the further information response, the applicant details site investigation and laboratory analysis will be carried out to determine potential contamination of ground that will be excavated during the construction phase, including testing for PFAS. If contaminated soil/ water is identified it would be removed by a licensed waste contractor for treatment or disposal in accordance with Waste Management Act 1996 and regulations. Additionally, Section 11.6.1.2 and Section 11.7 outlines the potential for contaminating surface water during construction and mitigation measures. As outlined in the revised Natura Impact Statement (with an additional paragraph in Table 13), there is potential for contaminated soil in the airport that will require excavation. The NIS now includes additional mitigation measures to address this possibility (see section 3.3).

An issue of potentially contaminated land within the project boundary to the south of the T2 construction compound to the North of the Cuckoo stream as part of the re-naturalisation plan ref: AP 53 from page 505 of

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696 Appendix 3n of the RFI memorandum of appendices. Where renaturalisation works are agreed at compliance stage issues with the highlighted potential contamination fall within the project parameters and may be addressed as described above.

Overall, the Planning Authority is satisfied that the identification and treatment of contamination of soils will appropriately be addressed as part of a Construction and Demolition Resource Waste Management Plan (RWMP) for the proposed development.⁷

Page 43: A report received Environment Section (Waste Enforcement & Regulation) have raised no objection to the proposed development subject to conditions relating the submission of a Construction and Demolition Resource Waste Management Plan (RWMP) which should include a detailed assessment of all potential ground contamination or contaminated soils linked with PFAS as part of the assessment prior to any works taking place with appropriate measures put in place to deal with any contaminated waste materials generated during site works.

Page 44: The Planning Authority notes that both the NIS and EIAR submitted as part of this application set out that works will be carried out in accordance with all relevant legislation and to best practice requirements. The Planning Authority considers that the identification and treatment of contamination of soils would appropriately be addressed as part of a Construction and Demolition Resource Waste Management Plan (RWMP) for the proposed development.

Page 85 PFAS Contamination 6 (a) The applicant explains if potential contaminated material is found during construction stage, a site investigation and laboratory analysis will be undertaken, including testing for PFAS. If contaminated material is found, it would be removed by a licensed waste contractor for treatment or disposal at a licensed facility in accordance with the Waste Management Act 1996 (as amended), the Waste Management (Collection Permit) Regulations 2007 (as amended) and the Waste Management (Facility Permit & Registration) Regulations 2007 (as amended). The applicant explains the management of contaminated land and groundwater at EPA registered sites would be in accordance with EPA's guidance. The applicant reiterates, Section 11.6.1.2 and Section 11.7 of chapter 11 describe during construction stage, the potential of accidental contamination of surface water and mitigation measures to reduce contamination risk including a construction and environmental management plan (CEMP). Appendix 13.1 submitted details contaminated soil discovered, how it'll be managed prior to commencement of works.

⁷ A copy of EIAR Section 11.6 & 11.7 and NIS Table 13 Mitigation Measures has been appended for ease of reference.

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Appendix 2
Cuckoo Catchment and Red Line Boundary

