

Caseworker Report	
Application for a Maritime Area Consent (MAC) under Section 75A of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Applicant:	Cork County Council
MAC Reference No:	MAC20230033
Date Application received:	06 March 2024
Application Details	Maritime Area Consent application for the construction, use, operation and maintenance of a pedestrian and cycle bridge and approach pedestrian and cycle paths, including all associated decommissioning, demolition, rehabilitation and any other works required on foot of any development permission relating to the infrastructure at Carrigaline, County Cork.
Recommendation	To approve the PART GRANTING of the MAC sought, with conditions.

Document Control		
Prepared By:		08 January 2025
Reviewed By:		13 February 2025
Approved By:		19 March 2025

1. Background

On 6th March 2024 Cork County Council (CCC) submitted an application for a MAC to MARA for permission for the construction, use, operation and maintenance of a pedestrian and cycle bridge and approach pedestrian and cycle paths adjacent to and over the Owenabue River in Carrigaline, County Cork.

Consent Sought and Reasons

The applicant states that the proposed bridge and approaches will promote active travel models, such as walking and cycling, while the proposed six meter long bench and Light Emitting Diode (LED) lights installation is intended to encourage leisure use of the bridge for viewing seascapes.

The proposed maritime usage the subject of this application requires development permission. The applicant has received development permission from An Bord Pleanála (ABP) (ABP ref. 312041-21). Section 75A makes provision for a MAC applications following the grant of development permission. Accordingly, the subject application is considered to fall under Section 75A of the Act.

The MAC area sought by the applicant is illustrated in *Figure 1*.

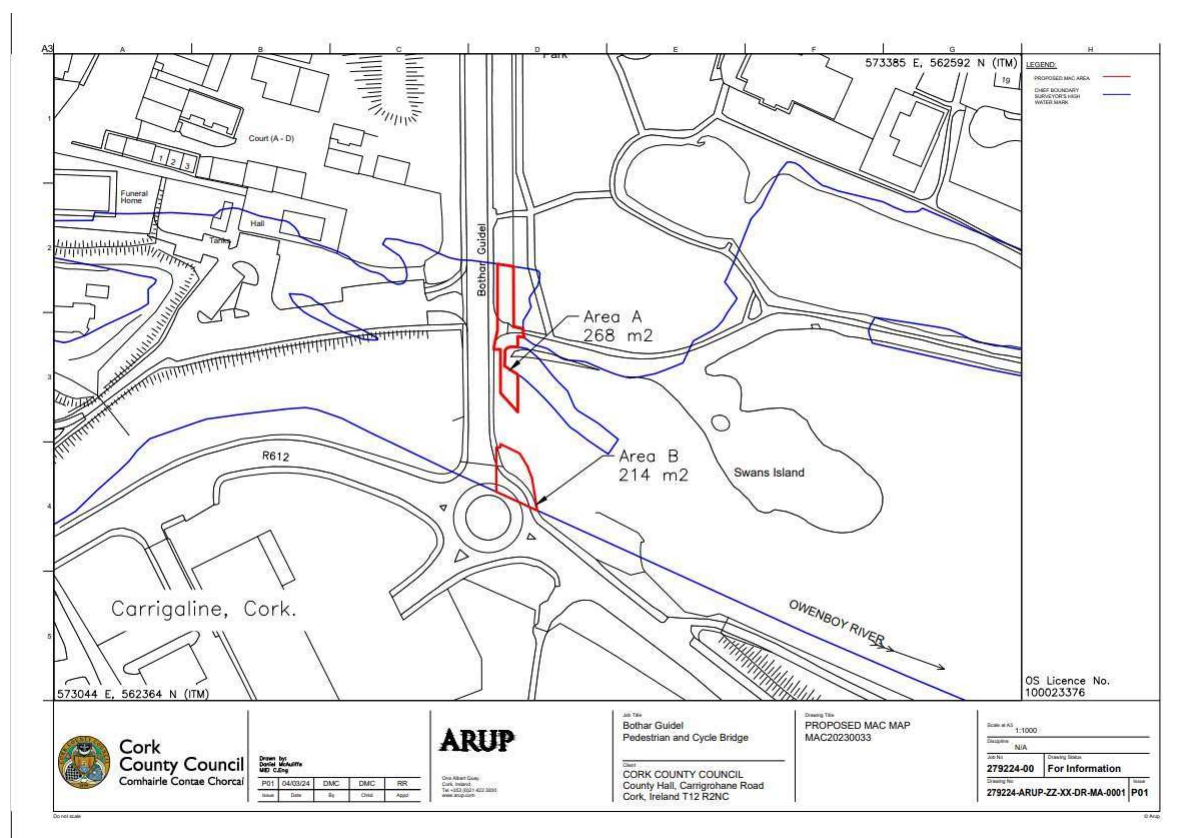


Figure1: Map of MAC area sought by applicant.

2. Assessment

The application has been processed in accordance with MARA's procedure for processing a MAC application. On receipt, the MAC application was reviewed for completeness.

Schedule 5 of the Act sets out the criteria to which MARA must have regard when assessing a MAC application. The criteria are assessed under General Assessment (GA), Technical Capability Assessment (TCA), Engineering Assessment (EA) and Financial Capability Assessment (FCA).

I have undertaken a GA of the application, for which details are set out below.

The GA assessment of whether the holder is a fit and proper person within the meaning of Schedule 2(2) is set out in Table 1. Fit & proper person criteria set out under Schedule 2(2)(g) and (h) have been assessed separately under the TCA and FCA, respectively.

Table 1: Schedule 2(2) Fit & Proper Person	Assessment	Satisfactory/ Not satisfactory
(a) letters of reference;	<p>No letters of reference were provided.</p> <p>The project is in receipt of National Transport Authority (NTA) Active Travel Funding.</p>	Satisfactory
<p>(b) that the relevant person, or any other person concerned, stands convicted of—</p> <p>(i) an indictable offence under this Act or an offence in another state equivalent to an indictable offence,</p> <p>(ii) an indictable offence under an enactment prescribed for the purposes of this clause, or</p> <p>(iii) an offence involving fraud or dishonesty;</p>	As part of the FCA, EY assessed the Holder against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.	Satisfactory
<p>c) if the relevant person is a body corporate, whether any of its directors has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or is subject to or deemed to be subject to—</p> <p>(i) a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act, or</p> <p>(ii) a disqualification outside the State to like effect which corresponds to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014;</p>	As part of the FCA, EY assessed the Holder against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.	Satisfactory
(d) if the relevant person is an individual, whether he or she is adjudicated bankrupt or is subject to proceedings for a declaration of bankruptcy or becomes an arranging debtor;	As part of the FCA, EY assessed the Holder against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.	Satisfactory
<p>(e) if the relevant person is a body corporate, whether it—</p> <p>(i) has commenced a voluntary winding-up or is subject to a winding-up order or is subject to proceedings for such an order,</p> <p>(ii) is subject to the appointment of a receiver or examiner, or</p> <p>(iii) has proposed a compromise or arrangement that is sanctioned under section 453(2) of the Act of 2014 or section 201(3) of the Act of 1963;</p>	As part of the FCA, EY assessed the Holder against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.	Satisfactory

(f) if the relevant person is a body corporate incorporated under the law of another state— (i) whether an event which corresponds to an event referred to in clause (c) has occurred in relation to any of its directors, or (ii) whether an event which corresponds to an event referred to in clause (e) has occurred in relation to the body corporate;	As part of the FCA, EY assessed the Holder against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.	Satisfactory
(i) the previous performance of the relevant person when granted— (i) a MAC, (ii) a development permission, (iii) a licence, or (iv) an authorisation (howsoever described) under the Act of 1933.	On 23 October 2024 the applicant's performance was reviewed in relation to any existing consents granted by the State for the Maritime Area held by Cork County Council. Based on the review, MARA is not aware of any non-compliances, there are no enforcement actions pending and there are no outstanding debts owed.	Satisfactory

A synopsis of the GA of the application relating to Schedule 5 criteria (2), (5), (6), (8) and (10) is provided in Table 2. I am **satisfied** that the MAC sought complies with the applicable requirements under these criteria.

The EA and TCA were carried out by MARA's Assessment Research & Data (ARD) Unit as detailed in the Engineer's Report dated 05 October 2024 and the Technical Capability Report dated 31 October 2024. Relevant assessment details are summarised in Table 2.

The FCA was carried out by MARA contractors Ernst & Young (EY) as detailed in the Financial Capability Assessment Reports, dated 13 January 2025. Relevant assessment details are summarised in in Table 2.

Table 2: Synopsis of the assessment of the application with regard to the requirements of Schedule 5

Schedule 5 Requirements		Assessed under	Synopsis	Assessment
1.	The nature, scope and duration of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.	EA	<p>The proposed maritime usage includes the construction, use, operation and maintenance of a pedestrian and cycle bridge and approach pedestrian and cycle paths adjacent to and over the Owenabue River.</p> <p>The bridge is proposed to be approximately 5m Wide and 31m Long and comprise of a 2-way cycle facility and a pedestrian footpath. CCC have also stated they intend to upgrade the existing footpaths at the tie in points that are in close proximity to the proposed bridge. CCC have also stated their intent to install new retaining walls and associated site development and landscaping. In addition to the works CCC intend to construct a six-meter-long bench and LED lights.</p>	Satisfactory
2.	Whether the proposed maritime usage is in the public interest.	GA	<p>The applicant states <i>“The project is in line with the Government’s Climate Action Plan 2023 and the NTA’s Active Travel Programme. One of the key aims cited in the plan is to increase the number of walking and cycling networks so that walking, cycling and public transport will account for 50% of all journeys made by 2030. This proposed bridge will allow for better connectivity for pedestrian and cyclists in the greater Carrigaline area.”</i></p> <p>The applicant also states that the proposed project is in line with the Government’s Climate Action Plan 2023 and the NTA’s Active Travel Programme and is supported by funding from the NTA’s Active Travel fund.</p> <p>Having reviewed the application and EA I am satisfied that the proposed maritime usage would be in the public interest.</p>	Satisfactory

3.	The location and spatial extent of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.	EA	<p>The construction is proposed for the Maritime Area adjacent to and on the Owenabue River in Carrigaline, County Cork. The total area of state owned maritime area to be occupied by pedestrian and cycle bridge and approach pedestrian and cycle paths is 0.047ha (0.026ha + 0.021ha). On 20 January 2025, a Title Search Requisition search was undertaken, including but not limited to a search with Tailte Éireann of the Land Registry and Registry of Deeds, for any document granting or affecting rights to land.</p> <p>In addition, as set out in the EA Report dated 05 November 2024, a review was undertaken of existing foreshore authorisations within the vicinity of the proposed MAC area.</p> <p>An overlapping foreshore authorisation application (ref FS004084) was noted to have been made by the Cork Blackrock and Passage Railway Company for the Sale of Foreshore for Historic Railway. This was noted to be 1897 Foreshore Conveyance (i.e. sale). On further review, it is noted that this foreshore conveyance was concluded and as such this area is considered as privately owned in accordance with Section 99 of the MAP Act. Accordingly, it is recommended to part grant the MAC to exclude that area of Maritime Area in private ownership. Refer to Section 4 for further details.</p>	Partially Satisfied
4.	Guidelines issued under section 7 which are relevant to the proposed maritime usage.	GA	No such guidelines have been published to date.	Satisfactory
5.	Whether the applicant is a fit and proper person (within the meaning of Schedule 2) to be granted a MAC, both at the time the application is made and at the time that the MAC application concerned is determined by the MARA.	TCA, FCA & GA	<p>TCA: Based on TCA documentation and supporting information provided by the applicants, MARA's ARDU have assessed the applicants' technical capability and have deemed the applicants to be technically capable on the basis of the information submitted.</p> <p>FCA: Based on FCA documentation and supporting information provided by the applicants, external financial consultants, EY, deemed CCC as applicants to be financially capable on the basis of the information provided.</p> <p>GA: Following a detailed review and assessment of the information provided by the applicants, it is hereby confirmed that the applicants satisfy the FPP assessment (see Table 1 above).</p>	
6.	Whether the applicant is tax compliant, both at the time the application is made and at the time that the MAC application concerned is determined by the MARA.	GA	Applicant is tax compliant.	Satisfactory

7.	In the case of any maritime usage relating to offshore renewable energy (within the meaning of section 100), the consistency of the MAC application concerned with the development plans of the transmission system operator (within the meaning of section 100).	GA	Not Applicable	Not Applicable
8.	The National Marine Planning Framework (NMPF).	GA	<p>In their application, CCC describes how the proposal is consistent with a number of policy objectives of the NMPF including Environmental Ocean Health and Social - Engagement with the Sea. I am satisfied that the proposal aligns with the above object and the following policy objectives of the NMPF:</p> <ul style="list-style-type: none"> • 5.7 Air Quality Planning Policies: Air Quality Policy 1 Proposals that support a reduction in air pollution should be supported, subject to the outcome of statutory environmental assessment processes and subsequent decision by the competent authority, and where they contribute to the policies and objectives of this NMPF. • 5.8 Climate Change: Climate Change Policy 2 measures to support reductions in greenhouse gas emissions where possible; • 7.1 Access: Access Policy 2 Proposals demonstrating appropriate enhanced and inclusive public access to and within the maritime area, and that consider the future provision of services for tourism and recreation activities, should be supported, subject to the outcome of statutory environmental assessment processes and subsequent decision by the competent authority, and where they contribute to the policies and objectives of this NMPF. <p>This assessment does not prejudice any consideration and determination that the relevant Planning Authority may make in relation to the NMPF when considering the Planning Application for this development.</p> <p>The proposed works constitute development which requires planning permission. Environmental assessment of the proposed maritime usage is undertaken at development permission stage by the relevant planning authority.</p>	Satisfactory

9.	The extent and nature of the preparatory work already undertaken by the applicant towards ensuring the efficacious undertaking of the proposed maritime usage the subject of the MAC application concerned should the applicant be granted a MAC in respect of such usage.	EA	The applicant has undertaken the following preparatory works to inform their application and to assist with the detail design of the proposed bridge and approaches; Two separate site investigations and all works required to make a full planning submission to ABP. The extent and nature of the preparatory works undertaken is therefore deemed acceptable for a project of this scale and nature.	Satisfactory
10.	The extent and nature of stakeholder engagement undertaken by the applicant in respect of the proposed maritime usage.	GA	The applicant states <i>“As part of the planning process, the development was open to public consultation as well as consultation with a number of state bodies including NPWS, NMS, IFI, An Taisce, ESB, Fáilte Ireland, Irish Water, Department of Marine and Natural Resources & Office of Public Works were consulted. Comments were made were in relation to pedestrian safety and water contamination during construction. An Bord Pleanála were satisfied with the responses to these observations.”</i>	
11.	Where a competitive process referred to in section 93 or 103 is used, the outcome of such process.	GA	Not Applicable	Satisfactory
12.	Any additional criteria specified, for the purposes of this paragraph, in regulations made under section 80(2).	GA	No such regulations have been made to date.	Satisfactory

3. Levy

As per the EA report, an annual MAC levy has been calculated based on the project type and proposed MAC area in accordance with MARA's MAC levy framework. Based on Part A of the Framework, the MAC levy has been calculated as €408.13 per annum.

All levies are indexed to the Harmonised Index of Consumer Prices (HICP), applied on an annual basis.

4. Discussion

Based on the assessments undertaken in the EA Report dated 05 October 2024, the TCA Report dated 31 October 2024, the FCA Assessment Report dated 13 January 2025 and the General Assessment contained herein, I am satisfied that the proposed MAC application complies with all the necessary requirements of Schedule 5 of the Act.

The MAC area sought has been assessed to overlap with private foreshore.

The overlap is illustrated in *Figure 2*.

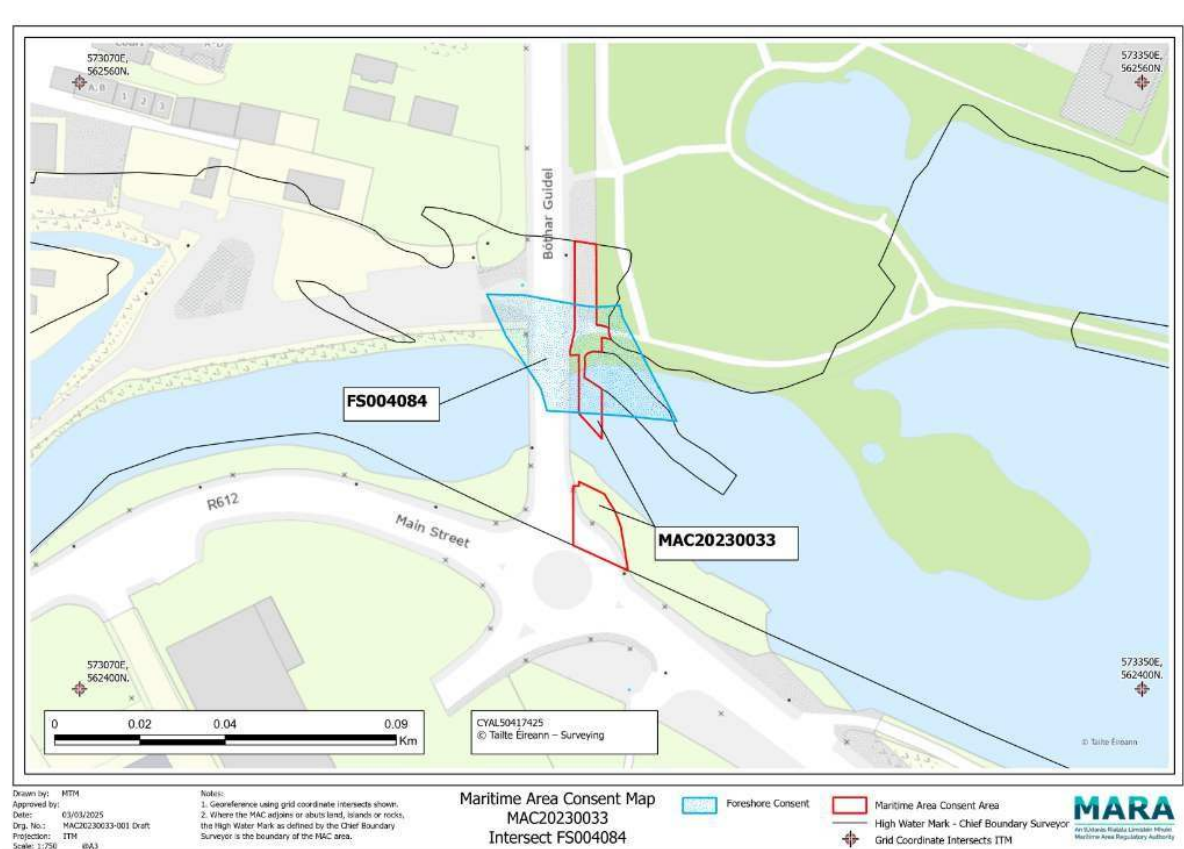


Figure 2: Map indicating overlap between private foreshore (foreshore ref FS004084) illustrated in blue and the MAC area sought by the applicant (red).

Schedule 3(3) and Schedule 4(5) of the Act precludes “any maritime usage to the extent to which it is undertaken on a privately owned part of the maritime area” from requiring a MAC. Section 99(2) of the Act specifies that “no part of the maritime area shall be treated at any time

as privately owned land unless the part is land whose owner is, or is deemed to be, registered under the Registration of Title Act 1964.” Accordingly, MARA may not consent to the section of the MAC area sought that is registered as private land. The MAC area proposed to be granted is illustrated in Figure 3.

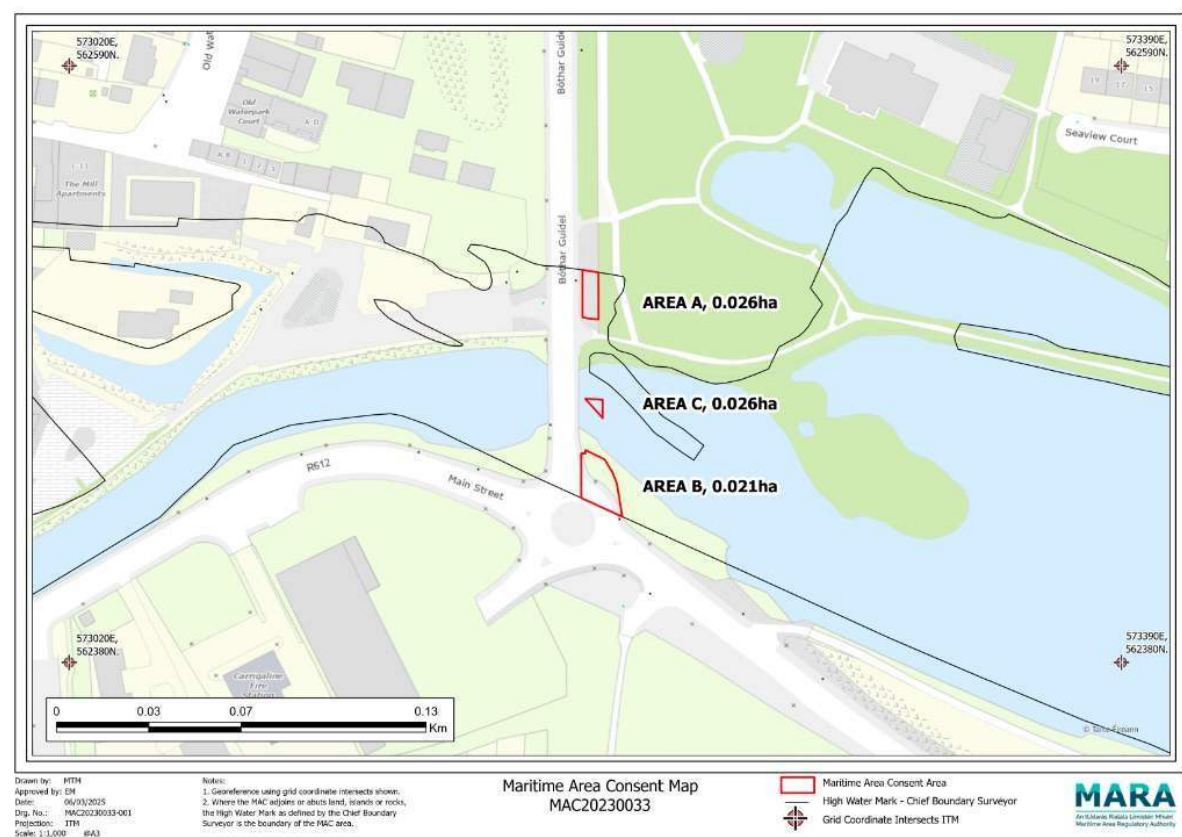


Figure 3: Proposed MAC Area

A MAC term of 45 years has been proposed within the recommended MAC as per the recommendation of the EA report.

The following Permitted Maritime Usage has been included within the recommended MAC:

The rehabilitation schedule submitted by the applicant on 26 February 2025 in support of the application has been reviewed and is considered to be satisfactory. Accordingly, the rehabilitation schedule has been appended to the recommended MAC.

Conditions and Reasons for Conditions

Section 82 of the Act specifies that MARA may attach to a MAC one or more than one condition which falls within one or more than one of the types of conditions specified in Part 1 of Schedule 6. All conditions contained in Schedule 6, Part 2 are deemed to be attached to a MAC. The standard suite of MARA conditions reflecting the contractual and statutory relationship that will exist with a grant of consent are also recommended. Reasons for these conditions are set out in the enclosed Section 81(7)(b) Minded to Notice.

In addition to the above the EA Report has recommended the addition of the below conditions and reasons for these. Discussion in relation to each recommended condition is also provided below.

- The MAC Holder shall use that part of the Maritime Area the subject matter of this MAC, for the purposes of, and in accordance with, the details outlined in the plans and particulars submitted by the applicant in support of their application except as may otherwise be required in order to comply with the MAC and its conditions.

Reason: In the interest of clarity.

This condition has been included under Condition 3.7 of the proposed MAC. For consistency, reference to the MAC and MAC conditions has been replaced with “this Consent”.

- The MAC Holder shall provide the Grantor a minimum of 14 days advance notice in writing of the Holder’s intention to commence the Permitted Maritime Usage.

Reason: To ensure the proper management and the orderly undertaking of the permitted maritime usage.

This condition is provided for under Condition 7.4 of the proposed MAC.

In addition, the following conditions are recommended to take account of existing development permission and proposed future development permission:

5.1 In relation to the Existing Development Permission for the Permitted Maritime Usage, the following provisions shall apply:

- (a) The Holder shall furnish the Grantor with a copy of the said Existing Development Permission.
- (b) The Holder shall notify the Grantor of any proposed material alteration to the Existing Development Permission as soon as practicable and furnish any relevant documentation.
- (c) Where a material alteration is made to the Existing Development Permission, the Holder shall furnish all relevant documentation to include a copy of the amended permission as soon as practicable.

5.2 If there is an irreconciliation between a provision of this Consent and a provision of the Existing Development Permission for the Permitted Maritime Usage, the provisions of this Consent shall be deemed to be amended to the extent necessary to remove that irreconciliation in favour of the Existing Development Permission in accordance with section 87 of the Act.

Having regard to the above, the following definition is recommended for inclusion within the proposed MAC:

- 1.1 (j) “Existing Development Permission” means the development permission, within the meaning of section 75A of the Act, granted under An Bord Pleanála reference number 312041-21.

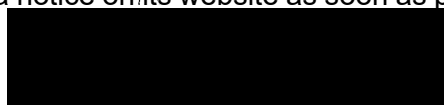
It is considered that the application for a MAC complies with all the requirements of Part 4 of the Act, with particular regard to Schedule 5 criteria with the exception of Schedule 5(3). An overlap with private land has been identified. Accordingly, it is recommended to part grant the proposed MAC to exclude the area of private land.

7 Conclusion & Recommendation

Following a detailed assessment, I am satisfied that the proposal complies with all the necessary requirements, subject to the exclusion of land in private ownership from the proposed MAC area. Accordingly, I recommend issuing a Section 81(7)(b) Minded to Notice, as enclosed, informing the applicants that MARA is minded to **part grant** a Maritime Area Consent subject to the proposed conditions attached to the MAC. I recommend allowing the applicants 21 days from the date of issue of the Minded to Notice to submit supplementary material in relation to the reasons for the conditions as per Section 81(7)(b)(ii).

Once a final determination is made by MARA, the applicants will be notified and MARA will publish a notice on its website as soon as practicable thereafter.

Signed:



DATE: 21/03/25
