

Final Determination Report	
Application for a Maritime Area Consent (MAC) under Section 75(1) of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Holder:	Port of Waterford Company
MAC Reference No:	MAC20230001
Date Application received:	19 January 2024
Application Details	Port of Waterford Company have made an application under Section 75(1) of the Maritime Area Planning Act 2021, as amended, for a MAC for the construction, use, operation and maintenance of port facilities at Belview Port, Slieverue, Co. Kilkenny.
Recommendation	To Grant, with conditions, the MAC sought.

Document Control		
Prepared By:	██████████, MAC Manager	13/06/2025
Reviewed:	██████████ Head of Maritime Usage Licensing	13/06/2025
Approved by:	██████████, Head of Maritime Usage Licensing	13/06/2025

I refer to the minded to documentation that issued to Port of Waterford Company on the 11 April 2025. On the 29 April 2025 Port of Waterford Company submitted supplementary material to MARA in response to the minded notice in relation to the reasons attached to the conditions in the draft MAC. In accordance with Section 82(7)(b)(ii) MARA must give consideration to the supplementary material before making a determination. Details of the supplementary material provided and consideration thereof is set out below.

Supplementary material:

Port of Waterford Company provided the following comments in their supplementary material:

## 1. 45 Year Term

According to MARA's General Guidance for Completing a MAC Application, under Section 6.5 Duration of a MAC, it states:

The duration of MACs will vary depending on the lifecycle of the project. The lifecycle is based on the development, construction, operational and decommissioning phases. The duration of the MACs issued for ORE Phase One projects is 45 years.' We note that in the guidance that there is scope to vary the duration depending on the lifecycle of the project. We respectfully request that MARA uses this discretion in the consideration of this MAC determination.

Firstly, we have examined the Offshore Renewable Energy (ORE) timelines for the Port of Waterford Company Project. In accordance with the relevant legislation, planning cannot be submitted until we obtain a MAC consent, so while the current stipulated 45 years timeframe will commence immediately on receipt of the MAC, the project itself will still have to go through a number of steps before we have an operational quay in place. We have outlined these steps with estimated timelines:

- Planning consent - 12 - 24 months;
- Detailed design and tender documentation - 9-12 months;
- Financing - 12 - 36 months;
- Procurement and Contractor Appointment - 4-6 months; and,
- Construction - 18-24 months.

Potentially in a worst-case scenario the new quay may only be operational ca. 8.5 years following receipt of the MAC. In addition, there is also the rehabilitation requirement which has the potential to further reduce the operational lifespan of the quay. In summary, potentially 10 years of the 45-year MAC term currently allocated may not have any operational benefit to the PoW.

Secondly, there is the design life of this type of structure to consider. The IS EN 1 990 Eurocode

- Basis of Structural Design (Eurocode 0) gives indicative design working lives for various types of structures. The POW Project would fall under Category 5 - Monumental building structures, bridges and other civil engineering structures, which have a lifetime of up to 100 years.

Furthermore, according to 856349 Maritime Structures 1-2000, 'Normally a design working life of the order of 50 years or more is expected of maritime structures such as quay walls, jetties and docks but for flood protection works it is not uncommon for a 700 year life to be required.

Therefore, to summarise, the design working life of the proposed extension will be 50 years as an absolute minimum but would ideally be higher and up to 100 years if the construction budget allows. The POW's design objective will be to allocate a sufficient budget to ensure the maximum longevity of the quay that will be constructed. As such, we respectfully request that MARA amends the Duration of the MAC to the maximum working life of the proposed extension - 100 years.

### MARA Response

An unduly longer MAC term could lead to the possibility of the infrastructure no longer being fit for purpose and requiring rehabilitation well in advance of the expiration date of the MAC. The MAC term should therefore align with the design life of the proposed infrastructure plus the term required to obtain development consent, undertake detailed design, construct and rehabilitate the maritime area.

Design life can be affected by environmental degradation, material degradation and changing external conditions. While a design life for civil engineering structures of this nature can be of the order of 50-100 years, achieving 100 years would be unusual without significant maintenance and or replacement. The applicant has not provided suitable evidence and justification in relation to design life which would support a significant extension of the proposed MAC term. Furthermore, the construction budget is not established at this time, and this will have an impact on the overall design life.

A design life of 50 years is deemed appropriate in this case. Should the applicant, during the planning process, budget and design for a longer design life, the applicant is free to submit an application for a material amendment to the MAC term. It should be noted that any amendment to the MAC may require an amendment to the planning consent.

In addition to the design life, when considering a MAC of this nature and scale, the term should include the maximum allowable timeframes for the following:

- Submission of development permission application (in alignment with MAC condition) – 1.5 years;

- Achieving planning consent (statutory objective is 18 weeks but allowing for an extended timeframe for further information requests and oral hearing) – 1 year;
- Substantial completion (in alignment with standard planning condition) – 5 years; and
- Decommissioning and rehabilitation including amendment and replacement of the Rehabilitation Schedule (if required in accordance with Section 97) – 2.5 years

Considering the above a total MAC term of 60 years is deemed appropriate.

## **2. Date by which Financial Close must be Achieved: 18 months from the date of grant of Development Permission**

According to MARA's Financial Capability Assessment for a Maritime Area Consent Guidance Document, 'Financial Close' has been defined as 'the date where funding to achieve build completion / commercial operation of the MAC project is secured and available for drawdown.'

As outlined above, following receipt of the Final Grant of Planning, the detailed design, tender documentation and financing stages of the project could easily take up to 48 months. Therefore, we believe that the financial close date of 18 months after the date of grant of permission is too short for this type of development.

Furthermore, the funding for this development will be intrinsically linked to the ORE Developers that will be seeking to utilise the quay. These ORE Developers will have their own consenting journey that they will have to complete with the potential for delays such as appeals and/or legal challenges. We respectfully request that MARA amends the Financial Close period to be consistent with the planning permission duration of 10 years to provide the required flexibility.

### **MARA Response**

Considering the above factors, a timeframe of five years to achieve Financial Close from the date of granting of Development Permission is deemed appropriate. This duration allows Port of Waterford Company a reasonable timeframe to secure the necessary project funding while safeguarding against hoarding in the maritime area.

Port of Waterford Company can apply to extend the financial close timeframe by six months by submitting an application for a non-material amendment. This option can be used twice, allowing for a total extension of up to 12 months, if deemed appropriate. Additionally, the applicant has the option to apply for a material amendment to extend the period. There is no application fee associated with non-material amendments, however an application fee does apply for material amendments, calculated based on the overall project costs for the maritime area. In the case of any such application, the MAC holder would be required to provide sufficient evidence to demonstrate that they are likely to be able to achieve financial close within the proposed extended timeframe.

### **3. Insurance - Clauses 16.1(b) & (c)**

Clause 16.1(b) requires Public Liability cover in joint names of the Grantor and Holder, yet Clause 16.1(c) requires Employers Liability cover in the name of the Holder only. Our insurers advise that both requirements should follow the same format. They also advise that joint cover is not market standard for either policy, and that it may inadvertently restrict the rights of each party. We respectfully request that MARA remove the joint insurance requirement from Clause 16.1(b).

#### MARA Response

MARA will accede in this instance to the applicant's request to hold public liability insurance in the sole name of the applicant.

It is recommended to finalise the MAC with conditions attached, as per the above amendments. Reasons for the conditions attached thereto are recommended to issue as per the above amendments. It is recommended to issue a final determination notice in relation to the above application in accordance with section 81(3) of the Act.

A final determination notice, the final MAC and reasons for conditions attached thereto are attached for your approval.

Signed

A black rectangular box redacting the signature of the official.

Date: 16/06/2025