

Final Determination Report	
Application for a Maritime Area Consent (MAC) under Section 75(4) of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Holder:	Dublin City Council
MAC Reference No:	MAC240028
Date Application received:	12 July 2024
Application Details	DCC have made an application under Section 75(4) of the Maritime Area Planning Act 2021, as amended, for a MAC to construct, use, operate and maintain a scour gabion mattress as part of an outfall structure at Sir John Rogerson's Quay, Dublin 2
Recommendation	To Grant, with conditions, the MAC sought.

Document Control		
Prepared By:		14/07/2025
Reviewed & Approved by:		14/07/2025

I refer to the minded to documentation that issued to Dublin City Council (DCC) on the 11 June 2025. On the 1 July 2025 DCC submitted supplementary material to MARA in response to the minded notice in relation to the reasons attached to conditions in the proposed 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:**

DCC provided the following comments in their supplementary information:

#### **1. Calculation of levy amount following construction**

*“During the detailed design phase and the preparation of the MAC application, a conservative allowance was made for the proposed MAC area required for the construction phase and the operational phase of the proposed works. It was noted in the application that the MAC area consists of:*

- 625m<sup>2</sup> inclusive of temporary works
- 145 m<sup>2</sup> permanent works

*We have noted the proposed levy is calculated on the 625m<sup>2</sup> area which is inclusive of the temporary works. Will the levy amount be revised following the construction period to only be calculated from the final permanent works area?*

*As-built drawings and post-construction surveys can be submitted following the construction period to confirm the final MAC area.”*

#### MARA Response

The MAC levy is calculated based on the full area of the MAC. The MAC area includes all maritime area proposed for occupation, including areas for infrastructure, temporary works, maintenance, decommissioning and rehabilitation. Where, upon completion of construction works or at another time, Dublin City Council no longer require occupation of the entire MAC area, they may submit application to MARA to materially amend the MAC area under Section 86 of the Act.

### **2. With relation to condition 16.1(a) & (b)- Insurance**

*“DCC’s Insurer Irish Public Bodies (IPB) do not believe that it will be possible to provide Material Damage Insurance for the peril of Storm on the proposed infrastructure, accordingly they would ask that this requirement is deleted and perhaps replaced with an undertaking that DCC will replace/reinstate the infrastructure if it becomes damaged as a result of the peril of Storm.”*

#### MARA Response

The MAC has been amended accordingly as follows:

- “Storm Damage” has been removed from definition of “The Insured Risks” under condition 1.1 (m) of the MAC.
- The following additional condition has been inserted into the MAC as condition 16.1 (b):

*“undertake to replace and/or reinstate the Consent Area and all structures and chattels thereon and the fixtures and fittings therein (if any) which may be lost or damaged as a result of the peril of storm, to the amount of the full reinstatement cost or in the sum not less than the estimated maximum loss amount as determined by a suitably qualified and experienced independent consultant (to be approved from time to time by the Grantor or their surveyor and including an inflationary factor), including discharge of demolition and site clearance expenses, architects and other fees and taxes in relation to the reinstatement of the Consent Area”.*

### **3. With relation to condition 16.1(b) – Insurance**

*“DCC’s Insurer Irish Public Bodies (IPB) ask that this requirement be replaced with a notation of a specific indemnity, similar to what is required under clause 16.1 (c).”*

#### MARA Response

The MAC has been amended accordingly as follows:

- “Storm Damage” has been removed from definition of “The Insured Risks” under condition 1.1 (m) of the MAC.
- Condition 16.1(b) has been renamed as 16.1(c) to account for the insertion as per point 2 above.
- Condition 16.1 (c) has been edited as follows:  
*“effect and keep in force a public liability insurance policy of indemnity in the name of the Holder in an insurance office licensed to operate in the State with a limit of €6,500,000 (six million and five hundred thousand Euro) (or such increased amount as the Grantor may from time to time reasonably determine) in respect of any one claim or a series of claims arising out of a single occurrence (except for pollution and products liability cover which may be on an annual aggregate basis if unavailable on a single occurrence basis) for any damage, loss or injury which may occur to any property (not being the property of the Grantor or the Holder) or to any person by or arising out of the Permitted Maritime Usage and exercise of the rights granted in this Consent. This policy should include an indemnity to principles clause with a specific indemnity to the Grantor”.*

#### **4. With relation to condition 19.1 – Rehabilitation**

*“In the Outline Rehabilitation Plan submitted as part of the MAC application, it is noted due to the nature, location and criticality of the infrastructure constructed, it is expected the infrastructure will remain in operation at the end of the design life, in perpetuity, and the infrastructure will be subject to maintenance and remedial works as necessitated. It is also noted it is Dublin City Council’s intention that the infrastructure will be re-used for the same purpose.*

*We have noted this aspect of the MAC is well defined in the MAC Report provided. However, we would like to enquire whether the intent to re-use the infrastructure should be noted under a suitable clause or condition in the MAC itself?”*

#### **MARA Response**

Section 96 of the Act outlines the *“Obligations on holder of MAC in relation to rehabilitation of maritime area”*. Section 96(2)(d) states that the applicant *“Without prejudice to the generality of the obligation under subsection (1) on the holder of a MAC to rehabilitate a part of the maritime area, that obligation may be or include one or more than one of the following ... (d) The re-use of infrastructure for the same purpose or another”*.

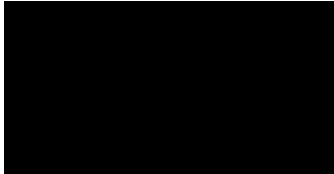
Where DCC wish to continue to re-use the infrastructure after the end of the MAC term, they may submit an application in advance of the end of the MAC term to MARA for a MAC to continue to occupy the Consent Area.

### **Recommendation**

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 minded to notice. 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



Date: 14 July 2025