

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:	Electricity Supply Board (ESB)
MAC Reference No:	MAC20230006
Location:	Raheen, Co Kilkenny and Marshmeadows, Co Wexford
Date Application received:	27 March 2024
Application Details:	ESB have made an application under Section 75(1) of the Maritime Area Planning Act 2021, as amended, for a MAC to construct, use, operate and maintain an underground electricity cable (UGC) beneath the River Barrow, at Raheen, Co Kilkenny and Marshmeadows, Co Wexford.
Recommendation:	To Grant, with conditions, the MAC sought.

Document Control		
Prepared by:	██████████, MAC Analyst	04/07/2025
	and ██████████, MAC Analyst	07/07/2025
Reviewed by & Approved by:	██████████, Head of Maritime Area Consenting	07/07/2025

I refer to the minded to documentation that issued to ESB on 7 May 2025. On the 27 May 2025, ESB submitted supplementary material to MARA in response to the minded notice in relation to the reasons attached to the 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:

ESB provided the following comments in their supplementary material:

1. Date by which development permission must be applied for

“We note condition 5, which requires an application for development permission to be made within the timeframe set out in the particulars schedule. We also note that the Particulars Schedule sets out this date as “18 months from the date of grant of Development Permission”. We assume this is an error?”

MARA Response

The proposed MAC included a clerical error under the particulars schedule for the date by which an application for development permission must be applied for. The date by which the Holder must apply for development permission is recommended to be within “18 months from the commencement date” of the MAC. The recommended final MAC has been amended to correct this clerical error.

2. Requirement for development permission

“As regards the substance of this condition requiring an application for development permission, ESB was granted planning permission (register reference Wexford County Council 2023/0651, applied on 9th June 2023 and granted on 28th July 2023 and register reference Kilkenny County Council 2023/0145, applied on 9th June 2023 on 7th November 2023 for this development.

ESB is of the view that we already have the necessary development consents for the development that is the subject of the MAC.”

MARA Response

As per Section 5.1 of MARA’s MAC Report, dated 7 May 2025, ESB has stated that the proposed maritime usage the subject of this application requires development permission. The applicant was granted development permissions in relation to the proposed maritime usage on 28 July 2023 (by Wexford County Council, reference number 2023/0651) and 07 November 2023 (Kilkenny County Council, reference number 2023/0145). Section 75A of the Act makes provision for MAC applications following the grant of development permission,

where granted before 17 July 2023. Considering the development permissions were granted after the 17 July 2023, it is considered that Section 75A does not apply to the subject application. Accordingly, the subject application is considered to fall under Section 75(1) of the Act. In accordance with Section 75(1) of the Act, a MAC is required before an application for development permission can be lodged with the relevant consent authority. Consequently, it is considered that the applicant will be required to re-apply for development permission and that Condition 5 and the timeframe for submission of planning permission as set out in the Particulars Schedule of the proposed MAC remain applicable.

3. Insurance

“With reference to clause 16.1(a) of the MAC, ESB Networks do not carry Property Insurance for any of the transmission/distribution network assets, including cabling. These assets are self-insured and, as such, we cannot provide evidence of the cover as required under this clause. Purchasing such insurance for the New Ross river crossing cable in isolation would be difficult and expensive, and contrary to our overall insurance purchasing strategy. We would therefore ask that this clause be deleted, or at least amended to allow for the option of self-insurance.”

MARA Response

Condition 16.1(a) of the MAC has been amended as follows (bold text denotes insertions further to the original proposed condition):

“Condition 16.1

Without prejudice to the Holder’s liability to indemnify the Grantor which shall be unlimited (and others as specified in condition 15), the Holder shall, prior to the commencement of occupation of the Consent Area:-

- (a) *insure **(which includes the Holder’s self-insurance arrangements)** and keep insured **(either with an insurance office licensed to operate in the State or which has received authorisation to operate in the State in accordance with Article 14 of Directive 2009/138/EC in the joint names of the Grantor and the Holder, or alternatively at the Holder’s discretion, through a self-insurance arrangement)**, in the full reinstatement cost thereof 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 his surveyor and including an inflationary factor) the Consent Area and all structures and chattels thereon and the fixtures*

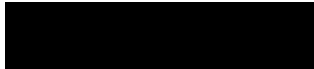
and fittings therein (if any) against loss or damage by the Insured Risks, including demolition and site clearance expenses, architects' and other fees and taxes in relation to the reinstatement of the Consent Area, and where available on the market such policy to include a non-invalidating clause acceptable to the Grantor (such joint policy or policies, if required, to contain a non-vitiating clause whereby subject to the terms, conditions, limitations of the policy or policies, any non-disclosure, mistake or misrepresentation of a material fact by the Holder gives sufficient reason for the insurer to prove the insurance policy to be void, the Grantor will not be denied the protection of the policy);"

Recommendation

It is recommended to finalise the MAC with conditions attached, as per the above amendment to the particulars schedule and condition 16.1(a). 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: 07/07/2025