

Re: Transitional Provisions of Maritime Area Planning Act 2021 (“the MAP Act”)

The Maritime Area Regulatory Authority (“MARA”) wishes to highlight transitional provisions, contained within the Maritime Area Planning Act 2021 (“the MAP Act”), as amended, relating to potential unauthorised usages and applications for Maritime Area Consents (“MAC”). These provisions provide a pathway to bring these unauthorised usages into compliance. We encourage stakeholders who feel they may fall under these provisions to engage with MARA to determine status.

The transitional provisions for certain unauthorised maritime usages are set out in section 106 of the Maritime Area Planning Act 2021, as amended, in respect of MAC applications, and Section 130 in respect of Maritime Usage Licences (“MUL”) applications.

Subject to the provisions of section 106(4) and section 130(4) of the MAP Act, the relevant person may, before 17 July 2028, make a MAC or MUL application to remedy unauthorised usage, and in any such case the provisions of the MAP Act shall apply to take account of the fact that such usage is an existing maritime usage and not a proposed maritime usage. If the relevant person does not apply before 17 July 2028, or the application has been withdrawn, abandoned or refused, MARA may undertake enforcement proceedings.

A “relevant person” is defined for these sections as the person undertaking such usage immediately before 12 August 2021, and regardless of whether or not such person is the same person who first undertook such usage.

An “unauthorised usage” is defined as a maritime usage:

- a) undertaken by a person before 12 August 2021,
- b) which, in order to be lawfully undertaken before that date, was required to be, but was not, the subject of a foreshore authorisation, and regardless as to whether or not any other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) were required, or were in fact granted, under any other enactment in order to enable the person referred to in paragraph (a) to undertake such usage, and
- c) which, if it were undertaken on or after the coming into operation of Chapter 2, would be required by that Chapter to be the subject of a MAC or a licence.