

<b>Final Determination Report</b>	
<b>Application for a Maritime Area Consent (MAC) under Section 79 of Maritime Area Planning Act 2021 (the Act)</b>	
<b>Application Details</b>	
MAC Applicant:	Iarnród Éireann - Irish Rail
MAC Reference No:	MAC250030
Date Application received:	02 September 2025
Proposed Maritime Usage:	Iarnród Éireann has applied for a MAC for construction of the East Coast Railway Infrastructure Protection Project between Kilcoole and Newcastle, Co. Wicklow. The proposed maritime usage includes the construction, use, operation and maintenance of coastal protection works including all associated decommissioning, demolition, rehabilitation and any other works required on foot of any development permission relating to the infrastructure.
Recommendation:	To Part Grant, with conditions, the MAC sought.
Permitted Maritime Usage:	The construction, use, operation and maintenance of coastal protection works, including all associated decommissioning, demolition, rehabilitation, and any other works required on foot of any development permission relating to coastal protection of the railway infrastructure.

<b>Document Control</b>		
Prepared By:	Kelly Dalton	25/02/2026
Reviewed:	Jacinta Ponzi	26/02/2026
Approved by:	Jacinta Ponzi	26/02/2026

I refer to the minded to documentation that issued to Iarnród Éireann (Irish Rail) on the 03 December 2025. On the 19 December 2025 Iarnród Éireann (Irish Rail) submitted supplementary material to MARA in response to the minded to notice in relation to the reasons

attached to conditions in the draft MAC. In accordance with Section 81(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:

Iarnród Éireann - Irish Rail provided the following comments in their supplementary material:

**i. Condition 7 – Levy**

*“Iarnród Éireann notes Paragraph 7(2) of the proposed MAC and covering letter concerning the levy to be applied of €844,388.71 per annum on commencement of the MAC. It is noted that this has been valued at a base rate of €208.46 plus €0.39 per m<sup>2</sup> of the proposed MAC area (216.47Ha) in accordance with the Levy Framework. Iarnród Éireann also note that this total area is comprised of 1.95Ha of permanent works area (to be retained for the lifetime of the MAC) and 216.45Ha of temporary works area required only during the construction stage of the development (once the development consents have been granted). Iarnród Éireann, as a state body and subject to budgetary constraints, is concerned that this level of levy on commencement of the MAC risks the viability of this project and the provision of the much needed coastal protection to the existing railway on the east coast of Ireland. The development consent applications are currently in preparation and expected to be lodged in Autumn 2026. The East Coast Railway Infrastructure Protection Projects (ECRIPP) to which this MAC application pertains is included in the National Development Plan Review 2025 Sectoral Investment Plan for Transport as a major public transport project scheduled to commence construction by 2030. This is a Nationally Critical Project for Ireland which will deliver enhanced coastal protection to the existing railway infrastructure on the rail network between Dublin and Wicklow.*

*It is acknowledged that the levy derives from the Levy Framework which was agreed between MARA and Minister for Public Expenditure, National Development Plan Delivery and Reform in 2023 and that MARA is obliged to keep the levy framework under review and amend accordingly. Iarnród Éireann would request that such Levy Framework be subject to review and amendment with a view to substantially reducing the levy and/or exempting from such levy a MAC in relation to projects such as the East Coast Railway Infrastructure Protection Projects. In this regard it is noted that if the levy framework is amended or replaced, changes must be applied to existing MACs and new MACs unless the framework specifies otherwise. Iarnród Éireann would also request that it be consulted and kept informed of any review. Also pending such review and/or amendment of the Legal Framework, Iarnród Éireann notes that*

*Paragraph 7(6) of the proposed MAC states that, “In exceptional circumstances, the Grantor may in its absolute discretion grant a moratorium on the payment of the Levy, subject to such conditions as may be imposed. Such moratorium may operate as a deferral or a waiver of the Levy but unless expressly stated to be a waiver, any such moratorium shall be a deferral only”. Insofar as liability for the levy arises prior to any review and potential amendment of the Legal Framework, Iarnród Éireann would also request that consideration be given to the application of this provision.”*

### **MARA Response**

The Levy Framework was agreed between MARA and Minister for Public Expenditure, National Development Plan Delivery and Reform in 2023. MARA is obliged to keep the levy framework under review and to amend accordingly. If the levy framework is amended or replaced, changes must be applied to both new and existing MACs, unless the framework specifies otherwise. Consideration of any levy moratorium is a post-consent matter for consideration of MARA’s Compliance, Enforcement and Revenue Directorate.

A review of the existing Levy Framework is currently underway, and Iarnród Éireann were recently invited to give feedback as part of the consultation process. Consultation on same closed on 23 February 2026. MARA will consider all responses and publish a “Response to Consultation” document outlining its decisions and next steps. In this regard no change is recommended.

### **ii. Condition 11 – Indemnity**

*“The applicant requests that “where Holder is found to be liable” is added to the end of Clause 11.1 and 11.2 for the reason of limiting the Holder’s liability to the Grantor to the actions of the Holder only.”*

### **MARA Response**

The State Claims Agency has provided the appropriate wording for Condition 11. MARA is not in a position to agree to its amendment as proposed. In this regard no change is recommended.

**iii. Condition 12 – Insurance****Clause 12.a**

*“Interests of the Granter as owner of the property to be noted on the Holder’s insurance policy on completion of the proposed development. For the reason that the Granter cannot be named as a joint policy holder on the applicant’s insurance policy.”*

**MARA Response:**

This is a standard condition in Maritime Area Consents. The Applicant has not requested a change to the existing condition and did not provide supplementary material to support a consideration of a change to this condition. Accordingly, no further consideration can be given by MARA in regard to the above.

**Clause 12.b**

*“Grantor to be indemnified on the Holder’s public liability policy on completion of the development. For the reason that the Granter cannot be named as a joint policy holder on the applicant’s insurance policy.”*

**MARA Response:**

This is a standard condition in Maritime Area Consents. The Applicant has not requested a change to the existing condition and did not provide supplementary material to support a consideration of a change to this condition. Accordingly, no further consideration can be given by MARA in regard to the above.

**Clause 12.c**

*“The applicant is self-insured with regards to Employers Liability. Written confirmation of this to be provided if required.”*

**MARA Response:**

MARA requested clarification from the Applicant on 14 January 2026 and 17 February 2026 regarding self-insured Employers Liability. The Applicant provided information on 27 January 2026 and 20 February 2026 to demonstrate their ability to self-insure regarding Employers Liability. Details of this information has not been included herein due to the commercially sensitive nature of this information.

Having regard to the supplementary material and information submitted by the Applicant, MARA is satisfied that the self-insurance Employers Liability arrangements in place by Iarnród

Éireann-Irish Rail are sufficient. Accordingly, Condition 12.1(c) of the MAC is recommended to be amended as follows (bold text denotes insertions further to the original proposed condition):

Condition 12.1 (c) now states:

effect and keep in force **(which includes the Holder's self-insurance arrangements)** an employer's liability insurance policy of indemnity in the name of the Holder **(either** in an insurance office licensed to operate in the State **or alternatively at the Holder's discretion, through a self-insurance arrangement)** with a limit of €13,000,000.00 (thirteen million Euro) for any one claim or a series of claims arising out of a single occurrence. This policy should include an indemnity to principles clause with a specific indemnity to the Grantor;

#### **Clause 12.e**

*"Holder to note Granter's interest as owner of the property on policy documents. For the reason that no Waiver of Subrogation will be provided by the Holder's insurance underwriter."*

#### **MARA Response**

This is a standard condition in Maritime Area Consents. The Applicant has not requested a change to the existing condition and did not provide supplementary material to support a consideration of a change to this condition. Accordingly, no further consideration can be given by MARA in regard to the above.

In addition, please note that since the Minded to Notice for MAC250030 was issued on 03 December 2025;

- i. the MAC Levy framework has been updated for 2026 in line with the Harmonised Index of Consumer Prices (HICP) increase of 2.7%. All levies are indexed to the HICP, applied on an annual basis. Please see below table with updated MAC levy calculation:

<b>MAPA Levy Framework Part:</b>	A: Nearshore
<b>Category/Class:</b>	<i>Development (non-commercial)</i>
<b>Tier:</b>	3
<b>Applicable Rate:</b>	Base Annual Charge of €214.09 plus an add on of €0.40 per sq.m for areas in excess of 100 sq.m
<b>Length or Area:</b>	<i>Area m<sup>2</sup>: 2,164,664.71</i>
<b>Calculation:</b>	€214.09 + (€0.40 * (2,164,664.71 - 100.00))
<b>Levy due:</b>	€866,039.97

- ii. MARA received information from the Applicant on the 18<sup>th</sup> February 2026 stating that the registered name and address of the Applicant are as follows:

- Registered Name: Iarnród Éireann – Irish Rail
- Registered Address: Connolly Station, Dublin 1, Dublin, D01V6V6, Ireland

Accordingly, the particulars of the MAC have been updated to reflect this information.

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: *Kelly Dalton*

Date: 25 February 2026