

Final Determination Report	
Application for a Maritime Area Consent (MAC) under Section 79 of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Holder:	ESB
MAC Reference No:	MAC240013
Date Application received:	06 December 2024
Proposed Maritime Usage	Electricity Supply Board (ESB) has applied for a MAC for the installation of electric cables between North Wall and Poolbeg, Dublin. The proposed works include the installation, operation, and maintenance of an electricity transmission circuit.
Recommendation	To Part Grant, with conditions, the MAC sought.
Permitted Maritime Usage	Installation, operation, and maintenance of an electrical transmission infrastructure beneath the bed of the River Liffey including all associated decommissioning, demolition, rehabilitation and any other works required on foot of any development permission relating to the infrastructure.

Document Control		
Prepared By:	Paul Brennan, Manager, MAC Directorate	21/04/2026
Reviewed & Approved by:	Kate Clark, head of MAC Strategy & ORE	22/04/2026

I refer to the minded to documentation that issued to ESB on 25 February 2026. On 16 March 2026 ESB submitted supplementary material to MARA in response to the minded notice in relation to the reasons attached to conditions 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:

ESB provided the following comments and clarifications in their supplementary material:

1. *In the Minded to Determine Notice, the MARA stated that the 65-year duration of the MAC term sought is not considered to be justified having regard to the design life for the infrastructure as specified in the MAC application, and that, accordingly, the MARA is, upon consideration, minded to part grant the MAC sought subject to a shorter MAC term (i.e., 45 years from the MAC Commencement Date).*

At the time of lodgement of the MAC application in December 2024, the methodology had not been finalised in respect of how the cables would be installed beneath the riverbed save that installation would utilise “a trenchless method (likely via tunnelling or horizontal directional drilling) at a depth which is to be confirmed during the detailed design process but expected to be greater than 5m beneath the river bed”. In the context that the design was not finalised, we understand the MARA’s rationale as set out in the MAC Report that “At this stage, there is limited information on the final design criteria, the applicable Technical and Institutional Requirements (TIR) standards and the selected installation option, noting that two alternative underwater cable installation approaches are under consideration. This results in uncertainty in the final lifetime assumptions for the system”.

However, the design solution has been progressed since the lodgement of the MAC application and it can be confirmed that the cables will now be installed in a tunnel. The requirements for this tunnel remain within the general parameters described in the MAC application i.e., the construction of tunnel shafts on Dublin Port lands and on the lands of the former Pigeon House power station, both outside the maritime area. These shafts will extend to depths of the order of 25m below ground level, from which a tunnel will be bored beneath the riverbed, allowing the cable infrastructure to be pulled through.

At this time, it can be further clarified that:

- *The depth of the tunnel and shafts will be of the order of 50 m below ground level.*
- *The tunnel will be up to 4 m wide.*
- *The tunnel can accommodate a future circuit.*
- *The tunnel will be constructed using a tunnel boring machine.*

Please find enclosed a drawing (reference CP1216-TT-AEC-XX-SK-CE-6000) which provides details of the current level of design of the tunnel.

The overall design life of the cable tunnel is 120 years. The lifespan is designed to last far longer than the cables, allowing the transmission infrastructure to be upgraded

multiple times without rebuilding the crossing. The EirGrid cable tunnel design specification is aligned with other standards for similar infrastructure in this regard. For example, a design life of not less than 120 years is used in the UK for cable tunnels (e.g. London Power Tunnels), and other major tunnelling infrastructure works (e.g. Thames Tideway Tunnel and Crossrail). In this regard, please find enclosed UK Power Networks Cable Tunnel Design Standard. Further, BS EN 1990:2002, Eurocode – Basis of structural design, (Eurocode 0) gives an indicative design working life for design purposes of 100 years for monumental building structures, bridges and other civil engineering structures, and the UK National Annex to BS EN 1990:2002 gives a modified indicative design working life of 120 years for such structures.

In the context of clarity on the cable installation methodology and the lifespan of the tunnel being 120 years, we respectfully request the MARA to consider granting a MAC term of 65 years (as a minimum) from the MAC Commencement Date.

MARA Response

The applicant has confirmed that the final design solution for the cable installation methodology will comprise a tunnel structure installed using trenchless technology, including a launch and reception pit.

A design life of 120 years for this construction methodology is considered achievable. However, the applicant has requested a MAC term of 65 years. As the requested MAC term is significantly less than the expected design life of the infrastructure, granting a MAC term of 65 years is considered acceptable. The Particulars Schedule of the recommended final MAC has been updated to the revised the term accordingly.

- 2. Under the Foreshore Act 1933 (as amended) (the “Foreshore Act”), the foreshore of Ireland is classed as the land and seabed between the high water of ordinary or medium tides (shown HWM on Ordnance Survey maps) and the twelve-mile limit. Foreshore also covers tidal areas of rivers, particularly estuaries.*

Section 1 of the Foreshore Act defines ‘foreshore’ as follows:

“...the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the

sea or of any such river or estuary and the outer limit of the foreshore shall be determined in accordance with section 1A of this Act”.

The entire foreshore is presumed to be owned by the State unless valid alternative title is shown. We note the MARA has deemed that, based on the title documents provided, Dublin Port Company (DPC) owns part of the foreshore in which the proposed activity will occur.

However, the MARA’s reason for deeming that a portion of the estuary of the River Liffey is ‘privately owned’ by DPC is based on the statutory declaration for “Plot 4 Vernon Estate 1819”. In our view, this is incorrect as the statutory declaration is not satisfactory evidence that the land is ‘privately owned’; the owner must be registered under the Registration of Title Act 1964.

This is based on Section 99(2) of the Maritime Area Planning Act 2021 (as amended) (the “MAP Act”) which provides that no part of the maritime area shall be treated as privately owned “unless that part is land whose owner is, or is deemed to be, registered under the Registration of Title Act 1964”.

In our view, without evidence that the ownership of the portion of estuary is registered under the Registration of Title Act 1964, the MARA cannot treat it as being privately owned and therefore should not exclude it from the MAC Map. In our view, if the land is not privately owned within the meaning of the MAP Act, then it should be presumed to be owned by the State and included in the MAC area.

However, we agree with the MARA that the registered lands listed in the Minded to Determine Notice (i.e., lands registered under folios DN188028F, DN205517F and DN2257724) are privately owned lands and it is correct to exclude those registered lands from the MAC Map. Consent will be sought from these landowners prior to the commencement of development.

MARA Response

Notwithstanding the wording of s.99(2) of the MAP Act, which provides that “no part of the maritime area shall be treated at any time as privately owned unless the part is land whose owner is, or deemed to be, registered under the Registration of Title Act 1964”, a broader view has been taken of what is deemed to be privately owned maritime area. MARA has

adopted the position that a MAC cannot be granted over lands that are claimed to be privately owned, whether or not such lands are registered under the Registration of Title Act 1964. Any private property rights that are claimed and proven over unregistered land cannot simply be disregarded by MARA as this could be deemed to be an interference in the constitutional rights of private property owners.

Therefore, MARA cannot accede to the Applicant's request.

3. *In this regard, please note that the proposed approach for this project is to apply for a Section 5 declaration pursuant to the Planning and Development Act 2000 (as amended) from Dublin City Council and, if possible, proceed via exempted development rights. We note that, under the MAP Act, a Rehabilitation Schedule must be attached to a MAC unless a Development Permission is required following the grant of the MAC, in which case the Rehabilitation Schedule must be attached to that Development Permission.*

As there is the possibility that this project will proceed via exempted development rights and a Development Permission will not be required, we propose the following amendments (in red) to the MAC for clarity:

“Rehabilitation Schedule” means:

*the Schedule appended to this Consent in the Appendix identified as such; ~~and/or~~
~~the “planning rehabilitation schedule” as prescribed under Section 95 of the Act.~~*

COMMENCEMENT OF THE RIGHT OF OCCUPATION

4.1 *Notwithstanding the MAC Commencement Date and Term, the Holder shall not obtain any right to occupy the Consent Area pursuant to condition 3.4 and shall not commence any works, activities or operations permitted by the Permitted Maritime Usage as provided for under this Consent Area unless and until the Holder has obtained **any required** Development Permission for the Permitted Maritime Usage (being Development Permission that is consistent with this Consent as in force from time to time).*

4.2 *In the event Development Permission is being sought in phases relating to parts only of the Consent Area, a right to occupy shall not arise in respect of any part*

of the Consent Area concerned until the Holder has complied with condition 4.1 in respect of that part.

4.3 *The provisions of this condition 4 shall not operate to waive or postpone the performance by the Holder under this Consent*

DEVELOPMENT PERMISSION

5.1 *In the event that Development Permission is required for the Permitted Maritime Usage the subject of this Consent, ~~t~~The Holder shall submit an application for any such required Development Permission relating to the Permitted Maritime Usage the subject of this Consent on or before the date set out in the Particulars Schedule. The application for any required Development Permission shall have attached to it a Rehabilitation Schedule, within the meaning of Section 95 of the Act.*

5.2 *In the event that Development Permission that is required for the Permitted Maritime Usage is refused, or the required application is not made in accordance with the requirements of condition 5.1, the provisions of section 144 (1)(c)(ii) of the Act shall apply.*

5.3 *In the event that Development Permission that is required for the Permitted Maritime Usage is granted, the following provisions shall apply:*

- (a) The Holder shall furnish the Grantor with a copy of the said Development Permission as soon as practicable after it has been granted;*
- (b) The Holder shall furnish the Grantor with a copy of the Rehabilitation Schedule as consented to by the Development Permission as soon as practicable after the Development Permission has been granted;*
- (c) The Holder shall give the Grantor a copy of any material alteration to the Development Permission as soon as practicable after the alteration has been made; and*
- (d) In the event of a conflict between a provision(s) of this Consent and a provision(s) of the Development Permission for the Permitted Maritime Usage, the provision(s) of the Development Permission shall take precedence and section 87(2) of the Act shall apply.*

EXERCISE OF RIGHTS

*19.1 The Holder shall exercise this Consent in such a manner as not to cause damage or injury to the Consent Area (save for incidental damage caused in the completion of works in substantial compliance with **any applicable the** Development Permission), the Grantor, the occupants of the Consent Area and any other part of the maritime area affected by the Permitted Maritime Usage and to forthwith from time to time with due diligence repair and make compensation for any such damage or injury that may be so caused.*

““Rehabilitation Schedule” means the Schedule appended to this Consent in the Appendix identified as such.

We consider that these amendments would ensure that both potential scenarios are appropriately covered by the terms of the MAC; the proposed approach of relying on exempted development rights and the fallback option of obtaining a Development Permission if a Section 5 declaration cannot be obtained. We have provided a Rehabilitation Schedule for inclusion in accordance with the proposed amendments.

MARA Response

The ESB has submitted its MAC application on the basis of Section 75(1) of the Maritime Area Planning (MAP) Act (i.e. where a MAC is required prior to seeking development permission)

At this stage, there remains uncertainty as to whether the proposed works require development permission. The MAC application has been made on the basis Section 75(1) of the MAP Act, and MARA has undertaken its assessment on the basis that development permission is required. Where a Section 5 Declaration is made such that the proposed maritime usage is considered to be exempted development the maritime usage would consider to fall under the basis of Section 76 of the MAP Act. Should a final determination be made to grant MAC240013, and it subsequently transpires (following a Section 5 Declaration from Dublin City Council) that the works constitute exempted development, the applicant may apply to MARA for a material amendment to the MAC to seeking a reassessment of the proposed maritime usage on the basis of Section 76 of the MAP Act and seek any such amendments to conditions.

Furthermore, the Applicant did not furnish MARA with a Rehabilitation Schedule as part of the supplementary material submitted. In accordance with Section 96(4) and having regard to Section 96(5) of the MAP Act, MARA is precluded from granting a MAC to the applicant unless there is a rehabilitation schedule attached.

Accordingly, MARA cannot accede to the requested change.

Details in relation to the MAC material amendment process is detailed in [MARA's Guidance Note for applicants applying for a Maritime Area Consent \(MAC\)](#) and application forms are available [here](#).

It is recommended to finalise the MAC with conditions attached, as per those set out in the proposed MAC. Reasons for the conditions attached thereto are recommended to issue as per the above amendment. 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: *Paul Brennan*

Date: 22/04/2026