

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:	Electricity Supply Board (ESB)
MAC Reference No:	MAC240059
Date Application received:	19 December 2024
Proposed Maritime Usage:	The ESB has applied for a MAC under Section 79 of the Act for the continued use and the future development of energy infrastructure at their site at Aghada, Co. Cork. The proposed works include the use, operation and maintenance of existing energy infrastructure and the future development of an Energy Park, including all associated decommissioning, demolition, rehabilitation, and any other works required on foot of any development permission relating to the infrastructure.
Recommendation	To approve the Part granting of the MAC sought with conditions attached.
Permitted Maritime Usage	The construction, use, operation and maintenance of power generation, energy storage, lower carbon fuels and other energy related infrastructure, 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: MAC Manager	16/01/2026
Reviewed and approved by:	Jacinta Ponzi: Head of Maritime Area Consenting	16/01/2026
Final Version	Paul Brennan: MAC Manager	19/01/2026

I refer to the minded to documentation that issued to ESB on 10 December 2025. On 09 January 2026 ESB submitted supplementary material to MARA in response to the minded 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:

ESB provided the following comments in their supplementary material: :

1. Exclusivity

As MARA is aware, ESB is currently carrying out its operations at the Aghada site under three Foreshore Leases and a Foreshore Licence, and has carried on these operations for over 40 years. The nature of the foreshore authorisations previously granted afforded exclusive usage and occupation to ESB.

Given the nature of the operations on the Aghada site, ESB has obligations, both under legislation and its operational consents, to ensure that the facility is operated safely and securely and remains environmentally compliant. By way of example, ESB's operations are regulated by an Industrial Emissions licence, and the facility is registered as a Lower Tier establishment under the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015. Furthermore, it is also anticipated that the Aghada facility will be designated as a Critical Entity under the European Union (Resilience of Critical Entities) Regulations 2024. This is in addition to ESB's obligations under the Safety, Health and Welfare at Work Act 2005 (as amended).

Therefore, it is necessary for ESB to retain control of the Consent Area at Aghada from an operational, development, environmental and safety standpoint. ESB has facilitated and remains open to facilitating 3rd party access to infrastructure on the Aghada site where it is not deemed to contravene, conflict with or hinder ESB's capacity to comply with those statutory obligations.

ESB notes the reasons provided by MARA regarding exclusivity, and the statutory framework within which MARA operates. ESB also notes that MARA has divided the overall Consent Area into "MAC Area A" and "MAC Area B", with both areas being granted on a "may or may not be exclusive" basis.

ESB has no difficulty regarding the “may or may not be exclusive” designation for MAC Area B. However, in respect of MAC Area A, MARA has indicated that it is constrained from designating MAC Area A as ‘exclusive’ due to the existence of Foreshore Licence FS004178 held by Uisce Éireann relating wastewater infrastructure. In this regard, ESB requests that a “MAC Area C” is created within “MAC Area A” (which is noted on the map below). MAC Area C will cover the portion of the Consent Area which contains the Uisce Éireann infrastructure consented by Foreshore Licence FS004178, and its designation would remain as “may or may not be exclusive” for the reasons set out at 1(a) in the Minded to Grant Notice.

ESB requests that the balance of the Consent Area is designated as “MAC Area A” on an exclusive basis, and submits that this exclusivity is justified given the nature of the operations on the Aghada site and the consenting and legislative constraints within which ESB operates to ensure the safe, secure and environmentally compliant management of the site (as outlined above).



MARA Response

Section 83 of the Act prescribes the following provisions supplementary to grant of a MAC:

“83. (1) The MARA shall, in granting a MAC, specify, in the grant, whether the specific part of the maritime area the subject of that MAC, as the MARA thinks appropriate—

- (a) is for the exclusive use of the maritime usage the subject of the MAC,*
 - (b) is not for the exclusive use of such usage, or*
 - (c) may or may not be for the exclusive use of such usage contingent on circumstances that may arise after the granting of the MAC.*
- (2) A provision of the grant of a MAC that purports to provide for the renewal of the MAC shall be void.*
- (3) Section 82 shall not be construed to prejudice the generality of any power under the Act of 2000 to attach conditions to a development permission.”*

There is currently no provision in the Act that permits MARA to grant exclusive occupation of the maritime area to a Holder. Section 83(1) of the Act requires MARA, when granting a MAC, to specify whether the particular part of maritime area covered by the MAC is for the “*exclusive use of the maritime usage the subject of the MAC*” or not. Accordingly, it is considered that MARA cannot grant any ‘exclusive occupation’ of the maritime area. MARA may however grant a MAC for “exclusive use” for a specific permitted usage.

MARA has subdivided the original Consent Area A of the entire Consent Area into Consent Areas A, C and D. This approach provides a clearer and more precise delineation of the Consent Area with Consent Area C, the Consent Area aligning with Foreshore Licence FS004178 held by Uisce Éireann, situated between and separating Area A and Area D.

It is considered that in order to ensure safety and secure operations, the Holder will require exclusive use of the Consent Area A and Consent Area D of the enclosed recommended MAC Map. Accordingly, it is recommended that Consent Area A and Consent Area D be granted in accordance with Section 83(1)(a).

Section 83(1)(c) provides MARA discretion and flexibility to specify that a MAC “*may or may not be for the exclusive use of such usage contingent on circumstances that may arise after the granting of the MAC*”. Taking the lifecycle of the proposed maritime usage into account, it is reasonably foreseeable that, the Holder may be required or may seek to exclude access to parts of the MAC area on a temporary basis. Such temporary exclusions may be mandated by another authorisation or enactment. It is considered that exclusive usage of Consent Area B and Consent Area C for the full term of the MAC is not merited, particularly given the recommended term of the MAC is 50 years. Furthermore, the National Marine Planning Framework (NMPF) promotes co-existence

and co-operation. Accordingly, it is recommended that Consent Area B and Consent Area C be granted in accordance with Section 83(1)(c).

Condition 3.4 of the recommended final MAC has been amended as follows (bold text denotes amendments and strikethrough text denotes deletions of the original proposed condition):

3.4 This Consent permits the Holder, subject to the conditions otherwise herein contained:

(a) To occupy the Consent Area for the purpose of carrying out the Permitted Maritime Usage strictly in accordance with the conditions attached to this Consent and the requirements of the Act; and

~~*(b) To use of the Consent Area on a non-exclusive basis for the purpose of carrying out the Permitted Maritime Usage strictly in accordance with the conditions contained herein and the requirements of the Act, except where use on an exclusive basis is required and provided for under another authorisation or enactment.*~~

(b) To use of Area A and Area D of the Consent Area on an exclusive basis for the purpose of carrying out the Permitted Maritime Usage strictly in accordance with the conditions contained herein and the requirements of the Act; and

(c) To use of Area B and Area C of the Consent Area on a non-exclusive basis for the purpose of carrying out the Permitted Maritime Usage strictly in accordance with the conditions contained herein and the requirements of the Act, except where use on an exclusive basis is required and provided for under another authorisation or enactment.

Furthermore, the recommended MAC Map illustrating the Consent Area of the MAC (*Figure 1*) has been amended to demark Area A and Area D for exclusive use in accordance with Condition 3.4(b) above and Area B and Area C for non-exclusive use in accordance with Condition 3.4(c) above.



Figure 1

As a result of the changes to the Consent Area of the MAC, the supporting details for the MAC levy calculation have been revised, in accordance with MARA’s [MAC levy framework](#), as set out below. However, the total annual MAC levy remains unchanged.

MAPA Levy Framework Part:	A: Nearshore
Category/Class:	<p>Area A: Development Commercial</p> <p>Area B: Outfall Pipe Band 4</p> <p>Area C: Development Commercial</p> <p>Area D: Development Commercial</p>
Tier:	Tier 3
Applicable Rate:	<p>Area A, Area C and Area D: Base Annual Charge of €416.93 plus an add on of 0.78 per sq.m for areas in excess of 100 sq.m</p> <p>Area B: Base Annual Charge of €1,876.18 + €4.17 per linear metre for any pipe in excess of 10 linear metres</p>

Area/Length:	Area A: 240,100m ² Area B: 435 m Area C: 2,900m ² Area D: 12,200m ²
Calculation:	Area A, Area C and Area D: €416.93 + (€0.78 * (255,200.00 - 100.00)) Area B: €1,876.18 + (€4.17 * (435.00 - 10.00))
Levy due:	Area A, Area C and Area D: €199,394.93 Area B: €3,648.43 Total Levy: €203,043.36

The MAC levy has been calculated as €203,043.36 per annum. All levies are indexed to the Harmonised Index of Consumer Prices (HICP), applied on an annual basis.

2. Compliance with the consent and applicable laws

While this does not relate expressly to MARA's reasons, ESB notes that draft Condition 5.2 of the Proposed MAC provides that "[t]he Holder shall give MARA not less than 14 days advance notice in writing before the commencement of the Permitted Maritime Usage in the Consent Area".

ESB's application was under section 105 of the Maritime Area Planning Act 2021, as amended, to transition from ESB's existing foreshore authorisations to a MAC. ESB has an existing operational energy generation facility within the Consent Area, therefore it is not possible for ESB to comply with Condition 5.2, as the Permitted Maritime Usage is ongoing.

MARA Response

Condition 5 has been amended, removing the original Condition 5.2, as follows (bold text denotes amendments and strikethrough text denotes deletions of the original proposed condition):

5. COMPLIANCE WITH THE CONSENT AND APPLICABLE LAWS

5.1 The Holder shall not use the Consent Area for any purpose other than the Permitted Maritime Usage.

~~*5.2 The Holder shall give MARA not less than 14 days advance notice in writing*~~

before the commencement of the Permitted Maritime Usage in the Consent Area.

5.3 5.2 The Holder shall ensure that contractors, and their subcontractors, are made aware of and comply with all conditions in this Consent.

3. Rehabilitation Financial Provision

Furthermore, we have set out below a screenshot of draft Condition 14.1 as currently set out in the Proposed MAC.

14.1 The provisions of this condition **Error! Reference source not found.** are subject to the requirements of any Development Permission authorising the Permitted Maritime Usage and section 87 of the Act shall apply to any irreconciliation arising.

ESB requests clarity on the 'reference source not found' in this condition.

MARA Response

Condition 14.1 is amended to address the cross-reference error, and the revised condition is as follows (bold text denotes amendments and strikethrough text denotes deletions of the original proposed condition):

14.1 *The provisions of this condition ~~Error! Reference source not found~~ **14** are subject to the requirements of any Development Permission authorising the Permitted Maritime Usage and section 87 of the Act shall apply to any irreconciliation arising.*

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 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.

MAC20240059

Signed: *Paul Brennan*

Date: 19/01/2026