

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:	MAC240061
Date Application received:	02 December 2024
Proposed Maritime Usage	Electricity Supply Board (ESB) has applied for a MAC for the installation of electric cables within the near-shore area of Dublin Bay between Blackrock Park and Shellybanks, Poolbeg. 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 circuit, 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	12/05/2026
Reviewed By:	Kate Clark, Head of MAC Strategy & ORE	12/05/2026
Approved by:	Kate Clark, Head of MAC Strategy & ORE	14/05/2026

I refer to the minded to documentation that issued to ESB on 04 March 2026. On 24 March 2026 ESB submitted supplementary material to MARA in response to the minded notice in relation to the reasons for the part grant of the MAC sought. On 23 April 2026, MARA issued a request for clarification on the supplementary material, to which ESB provided further supplementary material on 29 April 2026. 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. *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 a 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 maritime area in which the proposed activity will occur.

However, the MARA’s reason for deeming that part of the area is ‘privately owned’ by DPC is based on the Deed of Title (DPC/0/0833) for lands purchased by DPC from the Pembroke (Fitzwilliam) Estate on 03 November 1962. These lands are identified in blue in MARA’s Drawing Ref. Privately Owned Area Intersect Map in the MAC Report and are excluded from MARA’s proposed MAC MAP (CP1146-RPS-00-XX-DR-C-DG2811 S5 P07 Proposed MAC Map). In our view, this is incorrect as the Deed of Title is not satisfactory evidence that the land is ‘privately owned’; the owner must be registered under the Registration of Title Act 1964.

We would also draw MARA’s attention to the fact that during engagement with a private landowner (ESB), they have brought to our attention additional private unregistered lands falling within the foreshore in their ownership and within the MAC Area. These lands are included within the lands identified in blue in MARA’s Drawing Ref. Privately Owned Area Intersect Map, and which MARA considered to be ‘privately owned’ by DPC based on the Deed of Title (DPC/0/0833) for lands purchased by DPC from the Pembroke (Fitzwilliam) Estate on 03 November 1962. Regardless of whether the lands are considered to be owned by either DPC or ESB,

we consider there is insufficient evidence that the land is 'privately owned' within the meaning of section 99(2) of the Maritime Area Planning Act 2021 (as amended) (the "MAP Act"), as the owner must be registered under the Registration of Title Act 1964. Section 99(2) of the MAP Act 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".

From our search of the Land Registry, it appears that the area the MARA has proposed to exclude from the MAC Map is not registered under the Registration of Title Act 1964. Further, from our search of the Land Registry, the folio number handwritten on the Deed of Title which the MARA is relying on to say the land is 'privately owned' by DPC is Folio DN64161F. That folio is no longer in existence. It was closed and incorporated into folio DN229687F, which does not appear to relate to the area in question. Please find enclosed a map (CP1146-RPS-00-XX-SK-C-SK2061 S0 P02 Proposed MAC240061 MAC Area sketch) which shows the separation between the MAC area and the lands registered under folio DN229687F. The map also shows the lands considered by MARA to be owned by DPC based on the Deed of Title (DPC/0/0833); and the ESB's claimed, private unregistered lands falling within the foreshore in their ownership and within the MAC Area.

In our view, without evidence that the ownership of the land 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.

Having regard to the foregoing it is considered that the MAC area as originally proposed should comprise the final MAC area. Refer to CP1146-RPS-00-XX-DR-C-DG2811 S5 P07 Proposed MAC Map.

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 to include lands that MARA considers as privately owned.

Supplementary Material Clarification:

Further to the above, MARA sought clarification from the Applicant regarding reference made in their supplementary material to "unregistered lands falling within the foreshore in their ownership and within the MAC Area". ESB provided the following comments in their response to MARA's request for clarification

1. Please find enclosed a copy of the tripartite agreement under which the ESB claims ownership of the lands, together with a scanned copy of the map (part of) and a photograph of the map. The private unregistered lands owned by the ESB are cross hatched in orange on the "Proposed MAC240061 MAC Area sketch" (File Identifier CP1146-RPS-00-XX-SK-C-SK2061 S0 P02) provided as part of the supplementary material provided on 24 March 2026.
2. The lands identified as Area B in MARA's Proposed Maritime Area Consent Map (Tailte Eireann Licence number reference CYAL50417425) (Figure 1 below) includes the private unregistered ESB owned lands which are identified in orange hatch in CP1146-RPS-00-XX-DR-C-DG2502 S5 P05 Proposed MUL Map and MAC240061_CP1146-RPS-00-XX-SK-C-SK2061 S0 P02 and Proposed MAC240061 MAC Area sketch (Figure 2 below) and as referred to in Item 1.

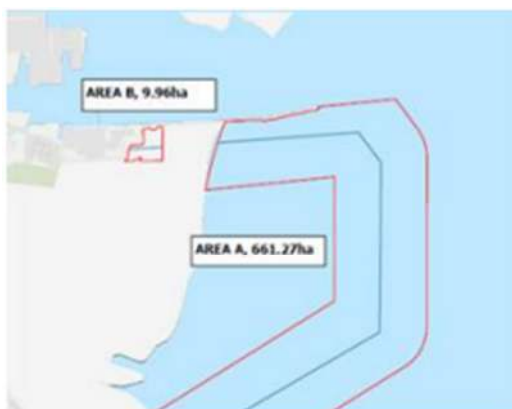


Figure 1

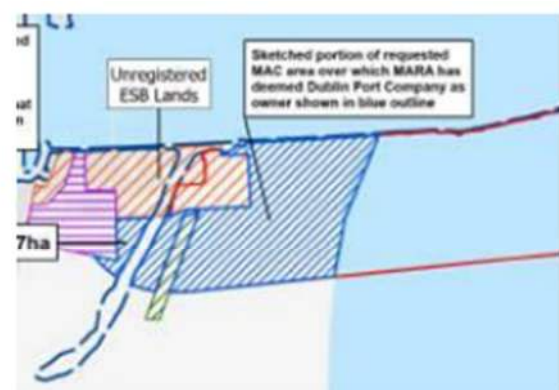


Figure 2

3. The private unregistered lands owned by the ESB referenced in page 2 of the supplementary material provided on 24 March 2026 and addressed at paragraph 1 of the MARA's Request for clarification letter dated 23 April 2026 are the same lands as those cross hatched in orange on the "Proposed MAC240061 MAC Area sketch" (File Identifier CP1146-RPS-00-XX-SK-C-SK2061 S0 P02) provided as part of the supplementary material provided on 24 March 2026. For clarity, they are not the same lands as those cross hatched in green on the "Proposed MAC Map" (File Identifier CP1146-RPS-00-XX-DR-C-DG2811) – which are different privately owned registered lands.

MARA Response

MARA considers that ESB have provided satisfactory evidence of its title, by providing a copy of Tripartite Agreement (99206) along with the associated map (Figure 3) of the area within Area B of the proposed MAC map as set out in the minded to determination (Figure 4).

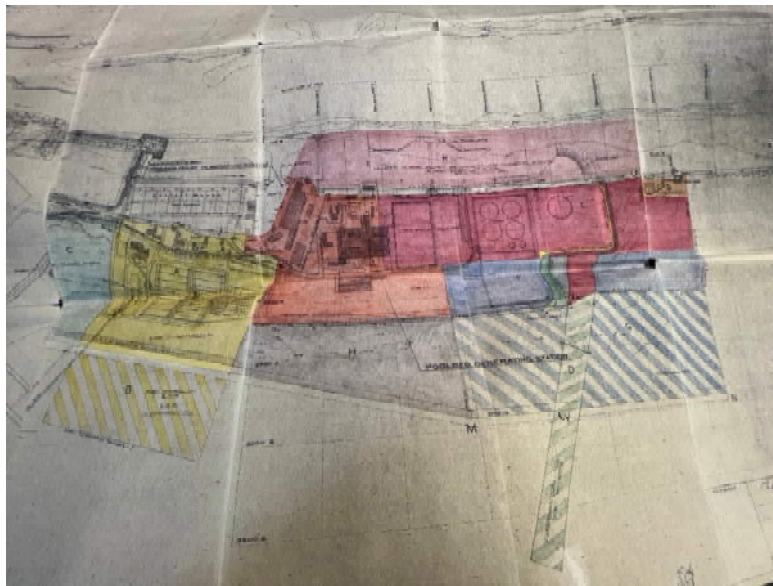


Figure 3: Tripartite Agreement map extract

As detailed in MARA's response to the initial supplementary material provided (above), MARA cannot include lands that it considers privately owned. Accordingly, the recommended final MAC map (Figure 5) and MAC Levy have been updated to exclude Area B.

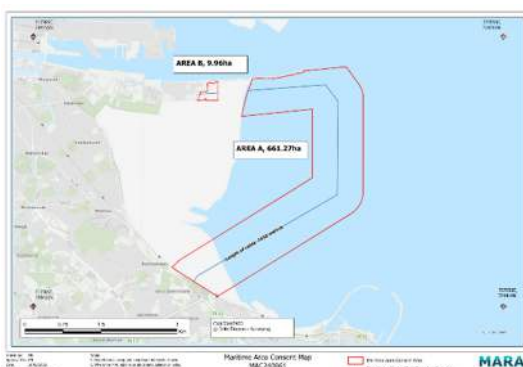


Figure 4: Proposed MAC map (minded to determination)



Figure 5: Recommended Final MAC map

MAC240061

Details of the recalculation of the MAC levy are provided in the enclosed final determination notice.

It is recommended to finalise the MAC with conditions attached, as per the enclosed proposed MAC. Reasons for the conditions attached thereto are recommended to issue as per the proposed MAC. 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: 14/05/2026