

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:	Uisce Éireann
MAC Reference No:	MAC20240010
Date Application received:	05 July 2024
Application Details	Uisce Éireann has applied for a MAC under Section 79 of the Act for the upgrade of wastewater infrastructure at Foynes, County Limerick. The proposed works include the construction, use, operation and maintenance of wastewater infrastructure, including all associated decommissioning, demolition, rehabilitation, and any other works required on foot of any development permission relating to the infrastructure.
Recommendation	To Grant, with conditions, the MAC sought.

Document Control

Prepared By:	Cian Scattergood	20 November 2025
Reviewed:	Jacinta Ponzi	01 December 2025
Approved by:	Jacinta Ponzi	01 December 2025

I refer to the minded to documentation that issued to Uisce Éireann on the 30 October 2025. On the 11 November 2025 Uisce Éireann submitted supplementary material to MARA in response to the minded to 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:

Uisce Éireann provided the following comments in their supplementary material:

1. MAC Term

The MAC Term is deemed to be '55 years from the MAC Commencement Date'.

Historically a Foreshore Licence was for 99 years. Given Uisce Éireann's status as the national water services provider, on behalf of the state, together with the

enduring nature of the proposed infrastructure it makes sense, in our opinion, for the MAC Term to align with foreshore licence precedent.

Or alternatively, if the Term was to remain the same, that the MAC provides an ability to extend the Term. It is our experience that these pipes are resilient and enduring and we would be keen to avoid a situation whereby the MAC comes to an automatic end at this time. In addition, unlike most of our sewers, this pipe will be facilitating treated waste water only, which is less hardwearing.

MARA Response

A MAC is not a Foreshore Licence. It is MARA's policy to align the MAC term with the design life of the proposed infrastructure. The applicant has stated in their report titled "*Design Report – Marine Outfall*", dated February 2024, submitted as part of their MAC application, that the proposed outfall infrastructure shall be designed for a 50-year lifespan. The applicant has provided no evidence with their application which supports a 99 year MAC term. This MAC application relates to a proposed outfall diffuser head arrangement comprising 3 no. HDPE duckbill check valves which are highly unlikely to have a design life in the marine environment in excess of 50 years.

The applicant may apply to MARA to extend the term of their MAC, in advance of its expiry, in accordance with the material amendment provisions under Section 86 of the MAP Act. It should be noted however, that any application for an extension to the term of the MAC must be supported by codes or design standards detailing the design life of the infrastructure.

In this regard no change is recommended to the MAC term.

2. Permitted Maritime Uses is Defines as:

'The construction, use, operation and maintenance of wastewater infrastructure including all associated decommissioning, demolition, rehabilitation and any other works required on foot of any development permission relating to the infrastructure'.

And

Clause 1(p) states:

'The Permitted Maritime Usage' means the maritime usage identified as the Permitted Maritime Usage in the Particulars Schedule together with all reasonably necessary ancillary activities'.

The broad nature of these definitions could result in an interpretation to include terrestrial elements of the broader project. For the avoidance of doubt we ask that the Definition be amended to state:

*'The construction, use, operation and maintenance of wastewater infrastructure **within the Consent Area** including all associated decommissioning, demolition, rehabilitation and any other works required on foot of any development permission relating to the infrastructure.*

MARA Response

The permitted maritime usage and the consent area are as identified and defined in the Particulars Schedule and MAC.

A spatial representation of the Consent Area is clearly identified and marked in red within Appendix 1 as the Maritime Area Consent Map (MAC20240010)" surrounded by a red line (Map reference drawing number MAC20240010-1).

Areas above the High Water Mark (HWM) as defined by the Chief Boundary Surveyor are not considered to constitute "maritime area" and are not within MARA's remit.

In regard to the foregoing, no change is recommended.

3. Grant of Consent

Use of Maritime Area Adjacent to Consent Area

*MAC 20230028 Wastewater Infrastructure at **Glin**, Co. Limerick included the following:*

3.4 (b) Upon prior written notice to the Grantor, to occupy and use so much of the maritime area adjacent to the Consent Area on a temporary basis where such use and occupation is reasonably required by the Holder to carry out the Permitted Maritime Usage in the manner provided in condition 3.4(a) or fulfil a provision of an authorisation by or under another enactment (whether such authorisation takes the form of a licence, consent, approval or any other type of authorisation), subject to obtaining and complying with all and any necessary Development Permissions and other authorisations necessary for such occupation and/or use.

This is a sensible clause that reflects the realities of delivering infrastructure on the ground. We ask that this clause be inserted into MAC20240010 for Foynes, Co. Limerick.

MARA Response

Condition 3 Grant of Consent in the subject MAC20240010 operates to avoid ambiguity that may otherwise arise with regard to the extent of the consent area and potential implications for alignment of development permissions.

In this regard no change is recommended.

4. Commencement of the Right of Occupation

Clause 4.2 states: 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:

(a) the Holder has obtained Development Permission for the Permitted Maritime Usage (being Development Permission that is consistent with this Consent as in force from time to time); and

(b) the Holder has surrendered foreshore authorisation reference number FS004857 in accordance with condition 4.1 and the surrender of the same has been executed in accordance with section 4 of the Foreshore Act 1933, as amended.

In accordance with Clause 4.1 we can only apply to surrender the foreshore licence once we get planning permission but we cannot enter on or do any works under the Minister has officially executed the surrender. In our experience, getting foreshore documents executed from the Minister can take some time. This may have an impact on ability to undertake works. To overcome this potential risk we ask that the pre-requisite be linked to Uisce Éireann making the application to surrender rather than the Minister executing or alternatively give a commitment that the Minister expedite any such process.

Clause 4.1 states 'Where the Holder has obtained Development Permission in accordance with the requirements of condition 5.1, the Holder shall make an application to MARA to surrender foreshore authorisation reference number FS004857, pursuant to section 4 of the Foreshore Act 1933, as amended.'

And

Clause 4.3 states 'Without prejudice to any other remedies available pursuant to this Consent and at Law, this Consent shall terminate immediately in the event that an application to surrender foreshore authorisation reference number FS004857 is not made in accordance with the requirements of condition 4.1, in which event the obligations specified at condition 15.4 shall apply'.

For the avoidance of doubt we suggest that Clause 4.3 should be removed, as the requirement to surrender the foreshore licence is embedded in Clause 4.1.

MARA Response

The surrender of a foreshore licence, as outlined in Condition 4.1, is now administered by MARA and not the Minister. Condition 4.3 details the implications arising where the obligations on the Holder set out in Condition 4.1 are not adhered to.

In this regard, no change is recommended to Condition 4.3.

5. Development Permission

MAC 20230028 Wastewater Infrastructure at Glin, Co. Limerick included the following:

Clause 5.1 'The Holder shall submit an application for Development Permission relating to the Permitted Maritime Usage the subject of this Consent on or before the date set out in the Particulars Schedule. This date may be extended on request in writing by the Holder and provided the Grantor is satisfied that there are reasonable grounds for doing so and the extension does not constitute a material amendment to this Consent. The application for Development Permission shall have

attached to it a Rehabilitation Schedule, within the meaning of section 95 of the Act.

We would very much welcome inclusion of this Clause into MAC20240010 for Foynes, Co. Limerick. The 'Minded to Determine Notice' provides Uisce Éireann with 18 months from the MAC Commencement Date to submit a planning application for the associated development. It is our intention to do so. However, it seems sensible and appropriate for a degree of flexibility to be stitched into the process as has been previously done in the Glin MAC, thereby avoiding unnecessary administrative burdens and re-applications in the event that the 18 month deadline is potentially not met.

MARA Response

In the situation as outlined by Uisce Éireann, the applicant may seek a Non-Material Amendment of the MAC. Non-material amendments are limited to minor changes that do not alter the fundamental scope, purpose, or impact of the original MAC including an extension of a timeframe specified within a MAC by up to six months. No more than two extensions of up to six months each, may be sought in relation to any one timeframe specified within a MAC. No fee is charged to make a non-material amendment of the MAC.

In this regard no change is recommended.

6. Development Permission and Rehabilitation

As outlined above the proposed assets are intended to be 'enduring' and will remain in situ for the foreseeable future. Uisce Éireann would welcome an extension of the MAC Term to 99 years.

If the Term remains the same, i.e. 55 years, then in our view there needs to be a mechanism to extend the Term and allow the delayed implementation of the Rehabilitation Schedule. For instance, Uisce Éireann could provide an up to date technical assessment of the infrastructure to facilitate the extension request.

MARA Response

MARA's response on the requested extension of MAC Term is detailed in Point 1 of this report.

In this regard no change is recommended.

7. MAC Levy

The MAC Levy has been calculated at €1555.25 annually. This levy will be calculated annually based on the levy framework, applicable on the anniversary of the MAC.

Clause 7.1 states:

'The Holder shall pay to the Grantor the Levy specified by the Grantor within one month from the MAC Commencement Date and on every succeeding anniversary of the MAC Commencement Date for the Term of this Consent.'

Uisce Éireann's statutory functions are to provide and manage public water and wastewater services across Ireland, as mandated by the Water Services Acts 2007 (as amended). Capital expenditure within Uisce Éireann is ultimately funded through a combination of non-current subvention and equity funding, provided directly by the State. Funding outcomes for the following calendar year are provided annually, following the completion of the Exchequer budgetary process. Any capital projects in that time period requiring a MAC will be funded in accordance with this process.

Although the proposed levy is in line with MARA's Levy Framework we ask that we be exempt from the levy in line with our state funded remit.

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 amend accordingly. If the levy framework is amended or replaced, changes must be applied to existing MACs and new MACs unless the framework specifies otherwise. At present, there is no facility under the levy framework for MARA to waive a levy.

A review of the existing Levy Framework is currently underway.

This process will involve engagement with stakeholders whose feedback will be considered when making recommendations in relation to any changes to the framework. Uisce Éireann will be consulted as part of this process and can make submissions to MARA in regard to the levy framework and levy waiver at this time.

In this regard no change is recommended.

8. Indemnity Clause 11.3

As drafted, Clause 11.3, stipulates that the Holder (Uisce Éireann) has made due enquiries there are no third-party rights or claims over the Consent Area and further that the Holder indemnifies the Grantor, the State, and their staff or representatives from any legal actions, claims, costs, or losses that arise because of the Holder's permitted maritime activities in the Consent Area.

Uisce Éireann does not have the necessary knowledge or information to confirm that no third parties hold any claim or entitlement to the Consent Area. It is our understanding that we only rely on MARA's confirmation that there are no third party rights or claims in respect of the Consent Area. As such, we request the removal of clause 11.3.

MARA Response

It is the responsibility of Uisce Éireann to carry out the relevant property searches and make local enquiries as may be necessary to ensure that there are no third-party interests, claims or rights asserted over the proposed Consent Area. Upon carrying out searches and making local enquiries to satisfy itself that there are no such third-party interests, claims or rights, Uisce Éireann is required to indemnify MARA and the State from and against any legal actions, claims, costs or losses that may arise as a result of the Holder's engagement in the Permitted Maritime Usage. Condition 11.3 of the draft MAC is a standard condition in Maritime Area Consents.

In this regard no change is recommended

9. Indemnity Proposed New Clause 11.5

We are suggesting additional wording to exclude any malicious act or omission from the Indemnity (and for which Uisce Éireann would not be responsible). The second part of the proposed wording allows Uisce Éireann the option to defend any claims in which Uisce Éireann is indemnifying MARA under the Consent. The proposed wording does not negate in any way the Indemnity that Uisce Éireann is providing under the Consent.

Proposed Clause 11.5

'PROVIDED always that any indemnity provided by the Holder in this Consent shall not include any any malicious act or omission of the Grantor or any person for whom the Grantor is responsible in law and **FURTHER PROVIDED** that the Grantor shall (i) as soon as reasonably practicable give notice in writing to the Holder of any claim or action brought or threatened against the Grantor and (ii) not admit liability in respect of, nor settle or compromise, such action or claim as is referred to in this clause 11 (Indemnity) without the prior written consent of UE. The Holder may at its own expenses defend any such action or claim in the name of the Grantor.

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 or to the addition of a further sub-clause, as proposed.

In this regard no change is recommended.

10. Insurance - Clause 12

Regarding Clause 12.1 (a): It is our understanding that this Clause relates to contract works insurance for the project works, and giving joint names cover to the Grantor under this cover. We can confirm there is a joint names provision to include the Grantor under UE's Annual OCIP's Contract Works section covering the works. We would appreciate clarification of this point.

(a) Clause 12.1 (b): the clause refers to “*employers liability insurance*”. However, we believe that this should be “*public liability insurance*” instead. Please confirm that clause 12.1 (b) can be amended. As such for the avoidance of doubt it may be clearer to replace Clause 12(1)(b) in MAC 20240010 with Clause 12(b) included in the River Lee MAC (MAC240026) which states the following:

(b) effect and keep in force a public liability insurance policy of indemnity in the names of the Grantor and Holder in an insurance office licensed to

(c) operate in the State with a limit of €6,500,000.00 (six million and five hundred thousand Euro) (or such increased amount as the Grantor may from time to time reasonably determine) in respect of any one claim or a series of claims arising out of a single occurrence (except for pollution and products liability cover which may be on an annual aggregate basis

if unavailable on a single occurrence basis) for any damage, loss or injury which the Grantor or Holder may be legally liable for which may occur to any property (not being the property of the Grantor or the Holder) or to any person by or arising out of Regarding Clause 12.1 (c): Please note that employers liability cover will be provided by the Uisce Éireann contractor carryout out the works for the construction phase. Please confirm that this is agreed.

MARA Response

Condition 12(1)(a) of the draft MAC is a standard condition in Maritime Area Consents. In addition, Uisce Éireann has not requested a change or provided any supplementary material to support a consideration of a change to this condition. As per Section 81(7)(b)(ii) of the Act, MARA may only consider supplementary material made in view of the reasons only. Accordingly, no further consideration can be given by MARA in regard to the above.

Condition 12.1(b) in the proposed MAC referenced Employer's Liability. The correct reference is Public Liability.

In addition, a clerical error has been identified in the original text of Condition 12.1(b), as follows “.....*in the name of the Holder in an insurance office.....*”. The condition should read “.....*in the name of the Grantor and Holder in an insurance office.....*”. As the term Grantor or Holder is further referenced within the Condition on the proposed MAC, the correction is now consistent with subsequent references contained within the Condition.

Condition 12.1(b) in the recommended final MAC has been updated to reflect Public Liability and the reference to Grantor and Holder, as follows (in the interest of clarity, the amendments are highlighted);

*“effect and keep in force a **public** liability insurance policy of indemnity in the name of the **Grantor and Holder** in an insurance office licensed to operate in the State with a limit of €6,500,000.00 (six million and five hundred thousand Euro) (or such increased amount as the Grantor may from time to time reasonably determine) in respect of any one claim or a series of claims arising out of a single occurrence (except for pollution and products liability cover which may be on an annual aggregate basis if unavailable on a single occurrence basis) for any damage, loss or injury which the Grantor or Holder may be legally liable for which may occur to any property (not being the property of the Grantor or the Holder) or to any person by or arising out of the Permitted Maritime Usage and exercise of the rights granted in this Consent;”*

Condition 12(1)(c) of the draft MAC is a standard condition in Maritime Area Consents. In addition, Uisce Éireann has not requested a change or provided any supplementary material to support a consideration of a change to this condition. As per Section 81(7)(b)(ii) of the Act, MARA may only consider supplementary material made in view of the reasons only. Accordingly, no further consideration can be given by MARA in regard to the above.

11. Dispute Resolution

While we note condition 22.2 states that any dispute will be settled in Court, we would instead propose including a Dispute Resolution provision into the Consent (per the suggested wording set out below). The clause sets out a multi-tiered process and timelines for resolution of any disputes that may arise with the intention that encourages collaboration and constructive dialogue between MARA and Uisce Éireann, which helps maintain professional relationships even when disagreements arise. As you can appreciate, this is particularly important in long-term partnerships or projects such as these Consents. We would see the issuing of Court proceedings (as envisaged by Condition 22.2) as a last resort rather than the first step in trying to resolve any dispute between Mara and Uisce Éireann.

Please confirm that the proposed alternative wording is agreed and can be inserted into the Consent:

'In the event of any dispute or difference arising between the Grantor and the Holder touching or concerning the interpretation or performance of this Consent or anything herein contained, or in connection with the rights or liabilities of either of the parties hereto, the parties shall endeavour to settle same by mutual agreement.

*In the event of the parties failing to reach such mutual agreement in respect of any dispute arising from this Consent, either party shall be entitled to refer the dispute to mediation. To initiate the mediation a party shall give notice in writing (the "**Mediation Notice**") to the other party requesting mediation.*

Unless otherwise agreed between the parties, the mediator will be nominated on the application of either party by the President for the time being of the

Law Society of Ireland or, should the said President be absent, unwilling or unable to do so, by the next senior officer of that Society who is ready, willing and able to make the nomination, whereupon the mediator will be appointed by the parties. The mediation will start not later than 20 days after the date of appointment of the mediator. No party will commence court proceedings or arbitration in relation to any difference or dispute referred to in this clause unless he has attempted to settle the dispute by mediation.

If the mediation does not start within 20 days (or such longer period as the parties agree in writing) from the date of appointment of the mediator or if the parties are unable to resolve the difference or dispute by mediation within 40 days from the date of the appointment of the mediator, the difference or dispute shall be referred to the determination of a single arbitrator. The arbitrator shall be appointed by the parties to this Consent and in default of agreement, on the application of any party by the President, for the time being, of the Law Society of Ireland in accordance with the Arbitration Act 2010 or any statutory modification or re-enactment of that Act for the

time being in force.

If the arbitrator relinquishes their appointment or if they die or if it becomes apparent that for any reason they are unable or have become unfit or unsuited (whether because of bias or otherwise) to complete their duties or if they are removed from office by Court Order, a substitute may be appointed in their place and in relation to any such appointment the procedures set forth above apply as though the substitution were a new appointment, which procedures may be repeated as many times as necessary. The arbitral proceedings shall be deemed to commence fourteen 14 days following the appointment of the arbitrator. Where the arbitrator has not given an award within 40 days of the commencement of the arbitral proceedings the parties will be free, but not obliged, to bring court proceedings to settle the dispute.

MARA Response

The MAC is a regulatory authorisation, not a commercial contract, and its purpose is to confirm the grant of consent, subject to statutory requirements.

In this regard no change is recommended.

It is recommended to finalise the MAC with conditions attached, as per the minded to notice. 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:

Date: 01 December 2025