

## MAC Report

### Application for a Maritime Area Consent (MAC) under Section 75(1) Maritime Area Planning Act 2021, as amended (the Act)

#### Application Details

<b>MAC Applicant:</b>	Uisce Éireann
<b>MAC Reference No:</b>	MAC240026
<b>Location:</b>	River Lee, Cork City
<b>Date Application received:</b>	20 September 2024
<b>Proposed Maritime Usage:</b>	Uisce Éireann has applied for a MAC under Section 79 of the Act for the installation of watermain infrastructure underneath the River Lee in Cork City. The proposed works include the construction, use, operation and maintenance of a tunnel pipe and watermain, including all associated decommissioning, demolition, rehabilitation, and any other works required on foot of any development permission relating to the infrastructure.
<b>Recommendation:</b>	To approve the Part Granting of the MAC sought with conditions attached.

#### Document Control

<b>Prepared by:</b>	Philip Newell	Senior Marine Advisor	30/10/2025
	Kelly Dalton	MAC Manager	30/10/2025
<b>Reviewed by:</b>	Jacinta Ponzi	Head of Maritime Area Consenting	30/10/2025
<b>Approved by:</b>	Jacinta Ponzi	Head of Maritime Area Consenting	31/10/2025
<b>Final Report Version 1:</b>	Kelly Dalton	MAC Manager	31/10/2025

## Contents

<b>1. Overview .....</b>	<b>3</b>
<b>2. Background .....</b>	<b>3</b>
<b>3. Proposed Maritime Usage .....</b>	<b>3</b>
<b>4. Site Visit.....</b>	<b>5</b>
<b>5. Review of Legislation &amp; Associated Consents .....</b>	<b>7</b>
5.1    Applicable Provisions of the Maritime Area Planning Act, 2021 as amended (the Act)    7	
5.2    Existing Consents & Authorisations .....	7
5.3    Development Permission.....	8
5.4    Ownership .....	8
<b>6. Assessment.....</b>	<b>9</b>
6.1    Schedule 5 .....	9
6.2    Fit & Proper Person Assessment.....	15
6.2.1 Technical Capability Assessment (TCA) .....	20
6.3    Rehabilitation Schedule .....	21
6.4    Section 83 – Nature of Use.....	21
<b>7. Proposed MAC Map (for Illustration purposes only) .....</b>	<b>22</b>
<b>8. Levy.....</b>	<b>23</b>
<b>9. Discussion .....</b>	<b>23</b>
a.    Terms .....	23
b.    Conditions and Reasons for Conditions.....	24
<b>10. Conclusion &amp; Recommendation .....</b>	<b>26</b>

## **1. Overview**

On 20 September 2024 Uisce Éireann submitted a Maritime Area Consent (MAC) application to MARA under Section 79 of the Maritime Area Planning Act 2021, as amended (the Act) for the installation of watermain infrastructure underneath the River Lee in Cork City. The proposed works include the construction, use, operation and maintenance of a tunnel pipe and watermain, including all associated decommissioning, demolition, rehabilitation, and any other works required on foot of any development permission relating to the infrastructure.

## **2. Background**

Uisce Éireann propose to construct a tunnel pipe beneath the River Lee. The purpose of the tunnel pipe is to facilitate the installation of a 400mm diameter watermain which will link a trunk main on the north side of the river to the South Docks development area of Cork City on the south side of the river. The applicant has stated that a launch shaft and a reception shaft are to be constructed on either bank of the river to facilitate the tunnel boring equipment required to construct the tunnel pipe. The proposed launch shaft, on the northern side of the river, will be constructed on reclaimed lands within the maritime area. The proposed reception shaft, on the southern side of the river, will be constructed outside of the maritime area.

## **3. Proposed Maritime Usage**

The nature and scope of works to be carried out in the maritime area is the construction of a tunnel pipe crossing of the River Lee that will be located below the riverbed. The applicant proposes that the tunnel pipe, which will be 1.2m internal diameter, will be installed at a minimum depth of 2.5m beneath the bed level of the river. The proposed tunnel pipe will be constructed using reinforced concrete jacking pipes, designed and manufactured specially to suit the proposed tunnel construction methodology.

The tunnel pipe will be fitted with a 400mm diameter watermain. The applicant proposes to grout the watermain into the tunnel pipe on completion of the installation works. A launch shaft (8m external diameter) and a reception shaft (6m external diameter) will be constructed on the north and south banks of the river to facilitate the construction of the tunnel pipe. The applicant has stated that the launch shaft and the reception shaft are temporary structures. The launch shaft, on the northern side of the river, will be constructed on reclaimed lands which are within the maritime area. This element of the works includes the diversion of existing watermain, foul sewer and ESB utilities to facilitate the construction of the launch shaft.

The applicant has not specified a term/duration in their MAC application.

The nature and scope of works are detailed on Figures 1 and 2. Figure 1 details the MAC area as applied for by Uisce Éireann. Figure 2 details a long-section through the proposed tunnel route.

The MAC area sought by the applicant is illustrated in Figure 1.

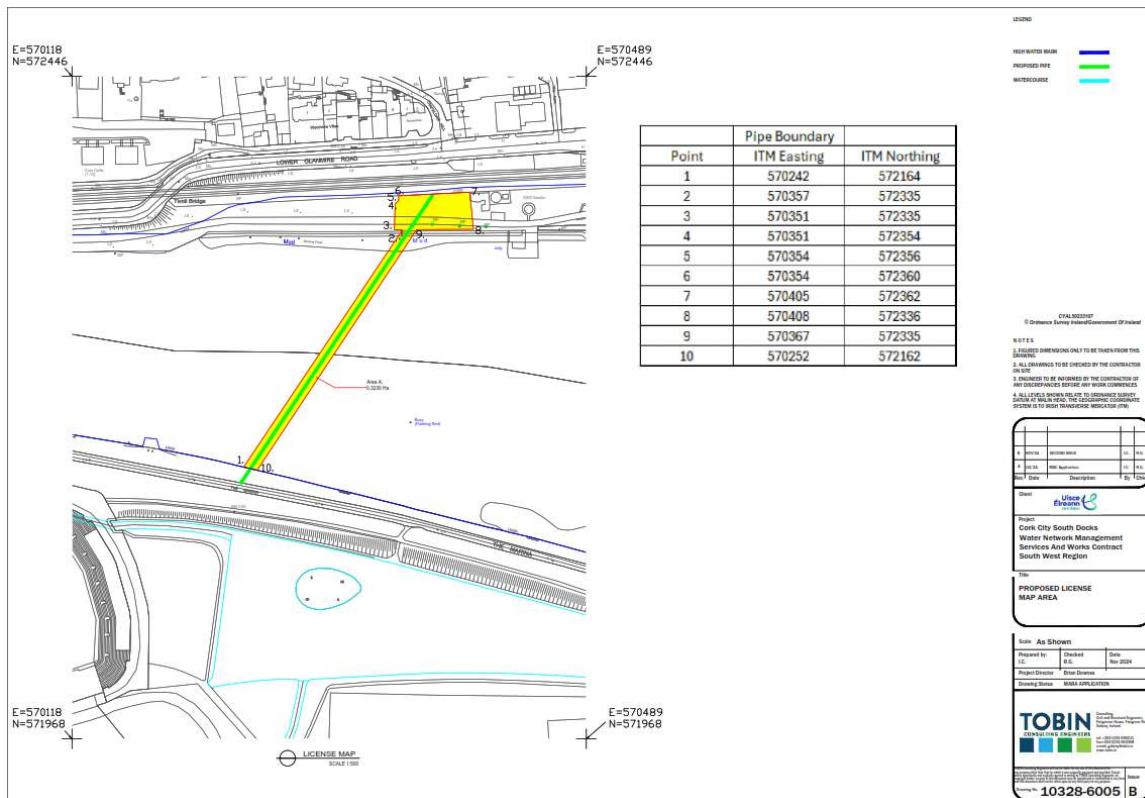


Figure 1 – Applicant map of proposed MAC area at River Lee, Cork City.

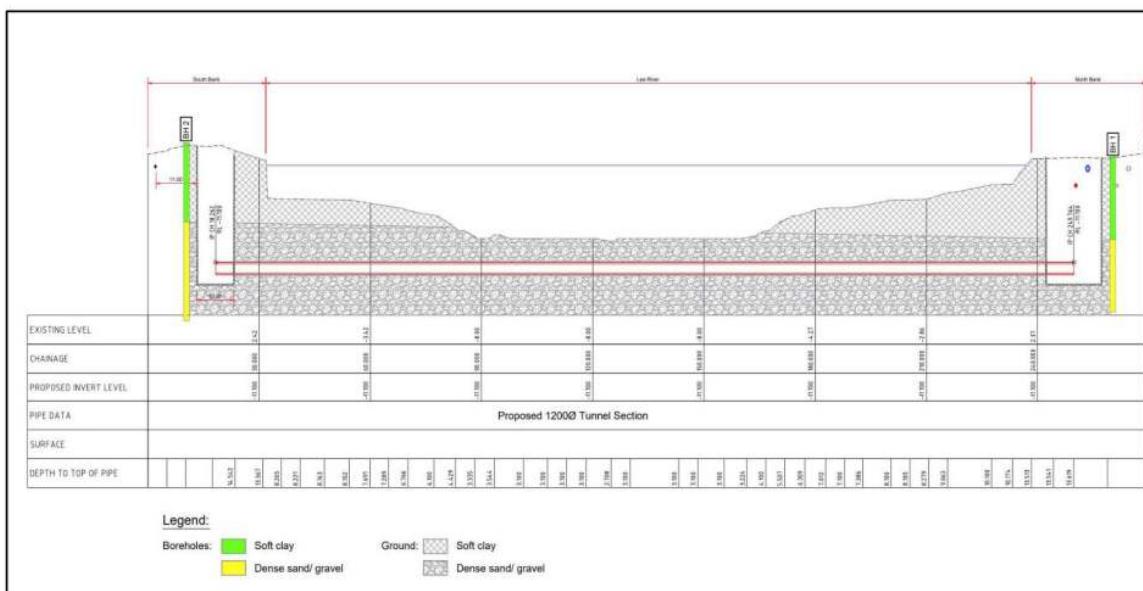


Figure 2 – Proposed tunnel long-section and cross section through the River Lee and launch and reception pits.

#### 4. Site Visit

Senior Marine Advisor, Alison McCarthy inspected the site on 19/09/2025. The proposed works are located between the *Port of Cork 2000 Garden* on the north side of the river and the south side of the river adjacent to Páirc Uí Chaoimh and the Atlantic Pond. The river is tidal in this location. The tide was at approximately mid-level during the site visit.

Several recreational vessels were observed utilising the river during the inspection. There is a rowing club on the south side of the river just upstream of the proposed pipeline crossing. The proposed MAC area is located upstream of the Tivoli Docks and downstream of the Port of Cork's city berths. There are three navigational markers immediately downstream of the proposed pipeline crossing location.

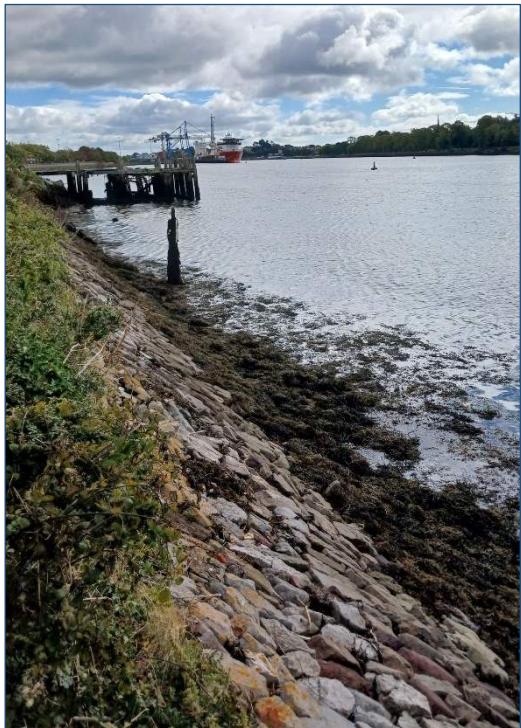
The shoreline on the north side of the river has been reclaimed in the vicinity of the proposed MAC area and is bounded by a steeply sloping concrete and rock revetment. There are no records on file of any associated foreshore authorisations consenting the reclamation of the area along the north bank in the vicinity of the proposed MAC area. MARA's Compliance, Enforcement and Revenue (CER) unit have been made aware of the potentially unauthorised reclamation observed during the site visit.

Immediately downstream of the proposed pipeline crossing area there is a timber jetty, in a dilapidated condition, which is closed to the public. The shoreline on the south of the river is a vertical sea wall. On both sides of the river the areas above the current tidal range are amenity lands comprising public parkland and walkways.

Photographs 1 to 6 detail the character of the site in the vicinity of the proposed works. No existing infrastructure or occupation, which would conflict with the proposed maritime usage, was noted within the proposed MAC area.



Photograph 1 – Looking south at proposed crossing location from northern bank of River Lee  
[AM 19/09/2025].



Photograph 2 – North bank looking east [AM 19/09/25].



Photograph 3 – North bank looking west [AM 19/09/25].



Photograph 4 – North bank public amenity area in the vicinity of the proposed launch pit [AM 19/09/25].



Photograph 5 – South bank looking east in vicinity of proposed reception pit [AM 19/09/25].



Photograph 6 – South bank looking west [AM 19/09/25].

## 5. Review of Legislation & Associated Consents

### 5.1 Applicable Provisions of the Maritime Area Planning Act, 2021 as amended (the Act)

Under the Act, MARA has responsibility for granting MACs. Schedule 3 and Schedule 4 of the Act specifies maritime usages for which a MAC is not required, including where the proposed maritime usage falls under the remit of another enactment, is navigation or fishing, is a licensable activity under schedule 7 or where the activity is to be undertaken on private land. The proposed maritime usage is not considered to fall under those listed under Schedule 3 or 4 of the Act.

The applicant has stated that the proposed maritime usage, the subject of this application, requires development permission. In accordance with Section 75(1) of the Act, a MAC is required before an application for development permission can be lodged with the relevant consent authority.

Accordingly, the subject of this application is considered to fall under Section 75(1), of the Act.

### 5.2 Existing Consents & Authorisations

A search of the MARA's GIS database was undertaken on 30/09/2025 to assess potential spatial overlaps between the proposed MAC area and any existing foreshore authorisations or MARA licences and consents. The proposed MAC area does not overlap with any existing MACs or Maritime Usage Licence (MUL) or applications for the same. The application overlaps with several foreshore authorisations as detailed in *Table 1* below.

<i>Table 1: Summary of Overlapping maritime authorisations and foreshore authorisations</i>				
File Reference Number	Applicant/ Holder	Consent Type	Maritime Usage	Status
FS004247	Cork Harbour Commissioners	Deed of Sale	Sale of Foreshore to Cork Harbour Commissioners	Private Maritime Area
FS006281	Port of Cork Company	Section 3(3) Licence		Expired
FS003978	Bantry Bay Harbour Commissioner	Section 3(3) Licence	Site Investigations	Expired

The two Section 3(3) foreshore licences (FS006281 and FS003978) have expired and do not need to be considered further. Foreshore authorisation FS004247 is a Deed of Sale in favour of Cork Harbour Commissioners. As this is a Deed of Sale rather than a foreshore lease or licence, its impact on the proposed MAC application is assessed under *Section 5.4 Ownership* of this report.

The Marine Institute's *Ireland's Marine Atlas*<sup>1</sup> was searched on 13 October 2025 for spatial overlap between the proposed MAC areas and any DAFM foreshore authorisations for aquaculture

<sup>1</sup> <https://atlas.marine.ie/>

sites. There are no licenced aquaculture operations overlapping with or in close proximity to the proposed MAC area.

In summary, no existing MACs, MULs, foreshore authorisations (including those for aquaculture) or applications for the same were identified as overlapping the proposed MAC application area.

### **5.3 Development Permission**

The applicant has stated that the proposed maritime usage requires development permission.

Owing to the nature and scale of the proposed works, it is considered reasonable that the MAC Holder (if successful in obtaining a MAC) should submit a valid application for development consent to the relevant planning authority within 18 months of issuance of a MAC.

The applicant, in their development permission application to the relevant planning authority, is required to include a Rehabilitation Schedule detailing how the applicant proposes to rehabilitate the maritime area in accordance with Part 4, Chapter 8 of the Act.

### **5.4 Ownership**

A search was undertaken of the Land Registry on 13 October 2025 for any document granting or affecting rights to land to ensure that there are no conflicts of interest with the MAC area being applied for as outlined on the applicant's proposed MAC Map. There is no registered private maritime area conflicting with the proposed MAC area.

MARA's registry of foreshore consents contains details of a conveyance of foreshore (FS004247), predating the formation of the Irish State, which was executed between the then Board of Trade and the Cork Harbour Commissioners, on 20 May 1919.

Part of this private maritime area conflicts with the proposed MAC area at its northern extent. Figure 3 below details both the proposed MAC area and the extent of the private maritime area overlap.

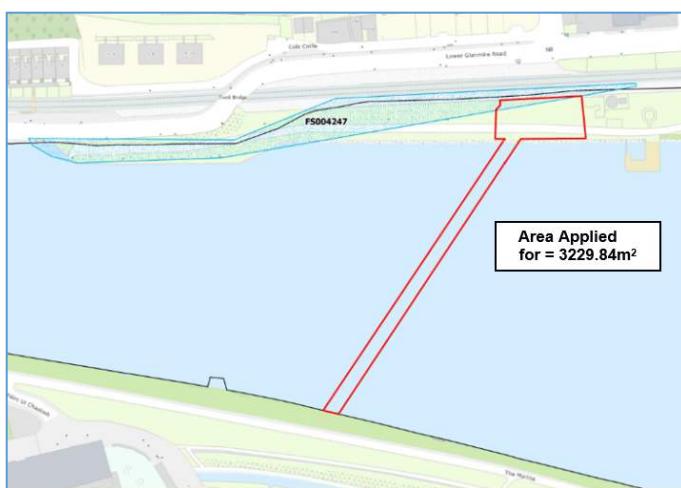


Figure 3 – MAC area as applied for and spatial overlap with FS004247.

In accordance with Section 99(3)(b) of the Act, Part 4 of the MAP Act shall only apply to that part of the maritime area which is within state ownership. Accordingly, a MAC cannot be issued on privately owned maritime area.

Considering the above it is recommended that a MAC is part-granted for that portion of the maritime area, within MAC area as applied for, which is in state ownership. The recommended MAC area to be part-granted is detailed on the map provided in Section 7 of this report.

## **6. Assessment**

### **6.1 Schedule 5**

The MAC application was submitted on 04 September 2024 with the appropriate fee paid on 20 September 2024 and reviewed for completeness on 01 October 2024. The application was deemed complete by MARA on 11 October 2024.

A number of requests for additional information were issued on 04 November 2024, 01 April 2025 and 06 June 2025 under section 79(3) of the Act and associated responses received relating to matters for technical and financial assessment on 15 November 2024, 09 April 2025 and 17 June 2025.

Schedule 5 of the Act sets out the criteria to which MARA must have regard when assessing a MAC application. This report sets out the assessment undertaken pursuant to Section 5 of the Act. The assessment is summarised in Table 2 below.

**Table 2: Synopsis of the assessment of the application with regard to the requirements of Schedule 5**

<b>Schedule 5 Requirements</b>		<b>Synopsis</b>	<b>Assessment</b>
1.	The nature, scope and duration of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.	<p>Details of the proposed maritime usage, including the nature scope and duration are described in Section 3 &amp; 4 above. It is considered that a design life for the structure of circa 40 years, with proper maintenance and repair, should be achievable. Accordingly, a MAC term of 45 years (allowing for planning, construction and rehabilitation/decommissioning phases) is recommended.</p> <p>The proposed maritime usage is considered satisfactory, having regard to the nature, scope and duration.</p>	Satisfactory
2.	Whether the proposed maritime usage is in the public interest.	<p>The applicant provided details of how the proposed development at the River Lee in Cork City is supported in national, regional, and local planning policy. The applicant states that the proposed project supports Ireland's Project Ireland 2040: National Planning Framework and The Regional Spatial and Economic Strategy.</p> <p>Uisce Éireann have stated that "<i>Delivering ambitious large-scale regeneration projects for the provision of new employment, housing and supporting infrastructure in Cork Docklands (City Docks and Tivoli) as integrated, sustainable developments, including relocation of two 'Seveso' sites from the City Docks. The Regional Spatial and Economic Strategy (RSES) states "The redevelopment of the North and South Docklands and Tivoli is one of the most significant urban regeneration schemes in Ireland." The watermain once constructed will supply water to public, private and commercial consumers within Cork City and in particular the Cork City South Docks area which is identified in local and national plans for re-development.</i>"</p>	Satisfactory

3.	<p>The location and spatial extent of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.</p>	<p>Details of the location, relevant consents, ownership and development permissions are provided in Sections 2 to 5 above. The total MAC area, as applied for by the applicant, is 3,229.84m<sup>2</sup>, comprising a single MAC area which incorporates both permanent and temporary works.</p> <p>Based on the searches and site visit undertaken, private maritime area was identified that would preclude the granting of a MAC across the entirety of the area applied for by Uisce Éireann. As illustrated in Figure 3 of Section 5.4 of this report, the MAC area as applied for overlaps with Deed of Sale (FS004247). It is therefore recommended to part-grant the MAC to exclude that part of the maritime area which is in private ownership.</p> <p>Additionally, it is recommended that the overall MAC area is subdivided into two areas – areas A and B. Area A will include the permanent tunnel pipe and watermain infrastructure, and Area B will include a mix of permanent infrastructure (watermain and utility diversions) and temporary works (launch pit for tunnelling operations).</p> <p>The total recommended MAC area, excluding that part of the maritime area in private ownership, is <b>3,074.31m<sup>2</sup></b> comprising:-</p> <p><b>Area A – 1827.07m<sup>2</sup></b></p> <p><b>Area B – 1247.24m<sup>2</sup></b></p>	Partially Satisfied
4.	<p>Guidelines issued under Section 7 which are relevant to the proposed maritime usage.</p>	<p>No such guidelines have been published to date.</p>	Not applicable
5.	<p>Whether the applicant is a fit and proper person (within the meaning of Schedule 2) to be granted a MAC, both at the time the application is made and at the time that the MAC application concerned is determined by the MARA.</p>	<p>A detailed review and assessment of the information provided by the applicant has been completed. Based on the assessment set out in Table 3 below, Section 6.3 and the Financial Capability Assessment (FCA) as set out in the Ernst &amp; Young (EY) report dated 05 September 2025 it is considered that the applicant satisfies the fit and proper person requirements.</p> <p>As required by Schedule 6, Part 2 of the Act, it is a condition of all MACs that the Holder shall continue to be a fit and proper person within the meaning of Schedule 2 of the Act for the Term of the MAC</p>	Satisfactory

6.	<p>Whether the applicant is tax compliant, both at the time the application is made and at the time that the MAC application concerned is determined by the MARA.</p>	<p>The applicant submitted Tax Registration Number and Tax Clearance Access Number (TCAN) which was used to view the applicant's tax clearance certificate. Based on the review of the tax clearance certificate, the applicant is considered tax compliant.</p>	Satisfactory
7.	<p>In the case of any maritime usage relating to offshore renewable energy (within the meaning of section 100), the consistency of the MAC application concerned with the development plans of the transmission system operator (within the meaning of section 100).</p>	<p>Not applicable</p>	Not Applicable

8.	The National Marine Planning Framework (NMPF).	<p>Based on a review of the application, MARA has had regard to the National Marine Planning Framework (NMPF) and it is considered that the proposed project aligns with the overall objectives of the NMPF, including the economic and social objectives set out therein.</p> <p>It is considered that the proposed project aligns with the following policy objectives of the NMPF:</p> <ul style="list-style-type: none"> <li>• <b>Co-existence Policy 1</b> - Proposals that demonstrate that they have considered how to optimise the use of space, including through consideration of opportunities for co-existence and co-operation with other activities, enhancing other activities where appropriate should be supported.</li> <li>• <b>Infrastructure Policy 1</b> - Appropriate land-based infrastructure which facilitates marine activity (and vice versa) should be supported. Proposals for appropriate infrastructure that facilitates the diversification or regeneration of marine industries should be supported.</li> <li>• <b>Social Benefits Policy 1</b> - Proposals that enhance or promote social benefits should be supported.</li> </ul> <p>In the application, the applicant states that the proposed project is consistent with the environmental objectives of the NMPF.</p> <p>The proposed works constitute development which require planning permission and environmental assessment of the proposed maritime usage, which is undertaken at development permission stage by the relevant planning authority. This above assessment does not prejudice any consideration and determination that the relevant Planning Authority may make in relation to the NMPF when considering the Planning Application for this development.</p> <p>Based on the above, MARA is satisfied that the proposed works align with the above overall objectives and policy objectives of the NMPF.</p>	Satisfactory
9.	The extent and nature of the preparatory work already undertaken by the applicant towards ensuring the efficacious undertaking of the proposed maritime usage the subject of the MAC application concerned should the applicant be granted a MAC in respect of such usage.	<p>The applicant has stated in their application that they have carried out the following preparatory works:-</p> <ul style="list-style-type: none"> <li>- Geotechnical Site Investigation</li> </ul> <p>The applicant has also commissioned the following studies/reports in support of the development:-</p> <ul style="list-style-type: none"> <li>- Ground Investigation and Geotechnical Design Report, October 2023, Rev B</li> <li>- Detailed Design Report – Tunnel Crossing_B, Rev B</li> </ul> <p>Having regard to the above, the extent of the preparatory works undertaken are considered acceptable for a project of this scale and nature.</p>	Satisfactory

10.	<p>The extent and nature of stakeholder engagement undertaken by the applicant in respect of the proposed maritime usage.</p>	<p>Uisce Éireann have stated that <i>"There has been engagement with Cork City Council and an advance section of watermain has been constructed to facilitate Cork City Council complete road improvements works in the area. There has been early-stage engagement with the Port of Cork Company in respect of wayleaves to be acquired on the north side of the River Lee to facilitate construction of a tunnel shaft and interconnecting watermains. Wayleave negotiations are at any early stage and will progress between Uisce Eireann and The Port of Cork Company. A consent letter from The Port of Cork Company will be forthcoming to allow Uisce Eireann submit a planning application for the project in due course."</i></p> <p>Having regard to the above, the extent and nature of the stakeholder engagement undertaken is therefore considered acceptable for a project of this scale and nature.</p>	Satisfactory
11.	<p>Where a competitive process referred to in section 93 or 103 is used, the outcome of such process.</p>	Not applicable	Not applicable
12.	<p>Any additional criteria specified, for the purposes of this paragraph, in regulations made under section 80(2).</p>	No such regulations have been made to date.	Not applicable

## **6.2 Fit & Proper Person Assessment**

Schedule 2(2) of the Act sets out the criteria to which MARA shall have regard in determining whether the relevant person(s) is/are “fit and proper” to be granted and to hold a MAC. The assessment of whether the holder is a fit and proper person within the meaning of Schedule 2(2) is set out in *Table 3* below.

**Table 3: Schedule 2(2) Fit & Proper Person**

<b>Fit &amp; Proper area for assessment</b>	<b>Synopsis</b>	<b>Assessment</b>
(a) letters of reference;	No letters of reference provided. This application relates to primary UÉ services and, as set out in Section (g) below, UÉ have demonstrated clear evidence of their expertise and technical capability in successfully delivering projects of a similar scale	<b>Satisfactory</b>
(b) that the relevant person, or any other person concerned, stands convicted of—  (i) an indictable offence under this Act or an offence in another state equivalent to an indictable offence,  (ii) an indictable offence under an enactment prescribed for the purposes of this clause, or  (iii) an offence involving fraud or dishonesty;	As part of the FCA, the Applicant was assessed against these criteria and it was concluded that no information or details were identified which indicate that such offences or disqualifications apply.	<b>Satisfactory</b>

<p>(c) if the relevant person is a body corporate, whether any of its directors has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or is subject to or deemed to be subject to—</p> <p>(i) a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act, or</p> <p>(ii) a disqualification outside the State to like effect which corresponds to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014;</p>	<p>As part of the FCA, the Applicant was assessed against these criteria and it was concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	<p><b>Satisfactory</b></p>
<p>(d) if the relevant person is an individual, whether he or she is adjudicated bankrupt or is subject to proceedings for a declaration of bankruptcy or becomes an arranging debtor;</p>	<p>As part of the FCA, the Applicant was assessed against these criteria, and it was concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	<p><b>Satisfactory</b></p>

(e)	<p>if the relevant person is a body corporate, whether it—</p> <ul style="list-style-type: none"> <li>(i) has commenced a voluntary winding-up or is subject to a winding-up order or is subject to proceedings for such an order,</li> <li>(ii) is subject to the appointment of a receiver or examiner, or</li> <li>(iii) has proposed a compromise or arrangement that is sanctioned under section 453(2) of the Act of 2014 or section 201(3) of the Act of 1963;</li> </ul>	<p>As part of the FCA, the Applicant was assessed against these criteria and it was concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	<b>Satisfactory</b>
(f)	<p>if the relevant person is a body corporate incorporated under the law of another state—</p> <ul style="list-style-type: none"> <li>(i) whether an event which corresponds to an event referred to in clause (c) has occurred in relation to any of its directors, or</li> <li>(ii) whether an event which corresponds to an event referred to in clause (e) has occurred in relation to the body corporate;</li> </ul>	<p>As part of the FCA, the Applicant was assessed against these criteria, and it was concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	<b>Satisfactory</b>

(g)	<p>whether the relevant person, or a person acting for or on behalf of the relevant person in the relevant person's capacity as such, has (or has access to), or continues to have (or have access to), as the case may be, the requisite technical knowledge or qualifications, or both, to undertake the proposed maritime usage, or continue to undertake the maritime usage, as the case may be;</p>	<p>Assessment of the technical capability of Uisce Éireann, to deliver the proposed maritime usages the subject of the MAC application is detailed in Section 6.2.1 below. The applicant is considered to have the requisite technical knowledge and qualifications to undertake the proposed maritime usage.</p>	<b>Satisfactory</b>
(h)	<p>whether the relevant person is likely to be in a position to meet, or continue to meet, as the case may be, any financial commitments or obligations that the MARA reasonably considers will be entered into or incurred by the relevant person—</p> <p>(i) in undertaking the proposed maritime usage, or in continuing to undertake the maritime usage, as the case may be, or</p> <p>(ii) in ceasing to undertake the proposed maritime usage or the maritime usage, as the case may be;</p>	<p>A FCA report 05 September 2025 has been prepared by external financial consultants, EY, who assessed the applicant's financial capability to carry out the proposed maritime usages. Based on the results from the financial capability tests and the information submitted, it is considered that the Relevant Person is viewed as passing the assessment.</p> <p>Due to the commercial sensitive nature of a company's finances, details of the assessment are not included herein.</p> <p>Uisce Éireann is considered to be in a position to meet financial commitments associated with the proposed maritime usage and MAC.</p>	<b>Satisfactory</b>
(i)	<p>the previous performance of the relevant person when granted—</p> <p>(i) a MAC,</p> <p>(ii) a development permission,</p> <p>(iii) a licence, or</p> <p>(iv) an authorisation (howsoever described) under the Act of 1933.</p>	<p>MARA has undertaken a review of MACs (including associated development permission under MARA's remit for enforcement), maritime usage licences and foreshore authorisations held by the applicant. Based on the review, MARA is not aware of any non-compliances with these consents, there are no enforcement actions pending and there are no outstanding debts owed.</p>	<b>Satisfactory</b>

## **6.2.1        Technical Capability Assessment (TCA)**

Considering the information supplied by the applicant in their application, the Technical Capability Assessment (TCA) for this application has been carried out on the basis that the proposed project is not a Schedule 10 project. This determination is for the purposes of TCA only and does not prejudice the planning process as it should be noted that the ultimate arbiter of whether a project is Schedule 10 or not is An Comisiún Pleanála.

Information has been provided under this TCA submission relating to both the applicant and their contracted agents. Under these circumstances, the TCA will be carried out based on the combined technical capability of the applicant and their agent, Tobin Consulting Engineers Ltd.

### **Assessment of Qualifications/Membership of Professional Bodies**

Tobin Consulting Engineers Ltd employ chartered engineers who are registered with Engineers Ireland. The applicant has provided a copy of Tobin Consulting Engineers Ltd certificate of membership of the Association of Consulting Engineers of Ireland, which was valid and in date at the time of making their application to MARA. The applicant has not provided a copy of their agent's Professional Indemnity Insurance Certificate. Uisce Éireann would however satisfy the requirements of the TCA in their own right and, as a state-owned national authority, are not expected to have Professional Indemnity Insurance. The applicant has provided a copy of Tobin Consulting Engineers Ltd's certificate of registration under the I.S. EN ISO 9001:2015 Quality Management System.

### **Assessment of Three Projects of a Similar Scale and Nature**

The applicant has satisfactorily completed Appendix Tec A – Table (ii) and has provided details of their involvement in three projects of a similar scale and nature to the project the subject of the MAC application. The details outlined in Appendix Tec A Table (ii) demonstrates the required level of experience to deliver the proposed project. Based on the information provided, it is considered the applicant has met the criteria required in relation to professional qualifications and previous project experience.

### **Assessment of Capability to Operate and Maintain Maritime Infrastructure**

The operation and maintenance of the proposed scheme will be undertaken by Uisce Éireann. Based on the information submitted in Appendix Tec B, Uisce Éireann have extensive experience of the operation and maintenance of watermain infrastructure throughout the country. This experience includes watermain infrastructure located under various watercourses.

It is considered that the applicant has met the criteria required in relation to capability to operate and maintain the proposed maritime infrastructure.

### **Assessment of Delivery Timelines**

Applicants must provide a development programme that satisfied the requirements of key milestone delivery timelines in Appendix Tec C. The applicant has correctly completed and submitted Appendix Tec C with their application. Based on the information provided, whilst the dates are outdated due to the applicant not including the MAC consenting timelines, it is considered the applicant has demonstrated a realistic

understanding of the probable timeframes involved in delivering a project of this scale and nature in an Irish context.

## **Conclusion**

Following an assessment of the documentation provided by the applicant, MARA consider that Uisce Éireann and their agents have satisfied all of the criteria under the Technical Capability Assessment of the Fit and Proper Test.

Based on the outcome of the Technical Capability Assessment, MARA considers that Uisce Éireann and their agents have the requisite technical knowledge and qualifications to undertake the proposed maritime usage

### **6.3 Rehabilitation Schedule**

Under Section 96(1) of the Act, it is required that the holder of a MAC shall, before the expiration of the MAC, rehabilitate that part of the maritime area the subject of the MAC. In accordance with Section 75(5) of the Act, as for MAC applications made to MARA on the basis of Section 75(1) of the Act, the applicant is required to attach a Rehabilitation Schedule to their associated application for development permission.

### **6.4 Section 83 – Nature of Use**

Section 83(1) of the Act requires MARA in the granting of a MAC to specify whether the specific part of the maritime area the subject of that MAC is for exclusive use or not. Section 83(1) provides MARA discretion and flexibility to specify the nature of the use (i.e. exclusive, non-exclusive or may/may not be exclusive).

Having regard to the nature and lifecycle of the proposed maritime usage the subject of this application, it is reasonably foreseeable that Uisce Éireann may be required to exclude access to parts of the MAC area on a temporary basis. For example, during construction, maintenance, decommissioning and rehabilitation phases for health and safety reasons. Such temporary/ short-term exclusions may be mandated by the planning authority or other authorities or legislation for specific purposes and durations. In this instance, it is considered that granting of exclusive use for the full term of the MAC is not merited, particularly having regard to co-existence and co-operation objectives of the NMPF. It is considered that exclusive use should only be permitted where use on an exclusive basis is required and provided for under another authorisation or enactment. Accordingly, it is recommended that the MAC is granted on a “may or may not be exclusive” basis contingent on circumstances that may arise after the granting of the MAC” in accordance with Section 83(1)(c) of the Act.

## 7. Proposed MAC Map (for Illustration purposes only)

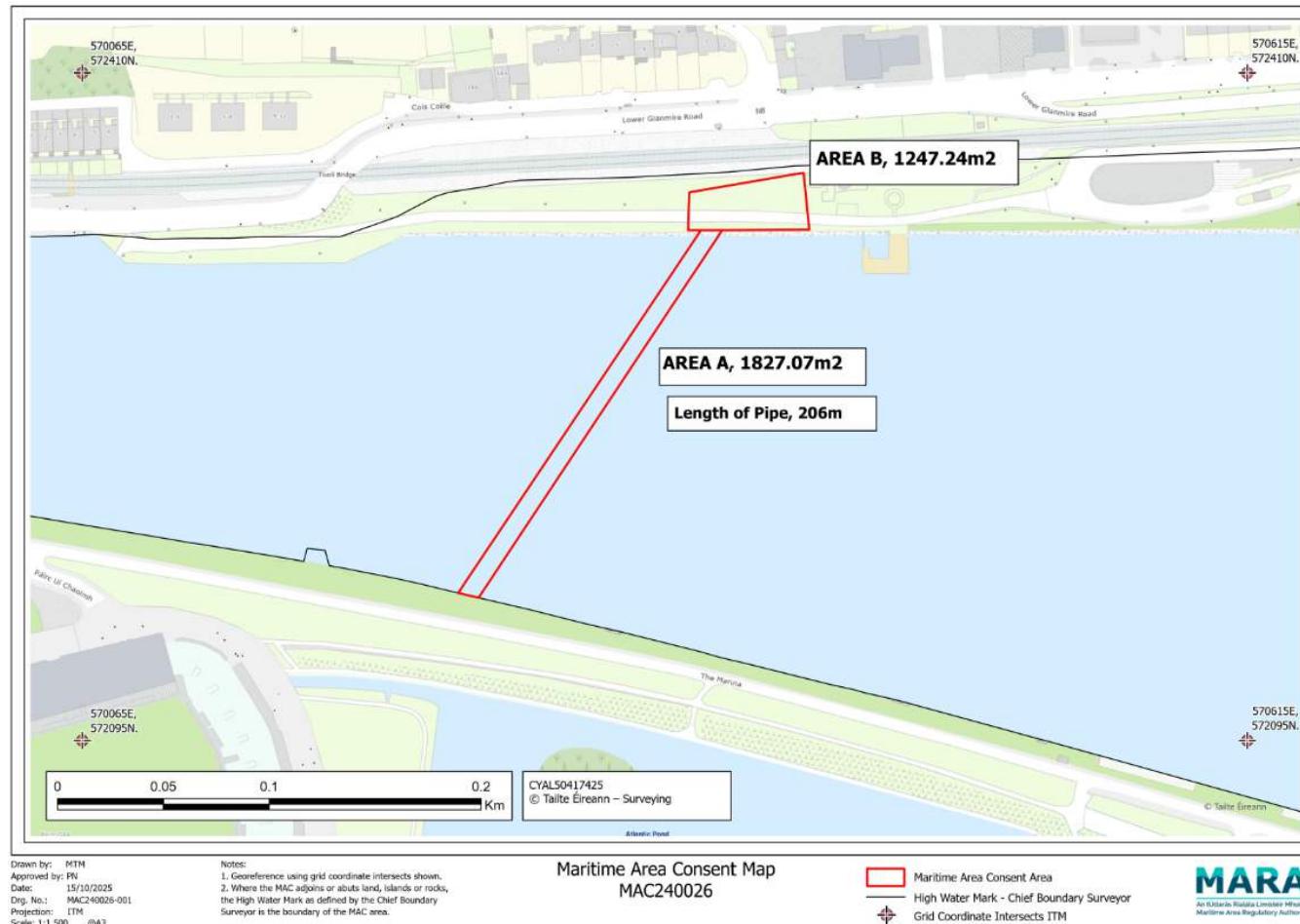


Figure 4 – Proposed MAC Map

## 8. Levy

An annual MAC levy has been calculated based on the project type and proposed MAC area in accordance with MARA's MAC levy framework, as set out below.

<b>MAPA Levy Framework Part:</b>	<b>A: Nearshore</b>
<b>Category/Class:</b>	Area A - <i>Cables, Pipelines and Ducting</i> <i>Area B – Development (non-commercial)</i>
<b>Tier:</b>	Tier 1
<b>Applicable Rate:</b>	Area A - Base Annual Charge of €312.70 up to 75 LMs + €4.17 per LM for the next 22,165 LMs  Area B - Base Annual Charge of €208.46 plus an add on of 2.34 per sq.m for areas in excess of 100 sq.m
<b>Length/Area:</b>	<i>Area A (Watermain pipeline) = 206m (Length)</i> <i>Area B (Utility Diversions and Temporary Works) = 1247.24m<sup>2</sup> (Area)</i>
<b>Calculation:</b>	Area A – €312.70 + (€4.17 * (206.00 - 75.00)) = €858.97  Area B – €208.46 + (€2.34 * (1,247.24 - 100.00)) = €2893
<b>Levy due:</b>	€858.97 + €2893 = €3751.97

The MAC levy has been calculated **as €3751.97** per annum. All levies are indexed to the Harmonised Index of Consumer Prices (HICP), applied on an annual basis.

## 9. Discussion

Based on the assessments undertaken contained herein, it is considered that the proposed MAC application complies with all the necessary requirements of Schedule 5 of the Act, where relevant and appropriate, subject to the following recommended terms and conditions:

### a. Terms

<b>MAC Term:</b>	45 Years
<b>Consent Area:</b>	That part of the maritime area marked red on the MAC Map.

<b>MAC Map Title:</b>	Maritime Area Consent Map MAC240026
<b>Permitted Maritime Usage:</b>	The construction, use, operation and maintenance of a tunnel pipe and watermain, including all associated decommissioning, demolition, rehabilitation, and any other works required on foot of any development permission relating to the infrastructure.
<b>Nature of Usage:</b>	<b>May/May Not be Exclusive</b>
<b>Date by which application for Development Permission must be submitted (subject to Phasing Schedule where applicable):</b>	18 months from date of grant of MAC.
<b>The minimum number of days in which the MAC Holder shall provide the Grantor advance notice in writing of the Holder's intention to commence the Permitted Maritime Usage.</b>	14 Days
<b>Date by which Financial Close is to be achieved:</b>	<b>Not applicable</b>

#### **b. Conditions and Reasons for Conditions**

Section 82 of the Act specifies that MARA may attach to a MAC one or more conditions which fall within the types of conditions specified in Part 1 of Schedule 6 of the Act. All conditions contained in Schedule 6; Part 2 are deemed to be attached to a MAC.

The standard suite of MARA conditions reflecting the contractual and statutory relationship that will exist with a grant of consent are also recommended. Reasons for these conditions are set out in the enclosed Section 81(7)(b) Minded to Notice.

Following assessment of this MAC application, a number of additional specific conditions and the reasons for these conditions to be attached to the MAC, are recommended below. Discussion in relation to each recommended condition is also provided.

- **Condition 3.7 – Grant of Consent**

The Holder shall use that part of the Maritime Area the subject matter of this consent for the purposes of, and in accordance with, the details outlined in the plans and particulars submitted by the applicant in support of their application except as may otherwise be required in order to comply with this Consent.

**Reason:** In the interest of clarity.

- **Condition 23.1 – Public Engagement Plan**

In the event of a grant of planning permission, the Holder shall 6 weeks prior to the commencement of the development, submit to the Grantor, a public and stakeholder engagement plan. This engagement plan shall ensure it complies with all the relevant planning particulars, and any relevant Best Practice Guidance if available, and shall at a minimum address the following topics;

- Stakeholder Identification;
- Engagement principles;
- Scope of engagement;
- Engagement methods and tools;
- Engagement Schedule;
- Communication Plan;
- Monitoring and evaluation and adaption of engagement plan;
- Issue management; and
- Documentation and record keeping.

The engagement plan shall be published, maintained, updated and adhered to, ensuring there is public and stakeholder engagement at the earliest stage possible, and continuing during all phases of the proposed maritime usage for the duration of the MAC term.

**Reason:** To enable the Grantor to request the Holder to communicate information that the Grantor deems relevant to the public.

- **Condition 23.2**

Prior to the commencement of the Permitted Maritime Usage, the Holder shall consult with the Port of Cork Company to plan and schedule the Permitted Maritime Usage in order to ensure that any potential disruption to port operations is managed. Records of all engagements and consultations held and agreements reached, if any, shall be maintained by the Holder and made available to the Grantor if requested.

**Reason:** To ensure the orderly undertaking of the proposed maritime usage.

- **Condition 19.2**

The Holder shall maintain public access to and amenity use of Area B of the Consent Area including the right of the public to pass and repass along the existing walkway for the duration

of the Permitted Maritime Usage. This public access, amenity use and right to pass and repass is subject to appropriate restrictions for the construction works reasonably required to conduct the Permitted Maritime Usage.

**Reason:** *To ensure the public interest is safeguarded.*

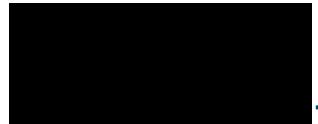
It is considered that the application for a MAC complies with all the requirements of Part 4 of the Act, with particular regard to Schedule 5 criteria. Accordingly, it is recommended that the proposed MAC is part granted with conditions.

## **10. Conclusion & Recommendation**

Following a detailed assessment of all information on file, it is considered that the proposal complies with all the necessary requirements. Accordingly, it is recommended to issue a Section 81(7)(b) Minded to Notice, as enclosed, informing the applicant(s) that MARA is minded to part grant a Maritime Area Consent subject to the proposed conditions attached to the MAC. It is recommended to allow the applicant(s) 21 days from the date of issue of the Minded to Notice to submit supplementary material in relation to the reasons for the conditions as per Section 81(7)(b)(ii).

Once a final determination is made by MARA, the applicant(s) will be notified and MARA will publish a notice on its website as soon as practicable thereafter.

Signed:  Position: \_\_\_\_\_ Manager, MACU \_\_\_\_\_

Signed:  Position: \_\_\_\_\_ Senior Engineer, ARDU \_\_\_\_\_