

Maritime Usage Licensing and Planning Advisory Directorate			
Response to Supplementary Material on a Minded to Determination			
To:	John Evans, Director	From:	Dr Ciar O'Toole Senior Marine Advisor
Date:	19/05/2026	Maritime Usage Licence Application No:	MUL250019
Licence application received:	07/11/2025	Supplementary material received:	07/05/2026
Applicant:	Helvick Head Offshore Wind Designated Activity Company, 27 Fitzwilliam St. Lower, Dublin 2		
Type of maritime usage in accordance with Schedule 7 of the Maritime Area Planning Act, 2021 (as amended):	3. Marine environmental surveys for the purposes of site investigation or in support of an application under Part XXI of the Act of 2000.		
Location of proposed Maritime Usage:	Within and adjacent to Maritime Area A - Tonn Nua of the South Coast Designated Maritime Area Plan (SC-DMAP), 11 km south of Co. Waterford coastline.		

Introduction:

The Maritime Area Regulatory Authority (MARA) issued a Minded to Determine Notice and a proposed Maritime Usage Licence (MUL) to Helvick Head Offshore Wind Designated Activity Company (the applicant) on 17/04/2026. The MUL application is for marine environmental surveys for the purposes of site investigation, falling under Schedule 7(3) of the Maritime Area Planning Act 2021, as amended (the MAP Act). The applicant was advised in the Notice that MARA was minded to grant the MUL, subject to conditions.

The applicant submitted a response with supplementary information setting out their reasons for requested amendments to seven of the conditions in the proposed MUL. This report addresses the supplementary material submitted based on a review of the application documentation as well as MARA's assessment reports.

The report also considers a further submission made by the applicant on the 11/05/2026 which was after the administrative deadline for the submission supplementary information specified by MARA in its Minded to Determine notice. However, as this submission was made in the context of and with reference to High Court proceedings in *EirGrid plc v Duncan & Ors* heard on 7 and 8 May 2026, MARA concluded that it would be unreasonable not to consider the submission.

1. Definition 1(d)

“**Data**” means specified data, within the meaning of Section 128 of the Act, collected in relation to the Licensed Area including but not limited to the following types:

- (i) All geophysical, geotechnical and metocean data to include but not limited to seismic, core, grab, wind, wave, current, barometric, bathymetric data;
- (ii) All environment data to include but not limited to ornithological, marine mammal, fish, bat, benthic habitat data;
- (iii) All shipping, unexploded ordinance, marine archaeological data or other constraint data; and
- (iv) Any derived statistical analysis, post-processed data and/ or associated reporting and assessments relating to the above data types.

Data includes data collected, purchased or otherwise procured, analysed or processed by or on behalf of the Holder, whether based on on-site data collection or measurement, desk-top studies or any other means.

Applicant's comments:

It is the preference of Helvick Head Offshore Wind DAC that further clarity is brought to this wording and is appropriate that its states that it should relate only to data collected under

the remit of this licence. We note that Condition 34 (ii) of the MUL does clarify that the provision of data is limited to data or samples collected in consequence of the Permitted Maritime Usage and would therefore request that this is clarified here.

MARA's Response:

Definition 1(d) defines 'Data' as collected in relation to the Licensed Area. 'Licensed Area' is defined in the Definition Section as that part of the maritime area as identified in Appendix 1. Appendix 1 of the proposed Maritime Usage Licence MUL250019 identifies that part of the maritime area outlined in red on the Maritime Usage Licence map. The spatial representation of the Licensed Area is clearly identified within Appendix 1 as the 'Maritime Usage Licence Map MUL250019' and surrounded by a red line (Drawing No MUL250019-001).

In this regard, no further consideration can be given by MARA. No change is recommended.

Recommendation: No change to Definition 1(d).

2. General Condition 9: Insurance

Without prejudice to the Holder's liability to indemnify the Grantor, the Holder shall:

- (i) effect and keep in force a public liability insurance policy of indemnity in the joint names of the Grantor and the Holder in an insurance office licensed to operate in the State Territory with a limit of € 6,500,000.00 (six million five hundred thousand euro) in respect of any one claim or a series of claims arising out of a single occurrence for any damage, loss or injury 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 admission of any person to the Licensed Area, and to extend such policy so that the Grantor is indemnified by the insurers in the same manner as the Holder;
- (ii) effect and keep in force an employer's liability insurance policy of indemnity in the name of the Holder in an insurance office licensed to operate in the State Territory with a limit of €13,000,000.00 (thirteen million euro) for any one claim or a series of claims arising out of a single occurrence and to extend such policy so that the Grantor is indemnified by the insurers in the same manner as the Holder in respect of all actions, costs, proceedings, losses, damages, or claims for personal injuries by employees of the Holder. This policy should include an indemnity to principles clause with a specific indemnity to the Grantor;
- (iii) whenever required to do so by the Grantor, produce to the Grantor for inspection the said policy or policies together with the latest receipt of the premium paid for renewal of the

said policy or policies together with evidence of waiver of subrogation rights against the Grantor by the Holder's insurers, and to comply with all conditions pertaining to any such policy or policies;

(iv) not do or omit to do anything which might cause any policy of insurance (if required) relating to the Licensed Area or any other part of the maritime area affected by the Permitted Maritime Usage to become void or voidable, wholly or in part, nor (unless the Holder has previously notified the Grantor and the Holder has agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable;

(v) immediately notify the Grantor in writing of the making of any claim under any policy of insurance and to provide the Grantor with all information in relation to any such claim;

(vi) ensure that any contractors, servants, agents, invitees or visitors of the Holder engaged in connection with activities in the Licenced Area or otherwise in connection with this Licence have appropriate insurance and that all copies of such insurance policies shall be provided to the Grantor as soon as is reasonably practicable;

Reason: To ensure that there is sufficient insurance cover for the Holder to undertake the Permitted Maritime Usage.

Applicant's comments:

The applicant queried a number of sections of the Standard Insurance Condition:

Clause 9.1 (i) requires the Holder to hold Public liability insurance in "joint names" with the Grantor. Helvick Head Offshore Wind DAC preference would be to remove the joint requirement.

Clause 9.1 (iii) requires the Holder to provide insurance policies rather than a standard confirmation of cover letter and a waiver of subrogation in favour of the Grantor. Helvick Head Offshore Wind DAC preference is that the "waiver of subrogation" is removed and a detailed cover letter is provided rather than providing the 'said policy or policies'.

Clause 9.1 (v) requires the holder to notify the Grantor immediately of any claim being made – From an insurance perspective, a requirement to notify MARA "immediately" is not market standard for insurers and could prove challenging in practice.

MARA's Response:

Condition 9.1.i of the proposed Licence is a standard condition in Maritime Usage Licences. In addition, the Applicant did not provide any supplementary material to demonstrate that it cannot insure or keep insured in joint names of the Grantor and the Holder. In this regard, no further consideration can be given by MARA. No change is recommended.

Condition 9.1.iii of the proposed Licence is a standard condition in Maritime Usage Licences. In this regard, no further consideration can be given by MARA. No change is recommended.

Condition 9.1.v of the proposed Licence is a standard condition in Maritime Usage Licences. In this regard, no further consideration can be given by MARA. No change is recommended.

Recommendation: No change to General Condition 9 Insurance

3. Specific Condition 19

The Holder shall, a minimum 14 days prior to the commencement of the Permitted Maritime Usage, arrange for the publication of a Marine Notice with the Marine Safety Policy Division, Department of Transport. This Marine Notice shall include details of the Licence Holder and the Licence Number as granted by MARA.

Reason: To ensure safe navigation

Applicant's comments:

The applicant states they will make every effort to adhere to the requirements of the Department of Transport with respect to the publication of a Marine Notice in advance of the Permitted Maritime Usage. Given that there are requirements already published with respect to this process by Department of Transport, we would propose that this text be amended to ensure it consistently and continually aligns with these requirements for the lifetime of the licence.

MARA's Response:

As the process specified by the Department of Transport requires 30 days notice for the submission of a Marine Notice, it is MARA's opinion that the current condition as it stands will not impact on the alignment of the applicant with the requirements of the Dept. of Transport. The condition refers to a minimum time period, and the applicant is free to submit their Marine Notice earlier than 14 days before commencement. Therefore, no change to the condition is recommended.

Recommendation: No change to Specific Condition 19.

4. Specific Condition 20

The Holder shall not damage or interfere with any third party's property while carrying out the Permitted Maritime Usage.

Reason: To minimise impact on other users of the marine environment.

Applicant's comments:

The applicant is concerned that despite their best efforts and taking all precautionary measures, interference and/or damage to third party property may occur while carrying out the Permitted Maritime Usage. Additionally, the applicant is concerned that this condition may not be consistent with the IMO COLREGS (International Regulations for Preventing Collisions at Sea) which provide a unified set of navigation rules to prevent collisions at sea. The COLREGs specifically identify that vessels restricted in their ability to manoeuvre should be given navigation priority and that other mariners encountering such vessels are required to take early and substantial action to avoid them. Given that vessels carrying out marine surveys would fall into this category, this condition is considered disproportionate by the applicant.

MARA's Response:

This condition is included as a Specific Condition across all similar MULs, and the reason is to minimise impact on other users of the marine environment. It is implied that the Holder will take reasonable care not to knowingly damage or interfere with any third party's property while conducting the maritime usage.

It is important also for the applicant to read and consider their licence in its totality and MARA considers the following as relevant in this regard:

- Condition 3.4 of the proposed MUL states "This licence is for the purposes of licensing under the Act and nothing in this licence shall be construed as negating the Holder's statutory obligations or requirements under any other Law". MARA considers that the various conventions governing conduct at sea always have primacy and form part of "any other Law", and the Master of any vessel would always adhere to COLREG in the first instance. Condition 14 of the proposed MUL reinforces this condition and states that *'the Holder shall exercise this Licence in such a manner as to cause no damage or injury to the Licensed Area, any occupants of the Licenced Area and any other part of the maritime area affected by the Permitted Maritime Usage'*.
- Condition 6 of the proposed MUL specifies that the Holder must notify the Grantor (MARA) if they become aware that the Permitted Maritime Usage does not comply with any of the conditions. Following such notification the Grantor may at its discretion determine whether the disturbance is of a nature that warrants further action.

Therefore, no change to the condition is recommended.

Recommendation: No change to Specific Condition 20

5. Specific Condition 21

Prior to the commencement of the Permitted Maritime Usage the Holder shall consult with the Port of Waterford Company, the Port of Cork Company, the Harbour Masters of New Ross, Dunmore East, Passage East and East Cork (Ballycotton and Youghal) to plan and schedule the Permitted Maritime Usage in order that any potential disruption to port and harbour operations is managed.

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

Applicant's comments:

The applicant states that they agree to advise all listed ports on the plan and schedule of all relevant activities under this licence. It is the preference of Helvick Head Offshore Wind DAC that the inference that there may be '*potential disruption to port and harbour operations*' is removed from the wording of this condition as the survey activities will not be carried out in close proximity to these ports.

MARA's Response:

The reason for this condition is to ensure the orderly undertaking of the maritime usage. Given the reasons outlined by the applicant, it is my opinion that editing the condition will not affect the reason for the condition, therefore no change is required. While I understand the point raised by the applicant, this is a standard condition included in all licences and I do not consider that the issues raised warrant amendment of the condition.

<u>Recommendation:</u> No change to Specific Condition 21
--

6. Specific Condition 25

Where the Holder observes significant clusters of birds, actively fishing and/or diving, within 500m of the survey vessel, in carrying out the Permitted Maritime Usage, the survey route shall be altered to maintain a 500m buffer from the birds. Appropriate records must be retained by the Holder.

Reason: To ensure protection of the marine environment.

Applicant's comments:

The applicant is concerned that the proposed Condition, as currently worded, appears to be disproportionate when the outputs of the Natura Impact Statement (NIS) are considered and

they do not feel it is necessary given what is stated in the AA report. However, the applicant recognises that the site is adjacent to sensitive areas for birds such as the ‘Seas off Wexford’ SPA and it would be important to minimise potential disturbance if vessels are transitioning through these areas.

MARA’s Response:

While the NIS is submitted by the applicant to inform the Appropriate Assessment carried out by MARA, it is important to clarify that MARA carries out the Appropriate Assessment and decides what is appropriate in terms of mitigation. MARA determined, using the precautionary principle and recognising that sea bird species are mobile and forage in some cases across large distances, that the relevant condition was required to ensure suitable protection of the marine environment. The applicant has not provided sufficient information in their supplementary material to warrant a change to this condition.

<u>Recommendation:</u> No change to Specific Condition 25.

7. Specific Condition 26: In-combination effects

- (i) Prior to the commencement of the Permitted Maritime Usage, the Holder shall coordinate with other authorisation holders carrying out geophysical, seismic and geotechnical activities within a 6 km radius of the Licensed Area.
- (ii) Where a vessel-to-vessel distance of greater than 6 km cannot be maintained with respect to geophysical, seismic and geotechnical activities, the Holder shall co-ordinate with other authorisation holders to prevent temporal overlap of the activities. Where the Holder can submit evidence that there is a vessel-to-vessel distance of greater than 6 km, no temporal co-ordination of activities is required.
- (iii) Where the Holder becomes aware of temporal overlap that cannot be resolved within the prescribed distance, the Holder shall notify the Grantor who shall determine the timing of activities.
- (iv) Records of all engagements held, and agreements reached, if any, shall be maintained by the Holder and made available to the Grantor if requested.

Reason: To ensure protection of the marine environment and protected species and habitats.

Applicant’s comments:

The applicant requests that the Condition be amended to remove the requirement to include geotechnical activities. They reference the highly localised and limited noise exposure of

some geotechnical activities. They also raise concerns regarding overlap with other licence holders carrying out surveys in the same area at the same time period.

MARA's Response:

The condition as written requires the holder to engage with other licence holders within a specified area to co-ordinate acoustic activities as listed. It is the responsibility of the relevant licence holders to discuss the relevant activities, assess the relevant risk of acoustic overlap based on the activities and record the decision to demonstrate compliance with the condition. It is incumbent on licence holders to adhere to all conditions of their relevant licences. No change is recommended.

<u>Recommendation:</u> No change to Specific Condition 26.

8. Additional submission -11 05/2026/Applicants Comments

A further submission was made in relation to High Court proceedings in *EirGrid plc v Duncan & Ors* heard on 7 and 8 May 2026. The applicant noted that, in those proceedings, Judge Holland placed considerable emphasis on the fact that an exclusion zone had not been sought in the licence application before the Court. The applicant requests clarity in relation to any impact the judgment may have on the activities proposed under their application MUL250019.

The applicant noted that their Maritime Area Consent (MAC240057) had been awarded on a non-exclusive basis, and they expect that the MUL, as an activity-based authorisation, will align with that position. They also noted however that their application had referred to a request for possible short-term restrictions in relation to fishing activity and some proposed survey activities in the MUL application. They therefore ask if a condition reflecting restrictions for other users was relevant or appropriate for inclusion in their licence for MUL250019.


MARA's Response:

In the proposed licence, Condition 3.2 states that "This Licence permits the Holder to occupy and use the Licensed Area for the Term on a non-exclusive basis for the purpose of carrying out the Permitted Maritime Usage in accordance with the Conditions and the requirements of the Act". Therefore, the applicant does not have exclusive use of the maritime area.

Condition 3.2 is a reflection of Section 120 (7) of the MAP Act which allows MARA, if it so wishes, to grant exclusive use of the maritime area for the licenced Schedule 7 activity only.

There is no provision in the MAP Act for MARA to exclude other users of the maritime area who are carrying out activities licenced under other legislation. MARA draws the applicant's attention to section 166A of the MAP Act.

Recommendation: No change to General Condition 3.2.


Dr Ciar O'Toole
Senior Marine Advisor

Maritime Usage Licensing and Planning Advisory Directorate