Final Determination Report	
Application for a Maritime Area Consent (MAC) under Section 79 of Maritime Area Planning Act 2021, as amended (the Act)	
Application Details	
MAC Applicant	Uisce Éireann
MAC Reference No:	MAC260017
***Minded To* Notice pursuant to Section 81(7)(b) issued**	11 September 2026
Supplementary Material further to *Minded To* received	02 October 2026

MARA Consideration of Supplementary Material:

In accordance with Section 81(7)(b)(ii) of the Act, MARA must give consideration to the supplementary material received before making a determination under Section 81(1) of the Act.

Details of the supplementary material received from the MAC Applicant and MARA consideration thereof is set out below.

The MAC Applicant noted the following in the supplementary material:

1. Grant of Consent Condition 3.4

Given the nature of the operations the Dunfanaghy Portnablagh WWTP Upgrade and the Marine Outfall pipeline, UE has obligations, both under legislation and its operational consents, to ensure that the facility is operated safely and securely and remains environmentally compliant. Therefore, it is necessary for UE to retain control of the Consent Area from a development, operational, environmental and safety standpoint. Additionally, for the duration of the construction of the project and throughout maintenance operations over the course of the lifetime of the Project, UE will need to restrict third party access to the

Consent Area in order to undertake those construction and maintenance activities and requires use on an exclusive basis throughout those periods. UE is open to facilitating 3rd party access to the site where it is not deemed to contravene, conflict with or hinder UE's capacity to construct and operate the Project and comply with its statutory obligations.

MARA Response

As noted in the MAC Report, temporary or short-term exclusions (for the purposes of construction, maintenance, decommissioning, and rehabilitation phases for example) may be mandated by the planning authority or other authorities or legislation for specific purposes and durations. Furthermore, 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, the MAC is to be part 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. On the basis of the above, the may/may not be exclusive nature of use as specified in the proposed MAC is considered to be appropriate.

In this regard, no change is recommended.

2. Development Permission – Condition 5.1:

It is not anticipated that the rehabilitation programme would commence within the 55-year period of this MAC, rather form part of a future MAC and planning application for replacement pipeline infrastructure

MARA Response

In the situation as outlined by Uisce Éireann, the Applicant may seek to extend the term of the MAC, in advance of its expiry, in accordance with the material amendment provisions under Section 86 of the MAP Act or, apply for a new Maritime Area Consent before applying

for new Development Permission. The obligations on the Holder of a MAC in relation to rehabilitation of the maritime area are a mandatory provision of the Act. Condition 14 of the draft MAC appended to the minded to notice mirrors the requirements of Section 96 of the Act. The obligation to rehabilitate may include but is not limited to the re-use of infrastructure for the same or another purpose. MARA does not have the scope to limit the generality of the obligation to rehabilitate the maritime area within the meaning of the Act. Where a new Maritime Area Consent is applied for before applying for new Development Permission under Section 75(1) of the Act, a Rehabilitation Schedule must be submitted to the relevant Planning Authority for their consideration. Where a MAC application for a proposed maritime usage is made under Section 75(1) of the Act, according to Section 75(5) the associated application for the Development Permission must include a Rehabilitation Schedule (as defined in Section 95).

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

3. Indemnity

We understand that clause 11.1 provides a contractual indemnity in favour of the Grantor, the State Persons and the other persons identified in that clause in respect of liabilities arising directly or indirectly from the Permitted Maritime Usage or from a failure by the Holder to comply with the Consent or the relevant provisions of the Act. Please confirm that our understanding of this position is correct. Uisce Éireann proposes that the indemnity be subject to the additional provisions set out in proposed clause 11.5 below. These provisions are intended to clarify that the indemnity will not apply to liabilities arising from the acts or omissions of the Grantor or persons for whom the Grantor is legally responsible, and to provide Uisce Éireann with appropriate notification and conduct-of-claim protections where the indemnity is engaged.

MARA Response

Condition 11.1 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

4. Indemnity

Proposed New Clause 11.5 'PROVIDED always that any indemnity provided by the Holder under this Consent shall not extend to any liability to the extent that such liability arises from 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 in respect of which the Grantor seeks to rely on the indemnity under clause 11.1 and (ii) not admit liability in respect of, nor settle or compromise, any such action or claim without the prior written consent of the Holder. The Holder may at its own expense defend any such action or claim in the name of the Grantor.'

We are suggesting additional wording to clarify that indemnity does not extend to any loss, damage, claim or liability arising from the malicious act or omission of the Grantor or any person for whom the Grantor is responsible in law. The remainder of the proposed wording requires the Grantor to notify Uisce Éireann of any claim in respect of which it seeks to rely on the indemnity, prevents the Grantor from admitting liability or settling such claims without Uisce Éireann's consent and allows Uisce Éireann to defend such claims where appropriate. The proposed wording is not intended to limit or remove the indemnity provided under clause 11.1 generally, but rather to introduce customary exclusions and claims management protections in relation to that indemnity.

<u>MARA Response</u>

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 subclause, as proposed.

In this regard no change is recommended.

5. Indemnity Condition 11.3

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. Uisce Éireann rely on the 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 this clause.

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.

6. Insurance - Condition 12.1

This provision should be moved to Section 11, as it does not relate to insurance.

MARA Response

Condition 12.1 is a standard condition in the Maritime Area Consents 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

7. Insurance - Condition 12(a)

12.1.(a) This requirement can be accommodated under the Construction Insurance policy for the duration of the construction phase. However, it cannot be covered under our Operational Property Damage policy, as the Grantor has no insurable interest in Uisce Éireann's assets. In addition, joint insured status is not available under our Operational Property Damage policy.

MARA Response

Condition 12(1)(a) of the draft MAC is a standard condition in Maritime Area Consents. In addition, Uisce Éireann has not 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.

8. Insurance - Condition 12(b)

12(b) Public Liability insurance in the joint names of the Grantor can be provided during the construction phase. However, this arrangement is not available under our operational insurance programme during the operational phase'.

MARA Response

Similarly, Condition 12(1)(b) 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.

9. *Governing Law and Jurisdiction*

Condition 22.2 We would see the issuing of Court proceedings as a last resort rather than the first step in trying to resolve any dispute between the 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 endeavor 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.

Recommendation	➢ Issue attached **Final Determination Notice** in accordance with section 81(3) of the Act for the above referenced MAC application. ➢ Finalise attached **MAC** with conditions and reasons attached thereto, as per the draft MAC and *Minded To* notice. ➢ Part Grant the MAC sought subject to conditions.

Signed: Sharon Dobbs Date: *16/10/2026*

Document Control		
Prepared By:	Sharon Dobbs	16/10/2026
Reviewed & approved by:	Jacinta Ponzi	19/10/2026
Final, Version 1	Sharon Dobbs	19/10/2026