

Caseworker Report	
Application for a Material Amendment of a Maritime Area Consent (MAC) under Section 86(1) of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Holder:	Fuinneamh Sceirde Teoranta (FST)
MAC Reference No:	2022-MAC-007
Date Application received:	24 January 2024
Application Details	FST have made an application under Section 86 of the Maritime Area Planning Act 2021 (the Act) for a material amendment to its existing MAC for the development of an Offshore Renewable Energy installation. MAC no. 2022-MAC-007 was previously issued to the Holder by the Minister for the Environment, Climate and Communications under the first batch of Offshore Renewable Energy projects known as Relevant Projects (Phase 1 Projects). The amendment sought by FST is an extension of the Array Area boundary. The proposed boundary extension will result in a ca. 26.7% increase in the Array Area.
Recommendation	To approve the Granting of the material amendment sought.

Document Control		
Prepared By:	██████████ Consenting Manager	20/06/2024
Reviewed	██████████ Head of MAC Unit	21/06/2024
Approved by:	██████████ Head of MAC Unit	24/06/2024

1. Background

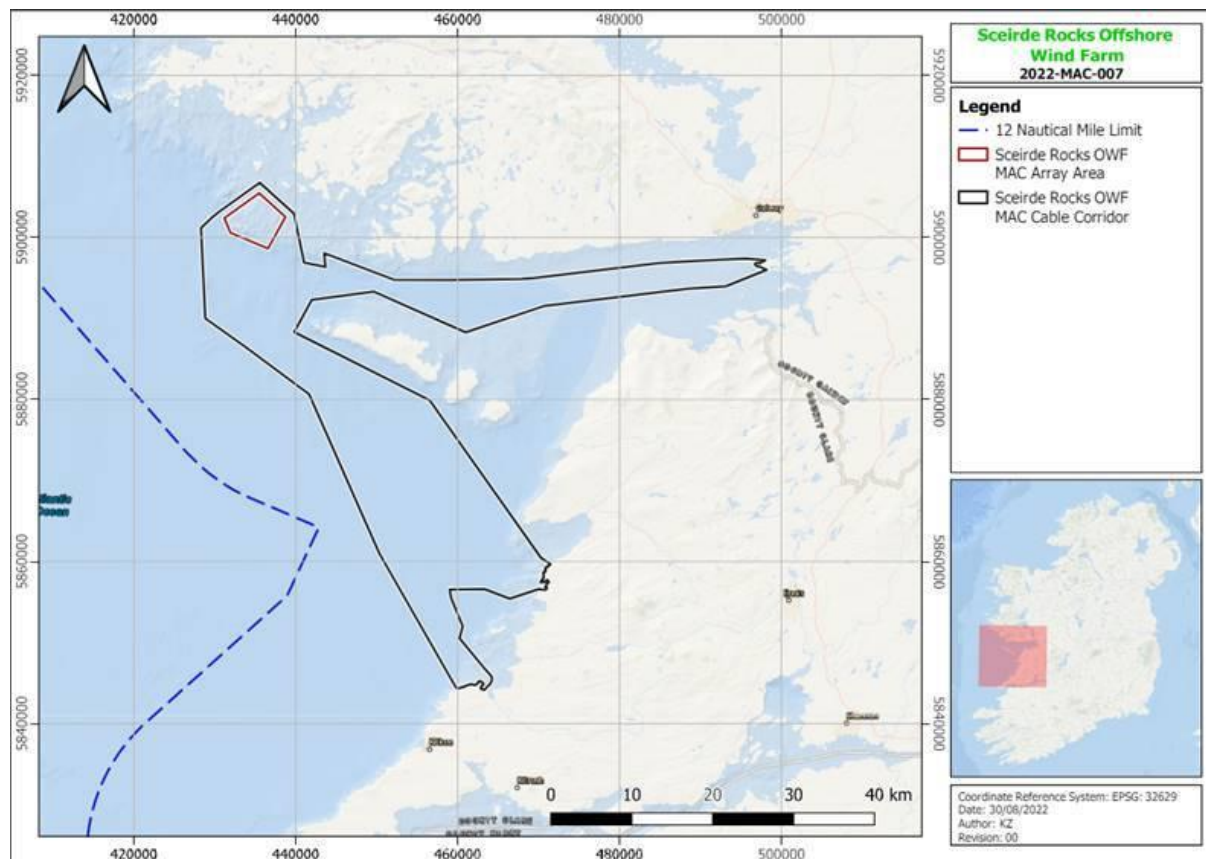
A MAC was granted to FST (the Holder) on 23 December 2022 for the construction and operation of an Offshore Wind Farm and associated infrastructure off the coast of County Galway in the Atlantic Ocean. The MAC was issued to the Holder by the Minister for the Environment, Climate and Communications under the first batch of Offshore Renewable Energy projects (Relevant Projects/Phase 1 Projects) under Section 101 of the MAP Act.

On 26 April 2024, FST submitted an application for a non-material amendment to MAC 2022-MAC-007 to MARA, seeking a six-month extension of time to the date by which the Holder’s application for development permission must be submitted to An Bord Pleanála as set out in the Particulars Schedule and Condition 5.1 of MAC 2022-MAC-007. Following assessment of the application, MARA was satisfied that the amendment sought was a non-material amendment in accordance with Section 86(5)(b) of the Act. Accordingly, on 16 May 2024, MARA made the amendment to 2022-MAC-007 and published the amended MAC on its website, replacing the original MAC.

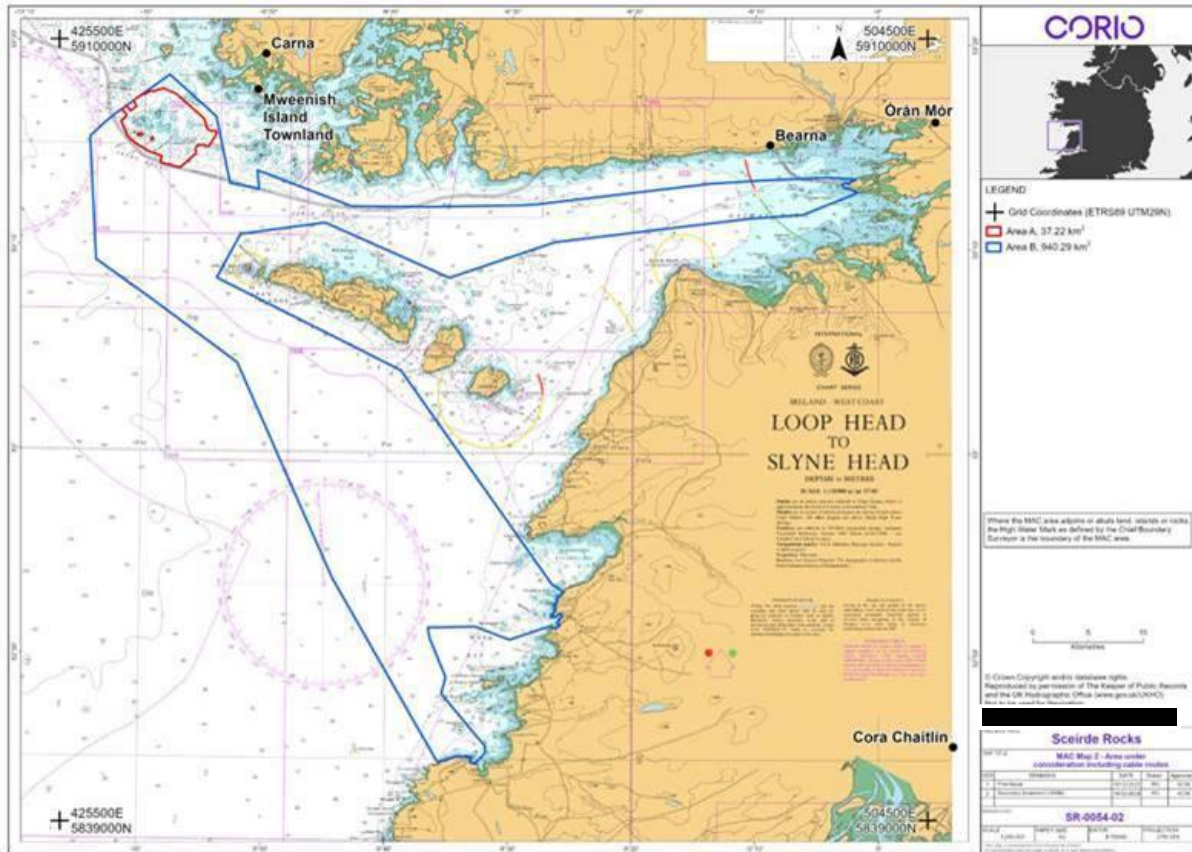
2. Material Amendment Sought & Reasons

On 24 January 2024, FST applied for a material amendment to their existing MAC. The amendment sought comprises an extension of the Array Area boundary which will result in a ca. 26.7% increase in the Array Area.

Original Array Area (outlined in red):



Proposed amended Array Area (outlined in red):



The Holder has stated that the reasons for seeking the above amendment are as follows:

“When geotechnical data was processed following surveys in October and November 2023 it indicated that some areas were less suitable than previously anticipated. Due to the limited size of the original Array Area boundary in the MAC, which was based on a 2008 foreshore lease application, and the geology and bathymetry of the area which reduces room to manoeuvre within the original boundary, the project requires some additional area in order to provide suitable locations for a sufficient number of turbines. This proposed extension to the Array Area will enable the project to deliver the required export capacity to meet our national climate change targets. The proposed boundary extension results in a ca. 26.7% increase in the Array Area.”

FST’s material amendment application of 24 January 2024 originally included a request to extend the date by which an application for Development Permission had to be submitted. However, this was subsequently applied for separately as a non-material amendment, as detailed above. As such, an extension to the date by which Development Permission application has to be submitted was not considered under the assessment of this application for a material amendment.

3. Assessment

The application has been processed in accordance with MARA's procedure for processing MAC material amendment applications. On receipt of the application for a material amendment to a MAC, the application was reviewed for completeness.

The Compliance, Enforcement & Revenue Unit (CERU) were consulted on the 11 June 2024 and invited to make any observations or comments they may have on the material amendment application. On 11 June 2024, the CERU unit confirmed that they had no observations to make.

Schedule 5 of the Act sets out the criteria which MARA must have regard to when assessing a MAC application, including applications for material amendments. The requirements of Schedule 5 are assessed under four separate assessments, including General Assessment (GA), Technical Capability Assessment (TCA), Engineer's Assessment (EA) and Financial Capability Assessment (FCA).

I have undertaken a GA of the application, for which details are set out below.

General assessment of whether the holder is a fit and proper person within the meaning of Schedule 2(2) is set out in Table 1 below. Fit & proper person criteria set out under Schedule 2(2)(g) and (h) were assessed separately under the TCA and FCA, respectively.

Table 1: Schedule 2(2)	Assessment	Satisfactory/Not satisfactory
(a) letters of reference;	LoR provided	Satisfactory
<p>(b) that the relevant person, or any other person concerned, stands convicted of—</p> <p>(i) an indictable offence under this Act or an offence in another state equivalent to an indictable offence,</p> <p>(ii) an indictable offence under an enactment prescribed for the purposes of this clause, or</p> <p>(iii) an offence involving fraud or dishonesty;</p> <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>The Holder declared that no such offences or disqualifications apply. As part of the FCA, EY assessed the Holder and the Supporting Entity against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	Satisfactory
(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>The Holder declared that no such offences or disqualifications apply. As part of the FCA, EY assessed the Holder and the Supporting Entity against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	Satisfactory
(e) if the relevant person is a body corporate, whether it—	<p>The Holder declared that no such offences or disqualifications apply. As part of the FCA, EY assessed the Holder and the Supporting Entity against these criteria and concluded that no information or details were identified which indicate that such offences or disqualifications apply.</p>	Satisfactory
<p>(i) has commenced a voluntary winding-up or is subject to a winding-up order or is subject to proceedings for such an order,</p> <p>(ii) is subject to the appointment of a receiver or examiner, or</p> <p>(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;</p> <p>(f) if the relevant person is a body corporate incorporated under the law of another state—</p> <p>(i) whether an event which corresponds to an event referred to in clause (c) has occurred in relation to any of its directors, or</p> <p>(ii) whether an event which corresponds to an event referred to in clause (e) has occurred in relation to the body corporate;</p>	N/a	N/a

<p>(i) 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>The CERU was consulted in relation to the proposed amendment and invited to make observations. The CERU returned nil observations.</p>	<p>Satisfactory</p>
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A synopsis of the GA of the application relating to Schedule 5 criteria (2), (5), (6), (7), (8) and (10) is provided in Table 2. I am satisfied that the amendment sought complies with the applicable requirements under these criteria.

The TCA and EA were carried out by MARA’s Assessment Research & Data Unit as detailed in the Engineer’s Report dated 23 May 2024 and the Technical Capability Report dated 14 May 2024. FCA was carried out by MARA contractors Ernst & Young (EY) as detailed in the Financial Capability Assessment Reports for both Supporting Entities, both dated 16 May 2024. A synopsis of these assessments is summarised in Table 2.

Table 2: Synopsis of the assessment of the amendment application with regard to the requirements of Schedule 5				
Schedule 5 Requirements		Assessed under	Synopsis	Assessment
1.	The nature, scope and duration of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.	EA	<p>The MAC for Fuinneamh Sceirde Teoranta (FST) is for the development of the proposed Sceirde Rocks Offshore Wind Farm off the coast of County Galway in the Atlantic Ocean. This MAC also includes a subsidiary area for the proposed export cable, which consists of two potential cable export corridors, one into Galway Bay and one to the County Clare coast.</p> <p>The applicant has applied for a change to the array area within the confines of the existing consent area with the array extending further into the subsidiary area. The applicant has stated that after processing geotechnical data following surveys in 2023, it emerged that some areas were less suitable for development than previously anticipated and the project requires some additional area in order to provide suitable locations for a sufficient number of turbines. The applicant states that the proposed increase to the array area will enable the project to deliver the required export capacity and will therefore assist in meeting national climate change targets. The MAC term for the array area and infrastructure corridor for MAC 2022-MAC-007 remains as 45 years from the commencement date of 23/12/2022.</p>	Satisfactory
2.	Whether the proposed maritime usage is in the public interest.	GA	The proposed project has a strong public interest element. It aligns with targets set out in the Climate Action Plan (CAP) 2023, with the National Marine Planning Framework (NMPF) as well as other national ORE policies. The project will generate electricity for Irish consumers, improve the security of electricity supply in Ireland and make a significant contribution towards meeting national climate change targets.	Satisfactory
3.	The location and spatial extent of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.	EA	The array area is located between 5 km and 11.5 km from the nearest point on the shore to the closest and furthest points respectively. The total size of the MAC area (including the subsidiary area) is 977.51km ² . The amended array area constitutes an increase from 29.38km ² to 37.22km ² .	Satisfactory
4.	Guidelines issued under section 7 which are relevant to the proposed maritime usage.	GA	No such guidelines have been published to date.	Not applicable

5.	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.	TCA, FCA & GA	<p>TCA: Based on revised TCA documentation provided by the applicant, MARA's ARDU have re-assessed the holder's technical capability and have deemed the Holder to be technically capable on the basis of the revised information submitted.</p> <p>FCA: As the ownership structure has changed since the assessment of the original application, FCAs were carried out on the two Supporting Entities. On the basis of a review by financial consultants EY of revised and up-to-date documentation submitted by the relevant persons, including the self-assessment templates contained in the Guidance and the relevant person's consolidated financial statements, it has been confirmed that the relevant person and its Supporting Entities have passed the FCA and all associated financial assessment tests and thresholds.</p> <p>GA: Following a detailed review and assessment of the information provided by the Holder, it is hereby confirmed that the applicant meets the FPP assessment (see Table 1 above).</p>	Satisfactory
6.	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.	GA	Valid tax cert provided.	Satisfactory
7.	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).	GA	Confirmed. Project has a grid connection assessment from TSO.	Satisfactory

8.	The National Marine Planning Framework (NMPF).	GA	Following review and assessment of the information provided by the Holder against the objectives of the NMPF, MARA is satisfied that the proposed works do not act significantly against any objective within the NMPF. The proposed MAC area lies within the 'West Coast' zone identified and assessed under the Offshore Renewable Energy Development Plan (OREDPA) (2014) and the project has been designated as a Phase 1 Relevant Project. Furthermore, the project is aligned with and secures key sectoral/activity objectives in relation to Offshore Renewable Energy (ORE). This project will directly contribute towards a significant portion of the 2030 5 GW target and a shift away from fossil fuels.	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.	EA	The Holder has undertaken preparatory works to inform their planning application and to assist with the detail design of the proposed offshore windfarm, <i>inter alia</i> , preliminary geophysical and preliminary geotechnical investigations, benthic ecology surveys, aerial bird and mammal surveys and radar navigation surveys.	Satisfactory
10.	The extent and nature of stakeholder engagement undertaken by the applicant in respect of the proposed maritime usage.	GA	The Holder demonstrates continuous engagement from an early stage with local residents and fishermen, community groups, business groups, Údarás na Gaeltachta etc., as well as regional and national authorities and bodies. The Holder uses various communication channels and will continue the stakeholder and community engagement throughout the entirety of the planning process.	Satisfactory
11.	Where a competitive process referred to in section 93 or 103 is used, the outcome of such process.	GA	Not applicable for Phase 1 Projects.	Not applicable
12.	Any additional criteria specified, for the purposes of this paragraph, in regulations made under section 80(2).	GA	No such regulations have been made to date.	Not applicable

4. Levy

The amendment includes an amendment to the existing MAC array area. Accordingly, as per the EA report, the MAC levy has been recalculated as €744,400 per annum in accordance with MARA's [MAC levy framework](#). All levies are indexed to the Harmonised Index of Consumer Prices (HICP), applied on an annual basis.

5. Discussion

The Holder has applied for an amendment to the array area within the confines of the existing consent area. The Act makes no distinction between an array area and a subsidiary area. In that regard, what is being requested is a Map change to increase the array but not the overall MAC area. Ultimately it will be a decision for An Bord Pleanála to decide how the development of the array area will proceed.

The Engineer's Report dated 23 May 2024, the Technical Capability Report dated 14 May 2024, the Financial Capability Assessment Reports dated 16 May 2024 and the General Assessment concluded that the proposed amendment(s) comply with all the necessary requirements of Schedule 5 of the Act.

Significant preparatory work has been undertaken by the Holder since the original MAC application was made, including preliminary geophysical surveys including multi-beam echo sounder, subbottom profile, side scan sonar and magnetometer. Preliminary geotechnical investigations have also recently been completed; these included cone penetration tests, vibrocores and thermal resistivity testing. Benthic ecology surveys have been completed, as well as 2 years of aerial bird and mammal surveys, and summer and winter radar navigation surveys. The applicant has indicated as a consequence of the preparatory work undertaken that an increased array area is required to accommodate suitable locations for a sufficient number of wind turbines. Accordingly, having particular regard to Schedule 5(9) in relation to preparatory works, the material amendment sought is considered reasonable.

After a comprehensive review by MARA's ARDU of the geographic boundaries of the proposed project and the coordinates provided in the original MAC 2022-MAC-007, ARDU recommend that the MAC area is defined using a Map only, showing the MAC array area outlined red, the MAC subsidiary area in black. ARDU have recommended the removing the coordinates of the vertices as originally set out within the MAC Appendix 1, for the following reasons:

1. There should be only one legal definition of the MAC area, providing more than one could lead to conflicts between the multiple definitions of the area which creates uncertainty over which MAC area definition is the true MAC area.
2. Coordinates can easily be mistyped and it is not readily evident from looking at them that they are incorrect. They must be plotted on a map to confirm correctness.
3. Areas outlined on a Map can be quickly and easily reviewed and checked for correctness.
4. Complex shapes such as a MAC area following the High Water Mark are almost impossible to define with coordinates, some shapes are impossible to define by coordinate as there may be an infinite number of coordinates i.e. curves.
5. Maps alone have been used define land parcels for centuries.

Accordingly, in line with ARDU's expert advice (to remove the coordinates of the vertices as originally provided) as outlined above.

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

As per the enclosed recommended amended MAC, no amendments to the existing conditions of the MAC or reasons for conditions are recommended.

6. Conclusion & Recommendation

Following a detailed assessment, I am satisfied that the proposed amendment complies with all the necessary requirements. Accordingly, I recommend that the MAC is amended as per the amendment sought, as per the enclosed recommended amended MAC, in accordance with Section 81 of the MAP Act. I also recommend that a determination notice, as enclosed, is issued to the holder.

Signed: _____

Date: 24/06/2024