

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:	Codling Wind Park Limited
MAC Reference No:	2022-MAC-006
Date Application received:	14 December 2023
Application Details	Codling Wind Park Limited (“CWPL”) have made an application under Section 86 of the Maritime Area Planning Act 2021 (the Act) for a material amendment to its existing Maritime Area Consent (MAC no. 2022-MAC-006) for the development of an Offshore Renewable Energy installation. MAC no. 2022-MAC-006 was previously issued to the Holder by the Minister for Environment, Climate and Communications under the first batch of Offshore Renewable Energy projects known as Relevant Projects (Phase 1 Projects) The amendment sought by CWPL is an extension of the subsidiary area for temporary demarcation buoys and a nearshore substation area along with an additional area for a nearshore section of cable; and removal of a section of export cable route from the subsidiary area.
Recommendation	To approve the Granting of the material amendment sought.

Document Control		
Prepared By:	[REDACTED]	21/08/2024
Reviewed	[REDACTED]	21/08/2024
Approved by:	[REDACTED]	21/08/2024

1. Background

A MAC was granted to Codling Wind Park Limited (the Holder) on 23 December 2022 for the construction and operation of an Offshore Wind Farm and associated infrastructure off the coast of County Wicklow and Dublin. 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 24 April 2024, CWPL submitted an application for a non-material amendment to MAC 2022-MAC-006 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-006. 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-006 and published the amended MAC on its website, replacing the original MAC.

2. Material Amendment Sought & Reasons

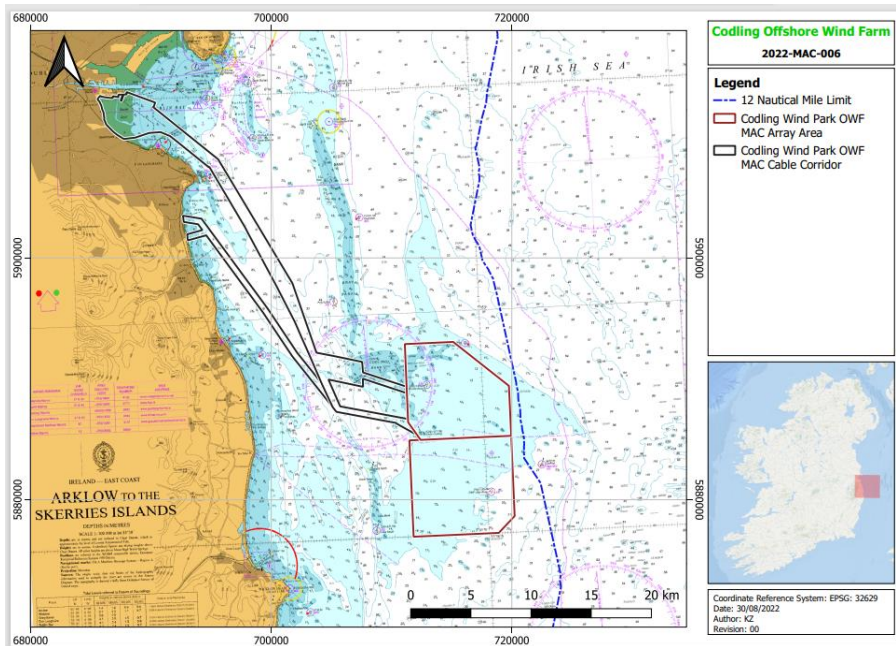
On 9 April 2024, CWPL applied for a material amendment to their existing MAC. The amendments sought includes requests to:

- increase the subsidiary area, extending the area by 500m in width on all sides of the MAC Array area to facilitate a Maritime Safety Demarcation Area;
- extend the subsidiary area to include an area on the northern shore of the Poolbeg peninsula to accommodate construction of a substation; and
- Remove the cable route from the array area to Shanganagh and Killiney from the subsidiary area.

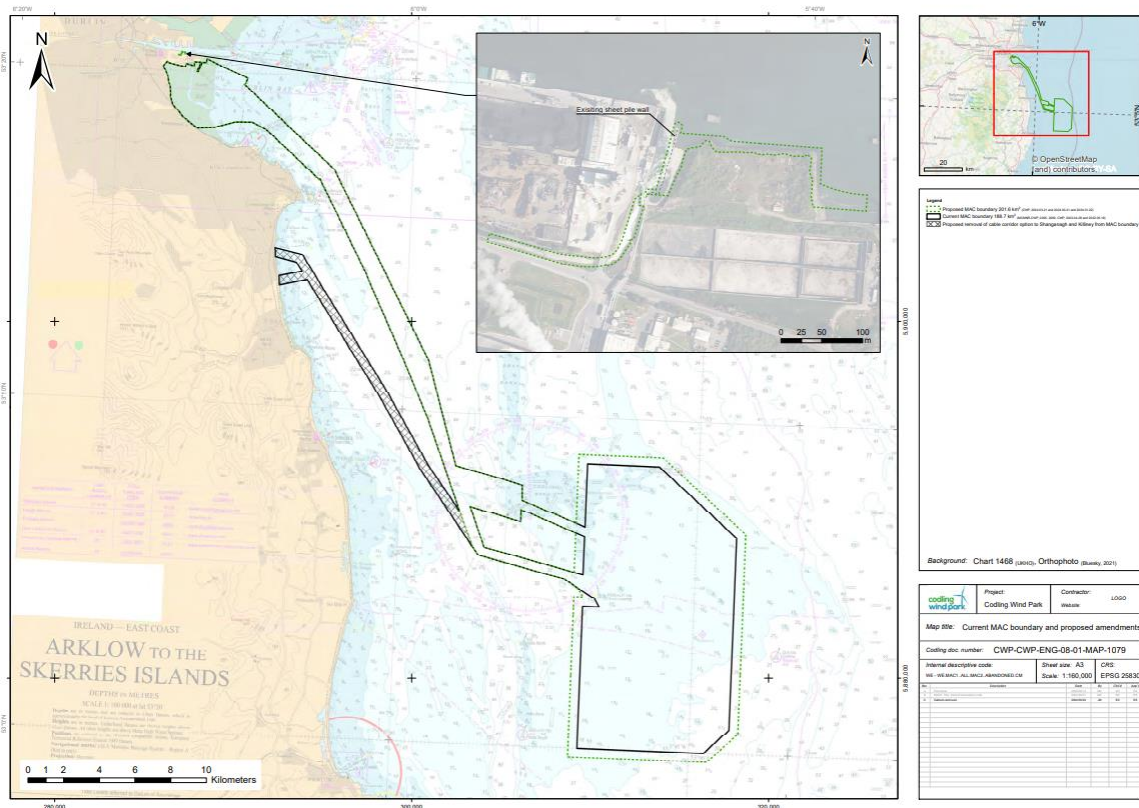
The areas associated with the proposed amendments have been calculated as follows:

- Array Area (unchanged) = 125.1km² (12,510ha);
- Subsidiary Area (Maritime Safety Demarcation Area plus the Infrastructure Corridor including the Substation Area) = 7,649.857ha (original was 6,355ha)

Original MAC Map:



Proposed Material amended MAC application as provided by applicant:



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

- *“To ensure the safety of marine users during the construction phase of Codling Wind Park (the “Project”), the Project intends to deploy temporary demarcation buoys around the perimeter of the Project array area. This temporary buoyage will indicate a safe direction of navigation to all marine users in the area. For this reason, the Project requires the extension of the array area by approximately 500m. No permanent infrastructure will be installed in the additional 500m Maritime Safety Demarcation Area as per map CWP-CWP-ENG-08-01-MAP-1065.*
- *The Project’s proposed design includes the construction of a substation and associated infrastructure at a site on the northern shore of the Poolbeg peninsula. Due to the highly constrained nature of the onshore substation site on the banks of the River Liffey, the Project is seeking an extension of the existing MAC area to include maritime areas adjacent to the onshore site. The extension is required (i) to reclaim a small section of maritime area for the construction of part of the substation; (ii) to lay cables under and over the cooling channel, adjacent to the site; and (iii) to facilitate temporary construction works. See proposed extension to the existing MAC area outlined in green in the attached map CWP-CWP-ENG-08-01-MAP-1079.*
- *EirGrid has instructed the Project to connect into the grid on the Poolbeg peninsula. As a result, the Project requests the removal from the existing MAC boundary the now redundant part of the offshore export cable route running from the array area to Shanganagh and Killiney which would have facilitated a connection to the EirGrid substation at Carrickmines. See map CWP-CWPENG-08-01-MAP-1079.”*

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 6 August 2024 and invited to make any observations or comments they may have on the material amendment application. On 6 August 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). EY have confirmed in their Financial Capability Review letter dated 21 August 2024 the change to the overall project cost is considered as immaterial and based on the risk profile a full Financial Capability Assessment was deemed as not being required. ARD have confirmed that the proposed amendment does not change the risk profile of the MAC project.

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.

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>	The Holder declared that no such offences or disqualifications apply.	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;	The Holder declared that no such offences or disqualifications apply.	Satisfactory
<p>(e) if the relevant person is a body corporate, whether it—</p> <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>	The Holder declared that no such offences or disqualifications apply.	Satisfactory
<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>	The CERU was consulted in relation to the proposed amendment and invited to make observations. The CERU returned nil observations.	Satisfactory

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 20 August 2024 and the Technical Capability Report dated 5 June 2024. A review of updated overall project costs was undertaken by EY to determine whether a full FCA was required. As reported in their Financial Capability Assessment review letter dated 21 August 2024, no assessment was required. 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 Codling Wind Park is for the development of the proposed Codling Offshore Wind Farm off the coast of County Wicklow and Dublin. This MAC also includes a subsidiary area for the proposed export cable, which consists of two potential cable export corridors, one into Shanganagh/Killiney and one into the Poolbeg peninsula.</p> <p>The applicant has applied for a material amendment to the MAC that includes:</p> <ul style="list-style-type: none"> • an increase the subsidiary area, extending the area by 500m in width on all sides of the MAC Array area to facilitate a Maritime Safety Demarcation Area; • an extension of the MAC area to include an area on the northern shore of the Poolbeg peninsula to accommodate construction of a substation; and • removal of the cable route from the array area to Shanganagh and Killiney from the subsidiary area. <p>The MAC term for the array area and infrastructure corridor for MAC 2022-MAC-006 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 main array area for the project is approximately 13 km from shore. The additional area to facilitate a substation and associated infrastructure is contiguous to the northern shore of the Poolbeg peninsula. The subsidiary area is now 7,649.857ha an increase from 6.355ha.	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: A full FCA was completed on the Holder as part of the original MAC application under which the Holder was deemed to be financial capable. A review of updated overall project costs was undertaken by EY to determine whether a full FCA was required. As reported in their Financial Capability Assessment review letter dated 21 August 24 the changes to the overall project cost resulting from the proposed amendments do not comprise a material change. Accordingly, they concluded that a full Financial capability re-assessment of the material amendment MAC application was not merited. The Holder is accordingly deemed to remain financially capable.</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. EirGrid was consulted in relation to the proposed amendment and invited to make observations. EirGrid returned nil observations.	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 'East 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 applicant has undertaken preparatory works to inform their planning application and to assist with the detail design of the proposed offshore windfarm and substation site. To date the applicant has completed the following preparatory works: - Offshore Site Investigation under Foreshore Act consents FS007546 Onshore Site Investigations have been carried out onshore (with the permission of relevant landowners) at Poolbeg to inform the development of substation site and onshore cable route options.	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 fishermen, community groups, special interest groups, 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 area. Accordingly, as per the EA report, the MAC levy remains as €2,502,000 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 in essence applied for an amendment to the MAC subsidiary 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 overall MAC area. Ultimately it will be a decision for An Bord Pleanála to decide how the development of the MAC area will proceed.

The Engineer's Report dated 20 August 2024, the Technical Capability Report dated 5 June 2024 the Financial Capability review letter dated 21 August 2024 and the General Assessment concluded that the proposed amendment(s) comply with all the necessary requirements of Schedule 5 of the Act.

The TSO (EirGrid) has instructed CWPL to connect into the grid at Poolbeg only. Accordingly having particular regard to Schedule 5 (7) in relation to consistency with the development plans of the TSO. and Schedule 5(10) in relation to stakeholder engagement, the material amendment sought to remove the cable corridor option to Shanganagh and Killiney from the subsidiary area, is considered reasonable.

DECC omitted the maritime area around the Poolbeg peninsula from the MAC area on the grounds that Dublin Port Company (DPC) held a foreshore lease in respect of part of the relevant maritime area. Although that part of the Poolbeg site was sold to Dublin Port Company, this sale while completed on 23 April 2024, is not registered (under the [Registration of Title Act 1964](#)) and therefore not considered private maritime area at the time of processing this application. Accordingly, it is accepted that the entire maritime area the subject of this application can be consented under the MAP Act as applied for.

DPC has now provided a letter of support for the substation area and the proposed amendment to the MAC. Accordingly, having particular regard to Schedule 5(10) in relation to stakeholder engagement, the material amendment sought for additional areas for the substation and nearshore cable route, are considered reasonable.

The applicant has stated a need for safety navigational markers to ensure safe navigation of all marine users. Accordingly, having particular regard to Schedule 5(3) in relation to the location and spatial extent of occupation and Schedule 5(10) in relation to stakeholder engagement, the material amendment sought to extend the subsidiary area for a maritime safety demarcation area, 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-006, ARDU recommend that the MAC area is defined using a Map only, showing the MAC array area outlined in red and 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, it is considered appropriate to amend appendix 1 of the MAC 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, the following amendments to the conditions are recommended.

- 1 The MAC Holder shall use that part of the maritime area as shown on the attached drawing(s) titled:
 - **Maritime Area Consent Map 1 of 2, Drawing Number: 2022- MAC-006-001 Rev A, dated 20/08/2024**
 - **Maritime Area Consent Map 2 of 2, Drawing Number: 2022- MAC-006-002 Rev A, dated 20/08/2024**

for the purposes as outlined in the application and for no other purposes whatsoever.

Reason: In the interest of clarity.

This is shown in the map at Appendix 1

- 2 Condition 1.1(o) is edited as follows: ***"The Infrastructure Corridor"** means that part of the Subsidiary Area in which the infrastructure, reasonably necessary to facilitate the occupation of the Array Area in accordance with this Consent is laid or installed before the Commercial Operation Date and shall not include any additional Maritime Area hereby granted on foot of an application made under Section 86 of the Act except that which forms part of the subsidiary Area identified as Areas C and D on Maritime Area Consent Map 2 of 2.*

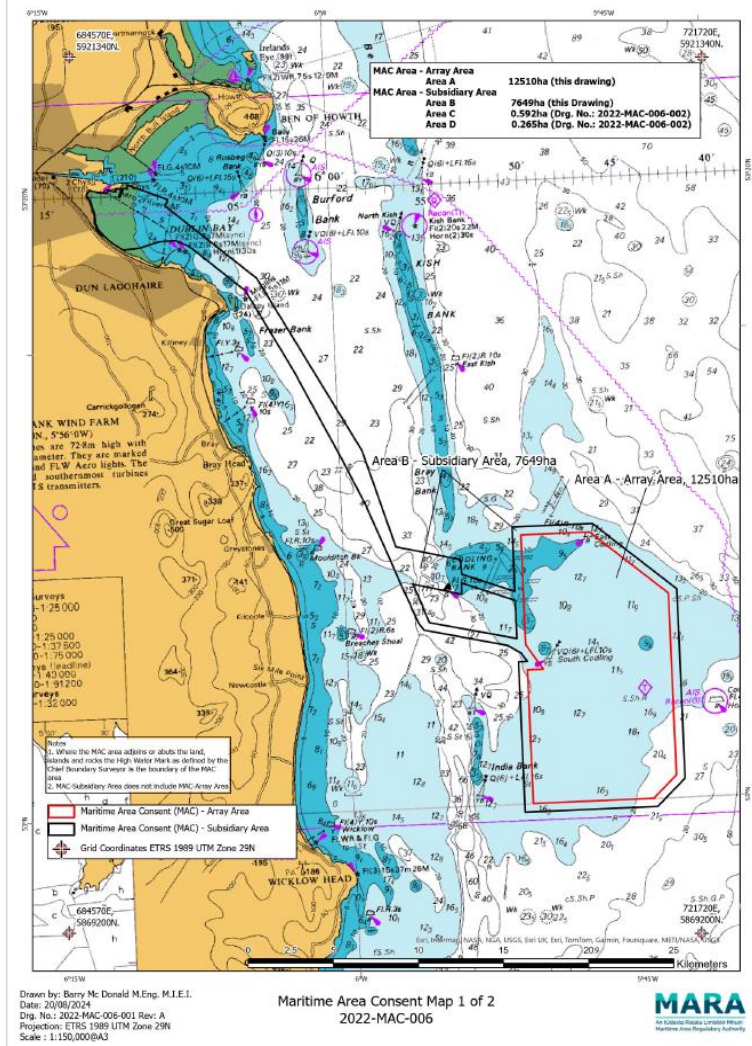
Reason: In the interest of clarity.

Ardu had also recommended the following condition in their Engineering Report.

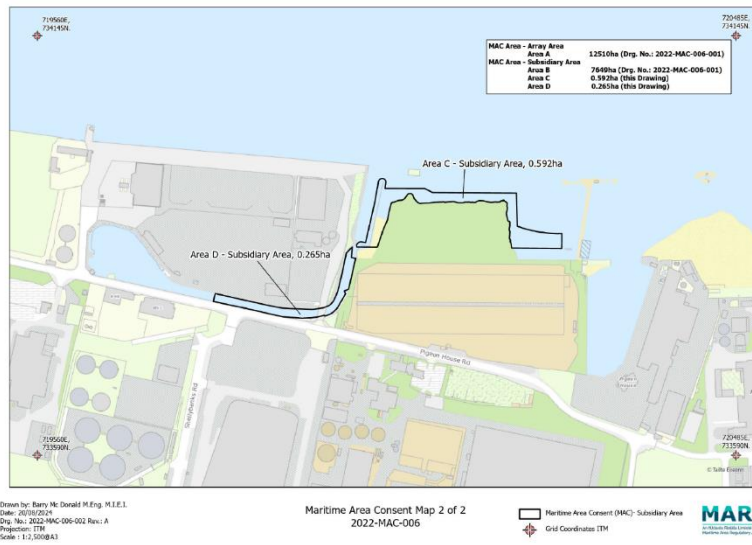
The granting, or otherwise, of this Material Amendment application for **2022- MAC-006** is not a consent to complete the Permitted Maritime Usage within any existing valid Lease(s) areas held by any third party under the Foreshore Act. Additional consent is required form the lease holder and MARA in such circumstances.

Reason: In the interest of orderly administration of the maritime area.

This is not considered as being required and has not been included in the amended MAC



Maritime Area Consent Map 1 of 2 (Rev A)



Maritime Area Consent Map 2 of 2 (Rev A)

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 minded to determination notice, as enclosed, is issued to the holder.

Signed: _____

Date: 21/08/2024