

Caseworker Report	
Application for a Maritime Area Consent (MAC) under Section 75 of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Applicant:	Kish Offshore Wind Limited (KOWL) and Bray Offshore Wind Limited (BOWL)
MAC Reference No:	MAC20230012
Date Application received:	18 December 2023
Application Details	KOWL and BOWL have made an application under Section 75 of the Maritime Area Planning Act 2021 (the Act) for a Maritime Area Consent (MAC), application reference number MAC20230012, for the construction, use, and operation, of operations and maintenance infrastructure for an offshore wind farm which includes a 60m to 70m pontoon and ancillary services, an access gangway, associated enabling works, partial removal of existing fender structure, decommissioning, demolition, and any other works required on foot of any development permission relating to the infrastructure.
Recommendation	To approve the Granting of the MAC sought, with conditions.

Document Control		
Prepared By:	██████████ Consenting Analyst	20/09/2024
Reviewed	██████████ Head of Maritime Area	20/08/2024
Approved by:	Consenting	25/09/2024

1. Background

A MAC (MAC reference number 2022-MAC-003 and 004) was granted to KOWL & BOWL on 23 December 2022 for the construction and operation of an Offshore Wind Farm and associated infrastructure off the Dublin and Wicklow coasts (Dublin Array Offshore Wind Farm). The MAC was issued 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 1 May 2024, KOWL and BOWL submitted an application to MARA for a non-material amendment to MAC 2022-MAC-003 and 004, 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 2022-MAC-003 and 004. 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 MAC 2022-MAC-003 and 004 and published the amended MAC on its website, replacing the original MAC.

On 18 December 2023 KOWL and BOWL submitted the subject MAC application (MAC20230012) to MARA under section 79 of the Act to MARA for nearshore operation and maintenance infrastructure to support the Dublin Array Offshore Wind Farm project.

The works the subject of this application form part of a proposed development of an Operation & Maintenance (O&M) Base at Dún Laoghaire Harbour. To further develop this proposed O&M Base, on 21 June 2024 Dún Laoghaire-Rathdown County Council (DLRCC), KOWL and BOWL submitted a further joint MAC application (MAC240020) to MARA under section 79 of the MAP Act for a MAC, reference MAC240020, for the demolition of certain existing structures at Dún Laoghaire Harbour and the development of a hardstanding area with drainage network, provision of utilities and an electrical substation to connect to the proposed O&M Base. MAC application MAC240020 is currently under consideration separately by MARA.

2. Consent Sought and Reasons

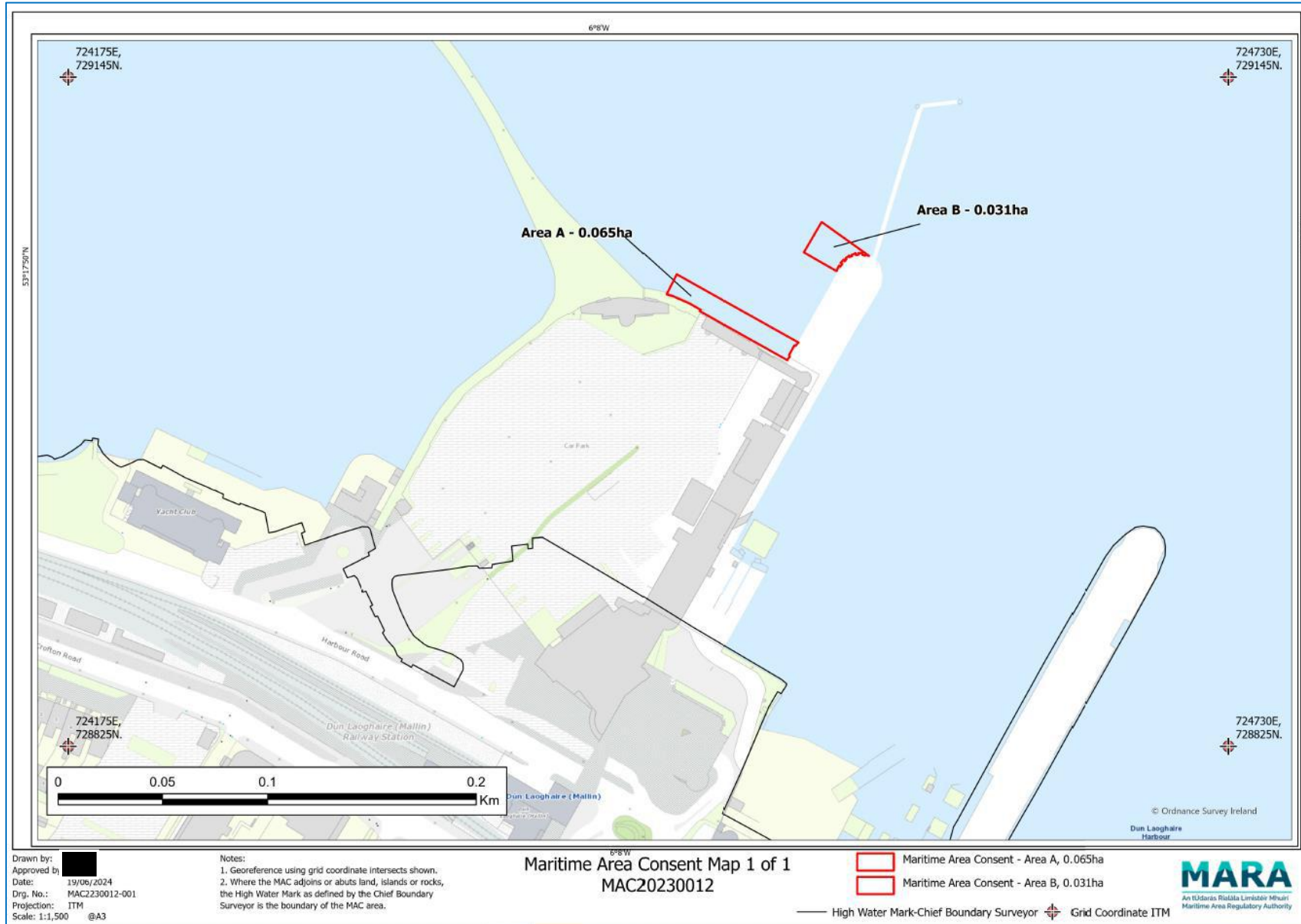
KOWL and BOWL seek consent for the installation of a 60m-70m length and c.5m wide heavy duty floating pontoon with access gangway other supporting infrastructure and associated enabling works. The applicants have stated that the pontoon and associated infrastructure will be used to support the construction, operation and decommissioning phases of the proposed Dublin Array Offshore Wind Farm.

It is envisaged that the works the subject of this MAC application will involve the installation of steel guide beams, which will be fixed to the existing quay wall in Dún Laoghaire Harbour. Once the steel guide beams have been fixed to the quay wall, it is expected that the pontoon will be towed or lifted into position. A bank seat will be installed on the existing quay wall, which will support an access gangway. The applicants have stated that infrastructure will include the necessary services required for safe CTV operation (water, electricity and waste water pump out) as well as mooring bollards, life-saving equipment, safety lighting and emergency ladders where necessary.

The proposed works also include the removal of part of the existing fender structure at the end of St. Michaels Pier. It is proposed that the fender panel as well as all supporting steelwork for the fender which tie onto the deck of St. Michael's Pier will be removed as part of the works. It is not proposed to remove the two existing tubular piles.

The proposed maritime usage the subject of this application requires development permission. In accordance with section 75 of the Act a MAC is required before an application for development permission can be lodged with the relevant consent authority.

Proposed MAC Map



3. Assessment

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

A number of requests for additional information were issued under section 79(3) of the MAP Act and associated responses received relating to matters for technical assessment and financial assessment between 11 April and 6 August 2024.

The Compliance, Enforcement & Revenue Unit (CERU) were invited on 11 September 2024 to make any observations or comments they may have on the MAC application. On 20 September 2024, the CERU responded that in respect of any existing consents granted by the State for the Maritime Area held by KOWL or BOWL, it is not aware of any non-compliances with these consents, there are no enforcement actions pending and there are no outstanding debts owed.

Schedule 5 of the Act sets out the criteria to which MARA must have regard when assessing a MAC application. The criteria are assessed under General Assessment (GA), Technical Capability Assessment (TCA), Engineering Assessment (EA) and Financial Capability Assessment (FCA).

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

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

Table 1: Schedule 2(2) Fit & Proper Person	Assessment	Satisfactory/ Not satisfactory
(a) letters of reference;	The applicant provided a letter of support from DLRCC for the proposed activities the subject of the MAC application.	Satisfactory
(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, 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.	Satisfactory
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— (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 (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;	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.	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;	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.	Satisfactory
(e) if the relevant person is a body corporate, whether it— (i) has commenced a voluntary winding-up or is subject to a winding-up order or is subject to proceedings for such an order, (ii) is subject to the appointment of a receiver or examiner, or (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;	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.	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>	<p>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>	<p>Satisfactory</p>
<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>CERU have assessed the Holder against these criteria and advised that it is not aware of any non-compliances, there are no enforcement actions pending and there are no outstanding debts owed.</p>	<p>Satisfactory</p>

A synopsis of the GA of the application relating to Schedule 5 criteria (2), (5), (6), (8) and (10) is provided in Table 2. I am satisfied that the MAC 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 EA Report dated 19 July 2024 and the TCA Report dated 24 May 2024. The FCA was carried out by MARA contractors Ernst & Young (EY) for both KOWL and BOWL as detailed in separate Financial Capability Assessment Reports, both dated 22 March 2024. A synopsis of these assessments is summarised in Table 2.

Table 2: Synopsis of the assessment of the 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	The applicants have stated that the proposed maritime usage includes the installation and use of a new heavy duty floating pontoon by crew transfer vessels (CTVs) for the construction, operation and decommissioning phases of the proposed Dublin Array Offshore Wind Farm. This application also includes all associated enabling works to facilitate the installation of the proposed pontoon infrastructure. Subject to final design, it is anticipated that the pontoon will be between approximately 60-70 metres long and approximately 5 metres wide and will include the necessary services required for safe CTV operation (water, electricity and wastewater pump out). An access gangway and associated supporting infrastructure is also intended to be installed as part of these works. The proposed infrastructure is part of the proposed Operations and Maintenance Base within Dún Laoghaire Harbour.	Satisfactory
2.	Whether the proposed maritime usage is in the public interest.	GA	The development at Dun Laoghaire Harbour is supported in national, regional, and local planning policy. The proposed project supports Ireland's transformation to renewable energies as set out in the Government's Climate Action Plan (CAP) and the National Energy and Climate Plan 2021-2030. Locating an Operations and Maintenance Base at Dun Laoghaire Harbour provides local economic opportunities as it is intended that the facility will provide a base for construction and long-term operational management services for the wind farm. The Economic Plan for Dún Laoghaire by DLRCC in November 2021 has identified that the harbour has the potential to play a key role in supporting the ORE industry.	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 O&M infrastructure is proposed to be located in Dún Laoghaire Harbour, Co. Dublin. The total area occupied by the MAC is 960m ² . 650m ² is to facilitate pontoon infrastructure, while 310m ² is for the removal of elements of the existing fender structure adjacent to St. Michael's Pier. The MAC application falls within the boundary of a Foreshore Lease application number FS006713 by DLRCC for the provision and maintenance of moorings at Dún Laoghaire Harbour. The applicants submitted a letter of support from DLRCC dated 1 May 2024 confirming that the activities proposed in the Foreshore Lease application would not be impeded by the intended proposed usage the subject of this MAC application. There are no conflicts with any existing consents or applications which should prevent the issuing of a MAC for this maritime usage.	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 TCA documentation and supporting information provided by the applicants, MARA's ARDU have assessed the applicants' technical capability and have deemed the applicants to be technically capable on the basis of the information submitted.</p> <p>FCA: Based on FCA documentation and supporting information provided by the applicants, external financial consultants, EY, deemed KOWL and BOWL as applicants to be financially capable on the basis of the information provided.</p> <p>GA: Following a detailed review and assessment of the information provided by the applicants, it is hereby confirmed that the applicants satisfy 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 certs provided for KOWL and BOWL.	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	Not applicable	Not Applicable
8.	The National Marine Planning Framework (NMPF).	GA	<p>ORE Policy 7 of the NMPF states: "Where potential for ports to contribute to ORE is identified, plans and policies related to this port must encourage development in such a way as to facilitate ORE and related supply chain activity". ORE Policy 10 states: "Opportunities for land-based, coastal infrastructure that is critical to and supports development of ORE should be prioritised in plans and policies, where possible."</p> <p>Furthermore, the project is aligned with and secures key sectoral/activity objectives in relation to Offshore Renewable Energy (ORE). This project will contribute towards a significant portion of the 2030 5 GW target and a shift away from fossil fuels.</p> <p>Having reviewed and assessed this application for a proposed ORE Operation and Maintenance Facility by KOWL and BOWL against the objectives of the NMPF, I am satisfied that the proposed maritime usage aligns with these policy objectives of the NMPF and does not act significantly against any objective within 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.	EA	The applicants have undertaken preparatory works to inform their planning application and to assist with the detail design of the proposed O&M Facility. To date the applicants have completed the following preparatory works: - <ul style="list-style-type: none"> • A review of a bathymetric survey of the area. • Existing site investigation information from previous campaigns have been provided by DLRCC and have been considered in the design process. • Consultation with DLRCC Harbour Manager. The local authority have provided a letter of support for the proposed O&M Base. The extent of the preparatory works undertaken is therefore deemed acceptable for a project of this scale and nature.	Satisfactory
10.	The extent and nature of stakeholder engagement undertaken by the applicant in respect of the proposed maritime usage.	GA	Following consultation with DLRCC, as Harbour Authority and primary stakeholder, the proposed activities the subject of this application are to be located in a part of the harbour which was previously used for commercial ferry activities and is no longer in use for this purpose. A letter of support from DLRCC has been submitted with the application.	Satisfactory
11.	Where a competitive process referred to in section 93 or 103 is used, the outcome of such process.	GA	Not applicable	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

As per the EA report, an annual MAC levy has been calculated based on the project type and proposed MAC area in accordance with MARA's MAC levy framework. Based on Part A of the Framework, the MAC levy has been calculated as € [REDACTED] per annum.

All levies are indexed to the Harmonised Index of Consumer Prices (HICP), applied on an annual basis.

5. Discussion

Based on the assessments undertaken and the EA Report dated 18 June 2024, the TCA Report dated 24 May 2024, the FCA Assessment Report for KOWL dated 22 March 2024, the FCA Report for BOWL dated 22 March 2024 and the General Assessment contained herein, I am satisfied that the proposed MAC application complies with all the necessary requirements of Schedule 5 of the Act.

While the MAC application falls within the boundary of a Foreshore Lease application for the provision and maintenance of moorings at Dún Laoghaire Harbour, the applicants submitted a letter from the lease holder confirming that the activities under the Foreshore Lease application would not be impeded by the intended usage the subject of this MAC application.

Conditions and Reasons for Conditions

Section 82 of the Act specifies that MARA may attach to a MAC one or more than one condition which falls within one or more than one of the types of conditions specified in Part 1 of Schedule 6. 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.

In addition to the above the EA Report has recommended the addition of the below conditions and reasons for these. Discussion in relation to each recommended condition is also provided below.

- *The MAC Holder shall use that part of the Maritime Area labelled Area A and B, and shown outlined red on the attached Map titled: Maritime Area Consent Map 1 of 1, Drawing Number: MAC20230012-001, Dated 19/06/2024, the subject matter of this MAC, for the purposes as 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 the MAC conditions.*

Reason: In the interest of clarity.

This condition is provided for under the description of the Consent Area under Appendix 1 of the proposed MAC.

- *The MAC Holder shall give MARA not less than 14 days advance notice in writing before the commencement of the works in the maritime area. This notification shall include an up to date Programme of Works for the completion of the project.*

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

This condition is provided for under standard Condition 7.4 of the proposed MAC.

- *The MAC Holder shall submit a valid application for development consent to the relevant Planning Authority within 18 months of issuance of the MAC.*

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

It is MARA's understanding that a single application for development permission for the overall Dublin Array Offshore Wind Farm project is proposed to be lodged. This is proposed to include development under the subject MAC, MAC 2022-MAC-003 and 004 and MAC240020. It is recommended to align the date by which an application for Development Permission must be submitted relating to the subject MAC with the date for the same as set out in the Phase 1 MAC 2022-MAC-003 and 004. Accordingly, the Particulars Schedule of the proposed MAC sets out a date of 23 December 2024 as the date by which an application for Development Permission relating to the Permitted Maritime Usage must be submitted.

- *The MAC shall have a term of not more than 45 years.*

Reason: To ensure the proper management and protection of the maritime area.

This condition is provided for under standard the Particulars Schedule and Condition 3.2.1 of the proposed MAC.

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 granted with conditions attached.

6. Conclusion & Recommendation

Following a detailed assessment, I am satisfied that the proposal complies with all the necessary requirements. Accordingly, I recommend issuing a Section 81(7)(b) Minded to Notice, as enclosed, informing the applicants that MARA is minded to grant a Maritime Area Consent subject to the proposed conditions attached to the MAC. I recommend allowing the applicants 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 applicants will be notified and MARA will publish a notice on its website as soon as practicable thereafter.

Signed: _____

Date: 25/09/2024