

Caseworker Report	
Application for a Maritime Area Consent (MAC) under Section 75 of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Applicant:	Cork County Council (CCC)
MAC Reference No:	MAC20230018
Date Application received:	20 February 2024
Application Details	CCC have made an application under Section 75(1) and Section 106 of the Maritime Area Planning Act 2021 (the Act) for a Maritime Area Consent (MAC), application reference number MAC20230018, for the construction, operation and maintenance of a facility centre for water based activities and existing car park and beach access ramp at Claycastle, Youghal, County Cork.
Recommendation	To approve the PART GRANTING of the MAC sought, with conditions.

Document Control		
Prepared By:	██████████ Consenting Analyst	06/01/2025
Reviewed	██████████ Head of Maritime Area Consenting	27/01/2025
Approved By:	██████████ Head of Maritime Area Consenting	31/01/2025

1. Background

On 20 February 2024, CCC submitted an application to MARA for a MAC for the provision of a Facility Centre (FC) for water based activities and for an existing car park and existing wheelchair accessible beach access ramp at Claycastle, Youghal, County Cork.

Claycastle Beach is located in Youghal Bay, within walking distance of Youghal Town and forms part of an approximately 5km beach stretching from Youghal Town southwest to Pillmore. It is a well-established destination for water sports, with holiday parks and watersport activity providers in the vicinity.

Existing facilities include a beachside kiosk and steps to the beach. An existing wheelchair accessible ramp and car park are also in place at the site which were previously constructed without appropriate foreshore authorisation.

2. Consent Sought and Reasons

The proposed development of the FC to be delivered by CCC at the Claycastle site has been awarded grant funding by Fáilte Ireland (FI) under its “*Platforms for Growth – A Programme for Tourism Investment 2019-2025*” (Platform 2: Facility Centres for Water Based Activities). In *Platforms for Growth* (PFG), FI state that:

“in order to be recognised internationally as a best-in-class activity destination, it is crucial that Ireland invests in compelling activity infrastructure, the visitor experience and building the capacity of the activity providers to ensure the Irish experience meets and exceeds visitor expectations. With a temperate climate, Ireland has the potential to offer high-quality outdoor experiences for a minimum of nine months of the year, however, the quality of activity experience currently lags behind international standards due to the lack of adequate visitor facilities and an ad hoc approach to the delivery of activity experiences.”

Claycastle is one of the 22 shortlisted locations for provision of these centres which follow a design-led approach, as outlined by FI, to deliver consistent, recognisable facilities and world class experiences for users at each location, delivered through collaboration with local authorities, activity operators and stakeholders, with associated cost savings from economies of scale and increased efficiency.

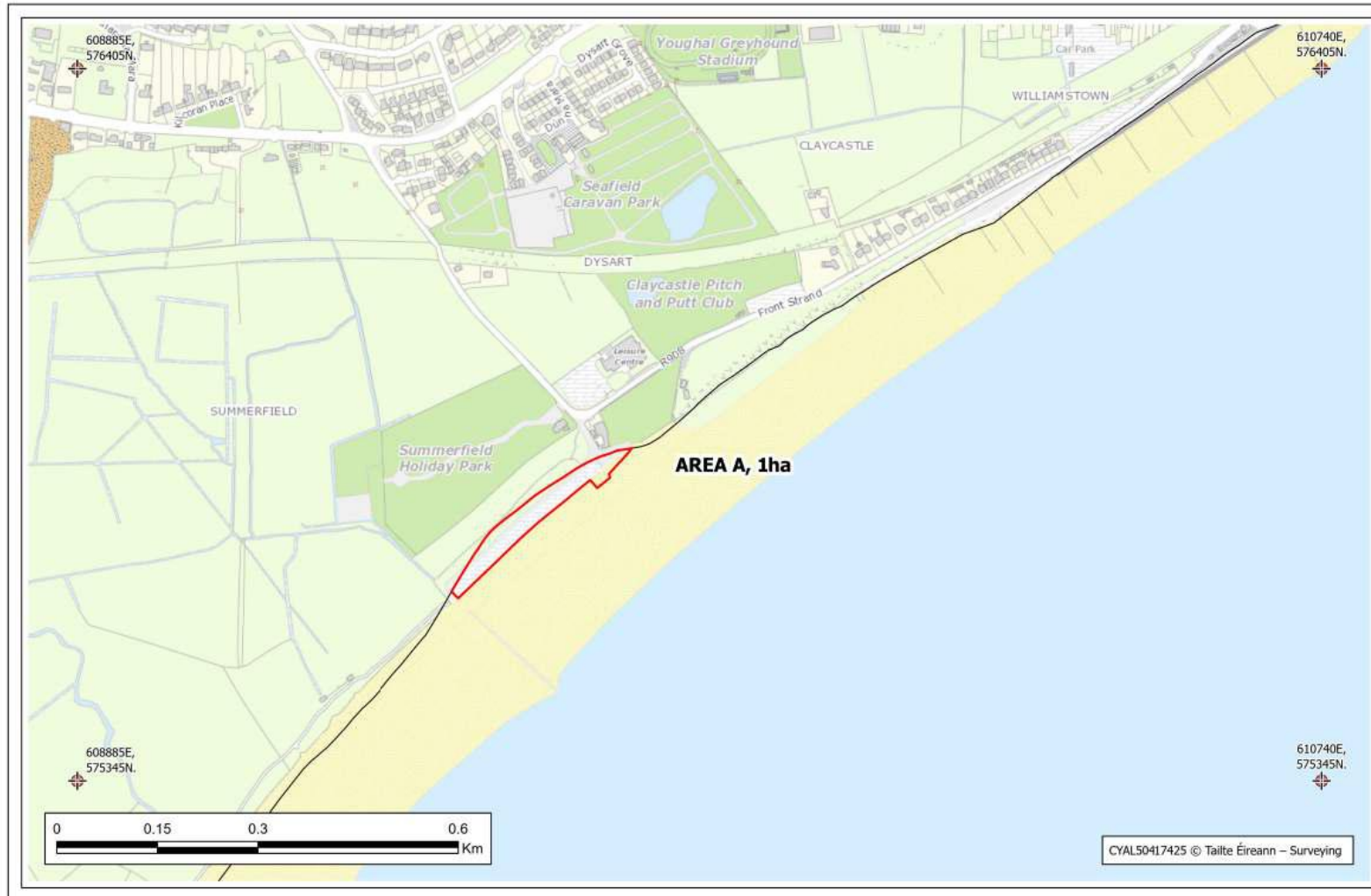
A condition of this grant scheme is that all new build facilities are required to conform to nearly zero energy building standards and be sensitively designed to integrate with the site’s natural environment and surrounding location.

The proposed works the subject of this application include such a FC with accessible changing rooms, internal and external showers, equipment wash down areas, semi-enclosed induction spaces, orientation points, security, storage, bicycle stands, plant room and associated hard and soft landscaping.

The proposed maritime usage for the FC 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.

This application further proposes the regularisation of the existing unauthorised maritime usage under Section 106 of the Act, that is the operation and maintenance of a car park, as evident on 1995 OSI Arial Photography, and a wheelchair accessible beach access ramp which was opened in 2021.

Proposed MAC Map



Drawn by: [Redacted]
Approved by: [Redacted]
Date: 23/09/2024
Dwg. No.: MAC20230018-001
Projection: ITM
Scale: 1:5,000 @A3

Notes:
1. Georeference using grid coordinate intersects shown.
2. Where the MAC adjoins or abuts land, islands or rocks, the High Water Mark as defined by the Chief Boundary Surveyor is the boundary of the MAC area.

Maritime Area Consent Map
MAC20230018

- Maritime Area Consent Area
- High Water Mark - Chief Boundary Surveyor
- Grid Coordinate Intersects ITM

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 Act and associated responses were received relating to matters for technical assessment and financial assessment between 25 April and 14 October 2024.

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 details of support by Fáilte Ireland though its PFG programme 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 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 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 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 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 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>On 15 October 2024 the applicant’s performance was reviewed in relation to any existing foreshore authorisations, maritime usage licences or MACs, granted by the State for the Maritime Area held by Cork County Council. Based on the review, MARA 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 7 October 2024 and the TCA Report dated 23 July 2024. The FCA was carried out by MARA contractors Ernst & Young (EY) as detailed in the Financial Capability Assessment Report dated 28 June 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 applicant proposes the construction, operation and maintenance of a Facility Centre for Water Sports which will include; accessible changing rooms, internal and external showers, equipment wash down areas, semi-enclosed induction spaces, orientation points, security, storage, bicycle stands, plant room, and associated hard and soft landscaping. The applicant also proposes the regularisation of existing unauthorised maritime usage that is the operation and maintenance of car park and wheelchair accessible beach access ramp. The car park is evident on the 1995 OSI Aerial Photography and the access ramp was officially opened in June 2021. The EA report notes the layout of the existing works and the proposed works in the MAC area and recommends a MAC term of 45 years.	Satisfactory
2.	Whether the proposed maritime usage is in the public interest.	GA	In accordance with Schedule 5(2) of the MAP Act 2021, when determining a MAC application, MARA shall consider whether the proposed and unauthorised maritime usage is in the public interest. The EA report notes the location as “very busy” and that it has hosted international sporting events; that the existing carpark and beach ramp are much used facilities and that every practicable opportunity to maintain and improve public access to the maritime area must be taken to ensure the proposed development is in the public interest. The EA report notes the proposal as part of FI’s PFG programme, which falls under the Irish Government’s Project Ireland 2040 National Planning Framework (NPF) strategy. PFG outlines the NPF-prescribed National Strategic Outcome of “Enhanced Amenities and Heritage” with the objective to, <i>inter alia</i> , enable access to recreational facilities with a strong emphasis on conservation, providing a wellbeing benefit for all. PFG demonstrates alignment with the Department of Transport, Tourism and Sport’s National Tourism Policy 2015: <i>People, Place and Policy, growing Tourism to 2025</i> , in which Policy 1.3.3 supports investment in assets that provide a lasting improvement in the overall quality of visitor experience. PFG further highlights alignment with NMPF Tourism, Access and Sport & Recreation Policies, while the applicant attests alignment with Regional Policy Objective 53. The proposal further aligns with Southern Region Policy Objectives for rural development and with the Cork County Development Plan 2022 and Tourism Strategy by supporting the sustainable development of tourism and leisure amenities, supporting local authorities in developing rural economies and improving access to coastal activities for all.	Satisfactory

3.	The location and spatial extent of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.	EA	<p>This application is for an area of Maritime Area adjacent to Claycastle, Youghal County Cork. The total area to be occupied by the existing car park, wheelchair accessible beach access ramp and the proposed Facility Centre for Water Sports is 1ha as shown in the proposed MAC Map. On 13 December 2024, a Title Search Requisition search was undertaken, including but not limited to a search of the Registry of Deeds, for any document granting or affecting rights to land. Based on the search MARA is not aware of any conflicts of interest affecting the proposed MAC area.</p> <p>During EA a search was undertaken on the Tailte Éireann Land Registry web service. A small section of the south western end of the proposed MAC area was identified as registered in the ownership of a third party (Folio Ref:CK172325F). As this land is considered privately owned under Section 99 of the MAP Act, it is recommended to part grant the MAC to exclude that area of Maritime Area in private ownership.</p> <p>In addition, as set out in the EA Report dated 07 October 2024, a review was undertaken of existing foreshore authorisations within the vicinity. An overlapping foreshore licence was identified in the proposed MAC area for the “Celtic Interconnector” electricity cable (foreshore ref. FS006916). The applicant is aware of interconnector and any proposed development activities the subject of this MAC are indicated to be to the east of the cable route which runs through the existing car park. Upon consideration a condition is recommended that, prior to development, the applicant shall prepare a consultation plan to engage with the licence holder; that copies of the consultation plan and records of any agreed particulars shall be maintained by the Holder and that the proposed maritime usage shall be carried out in accordance with any such particulars.</p>	Partially Satisfied
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 have assessed the applicants’ technical capability and have deemed CCC 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 CCC 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 CCC 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	CCC are assessed as being tax compliant.	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
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8.	The National Marine Planning Framework (NMPF).	GA	<p>In the application, CCC states that it will meet the environmental objectives of the NMPF and describes how the proposal is consistent with a number of policy objectives of the NMPF. FI's PFG, outlines alignment with NMPF policies for Tourism, Access and Sport & Recreation. The proposed project is considered to be aligned with and will secure key sectoral/activity objectives of the NMPF in relation to Sport and Recreation, including:</p> <ul style="list-style-type: none"> • increased participation in water-based sports and recreation activities for the benefit of public health and wellbeing, • developing our tourism offering; • protection and enhancement of the unique, natural resources which attract visitors and which are relied upon for recreational activities, such as Blue Flag and Green Coast beaches; • increased provision of physical activity and recreation amenities in our coastal and marine environment; • continued and improved access to marine and coastal resources for tourism activities and sport and recreation; • sustainable development of outdoor recreation facilities, promoting access for people of all ages, backgrounds and abilities, while encouraging the sharing of facilities where appropriate. <p>Considering the information provided by the applicant, I am satisfied that the proposal aligns with the following policy objectives of the NMPF:</p> <ul style="list-style-type: none"> • Sport and Recreation Policy 1 states that proposals that promote sustainable development of water-based sports and marine recreation, while enhancing community health, wellbeing and quality of life, should be supported, provided that due consideration is given to environmental carrying capacities and tourism pressures. • Sport and Recreation Policy 4 states that proposals that improve access to marine and coastal resources for tourism activities, and sport and recreation should be supported, where appropriate, at the applicable scale and aligned with existing development plans. • Tourism Policy 1 states that proposals enabling, promoting or facilitating sustainable tourism and recreation activities, particularly where this creates diversification or additional utilisation of related facilities beyond typical usage patterns, should be supported. • Access Policy 2 states that proposals demonstrating appropriate enhanced and inclusive public access to and within the maritime area, and that consider the future provision of services for tourism and recreation activities, should be supported, subject to the outcome of statutory environmental assessment processes and subsequent decision by the competent authority. <p>The proposed works constitute development which requires planning permission. Environmental assessment of the proposed maritime usage is undertaken at development permission stage by the relevant planning authority.</p>	Satisfactory
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			This assessment does not prejudice any consideration and determination that the relevant Planning Authority may make in relation to the NMPF when considering the Planning Application for this development.	
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 a number of preparatory works to inform their applications and to assist with the detail design of the proposed Facility Centre, including site investigations, a utilities survey and flood risk assessment. The applicant has stated that draft Part 8 Plans and Particulars have been prepared by and on behalf of CCC. 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	The applicant notes that FI's PFG programme for development at 22 locations nationwide has been widely published. CCC stated that they engaged with local commercial water sports operators as part of the initial application for inclusion in the FI programme. It was indicated in the application that it was a requirement by FI to gain the support for the application from at least two such operators within 5 km of the proposed site and the applicant states that all local operators/businesses contacted support the proposal. The proposal was presented to the East Cork Municipal meeting on 05 December 2022. The applicant submitted minutes of a meeting of the East Cork Municipal District held in Youghal on 5 December 2022, in which the proposed project was considered "a very impressive addition to the amenities and facilities for Youghal." The applicant stated that upon receipt of any MAC, they shall seek Part 8 Planning Approval for the project in the understanding that the application will undergo a public consultation process which will include the advertising of the planning application in a National newspaper and the invitation to certain prescribed bodies and other interested parties to make submissions.	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 €3,912.50 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 7 October 2024, the TCA Report dated 23 July 2024, the FCA Assessment Report dated 28 June 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, with the exception of Schedule 5(3).

The proposed MAC area has been assessed to slightly overlap with private land. Schedule 3(3) and Schedule 4(5) of the Act precludes “*any maritime usage to the extent to which it is undertaken on a privately owned part of the maritime area*” from requiring a MAC. Section 99(2) of the Act specifies that “*no part of the maritime area shall be treated at any time as privately owned land unless the part is land whose owner is, or is deemed to be, registered under the Registration of Title Act 1964.*” Accordingly, MARA may not consent to the section of the proposed MAC area that is registered as private land.

Furthermore, an overlap between the existing unauthorised carpark and an existing foreshore lease for the Celtic Interconnector has been identified. To address this, it is recommended to include a condition within the proposed MAC, requiring the preparation of a consultation Plan with the aforementioned leaseholder.

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 the subject matter of this MAC, for the purposes of, and in accordance with, the details 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 and its conditions.

Reason: *In the interest of clarity.*

This condition is included under condition 3.7 of the proposed MAC. For consistency, reference to the MAC and MAC conditions has been replaced with “this Consent”.

- The MAC Holder shall provide the Grantor a minimum of 14 days advance notice in writing of the Holder’s intention to commence the Permitted Maritime Usage.

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

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

- The applications for development permission and retention development permission, as required, must include a Rehabilitation Schedule detailing the rehabilitation of the Maritime Area before expiration of the MAC.

Reason: To ensure the orderly undertaking of the Permitted Maritime usage.

This condition is provided for under standard condition 5 of the proposed MAC.

- The MAC Holder shall maintain public access to and amenity use of Area A including the right of the public to pass and repass along a pathway of minimum 2.0m in width inside the southern boundary of Area A for the duration of the Permitted Maritime Usage. This public access, amenity use and right to pass and repass is subject to appropriate restrictions for the construction works reasonably required to conduct the Permitted Maritime Usage.

Reason: To ensure the public interest is safeguarded

This condition is included under condition 28.2 of the proposed MAC.

- Prior to the commencement of development, the Holder shall prepare a consultation plan for the engagement with relevant maritime users and specifically the following parties;
 - (a) The holder of Foreshore Licence File reference: FS006916 for The Celtic Interconnector Cable,

Copies of the consultation plan and records of agreed particulars, if any, following these consultations relating to the proposed maritime usage shall be maintained by the Holder, and the proposed Maritime usage shall be carried out and completed in accordance with the agreed particulars, if any.

Reason: To ensure the orderly undertaking of the Permitted Maritime usage.

This condition is included under condition 10.1 of the proposed MAC, amended appropriately for consistency.

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 with the exception of Schedule 5(3). A slight overlap with private land has been identified. Accordingly, it is recommended to part grant the proposed MAC to exclude the area of private land.

6. Conclusion & Recommendation

Following detailed assessment, I am satisfied that the proposal complies with all the necessary requirements, subject to the exclusion of land in private ownership from the proposed MAC area. Accordingly, I recommend issuing a Section 81(7)(b) Minded to Notice, as enclosed, informing the applicants that MARA is minded to **part 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: 31/01/2025