

Caseworker Report	
Application for a Maritime Area Consent (MAC) under Section 75 of Maritime Area Planning Act 2021 (the Act)	
Application Details	
MAC Applicant:	Mayo County Council
MAC Reference No:	MAC20230008
Date Application received:	28 March 2024
Application Details	Mayo County Council have made an application under Section 75 of the Maritime Area Planning Act 2021 (the Act) for a Maritime Area Consent (MAC no MAC20230008) for the construction, use, operation and maintenance of a flood relief scheme on the River Moy, Ballina, Co. Mayo, including all associated decommissioning, demolition, rehabilitation 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:	[REDACTED]	18 February 2025
Reviewed by:	[REDACTED]	19 February 2025
Approved by:	[REDACTED]	25 February 2025

1. Background

On 28 March 2024 Mayo County Council (MCC) submitted an application for a MAC to MARA for the construction, use, operation and maintenance of a flood relief scheme on the River Moy, Ballina, Co. Mayo.

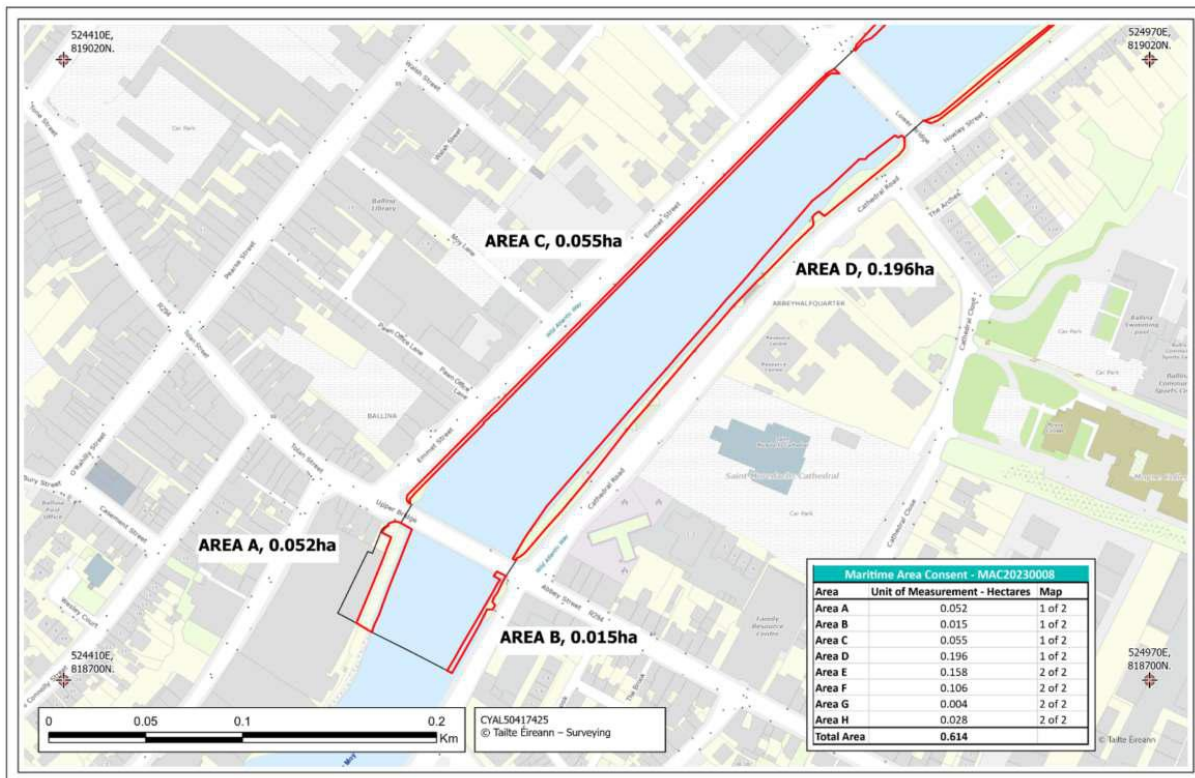
2. Consent Sought and Reasons

The proposed scheme aims to manage flooding in Ballina associated with the River Moy and its tributaries including the Quignamanger Stream, Bunree Stream, Brusna River and Tullyegan Stream. According to the applicant, a combination of flood walls, flood embankments and the construction of new or replacement culverts in the maritime area is required to alleviate this flooding, as outlined in Table 2 below.

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 planning authority.

Proposed MAC Maps




Map 1 of 2



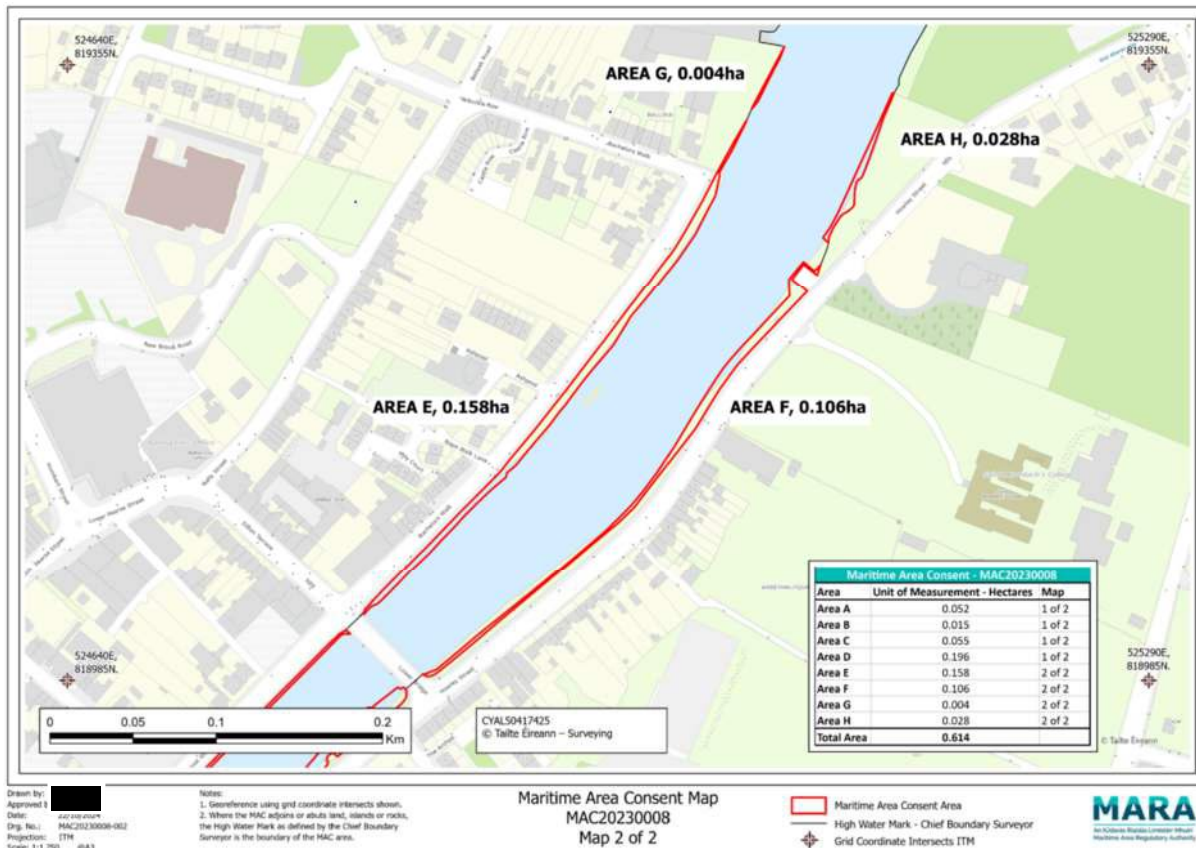
Drawn by: [Redacted]
 Approved by: [Redacted]
 Date: 22/03/2024
 Dwg. No.: MAC20230008-001
 Projection: ITM
 Scale: 1:1,500 @A3

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
 MAC20230008
 Map 1 of 2

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

Map 2 of 2



3. Assessment

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

On 10 October 2024 the applicant submitted a revised MAC application form, MAC Map and GIS data removing spatial overlaps with maritime areas registered in private ownership (see Folio Numbers on Tailte Éireann at <https://www.LandDirect.ie>: MY41551F, MY52992F, MY484L and MY80711F) that were present within the original application.

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) of the Act is set out in Table 1. Fit & proper person criteria set out under Schedule 2(2)(g) and (h) of the Act have been assessed separately under the TCA and FCA, respectively.

Table 1: Schedule 2(2) Fit & Proper Person	Assessment	Satisfactory/ Not satisfac- tory
(a) letters of reference;	No letters of reference were provided. A letter was submitted from the OPW committing to funding the proposed project, which noted the OPW <i>National Catchment Flood Risk Assessment and Management Programme (2018)</i> , which includes a flood risk management plan for Ballina. MCC, with their agents, have demonstrated that they possess the requisite technical knowledge and qualifications to undertake the proposed maritime usage.	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, MARA contractors, Ernst & Young (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

<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>	<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>(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>On 02 January 2025 the applicant's performance was reviewed in relation to any existing consents granted by the State for the Maritime Area held by MCC. 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 below. 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 Technical Capability Assessment Report dated 4 November 2024 and Engineering Report dated 4 November 2024 respectively. Relevant assessment details are summarised in Table 2.

The FCA was carried out by MARA contractors Ernst & Young (EY) as detailed in the Financial Capability Assessment Report, dated 26 June 2024. Relevant assessment details are 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	<p>The proposed scheme aims to manage flooding associated with the River Moy and its tributaries including the Quignamanger Stream, Bunree Stream, Brusna River and Tullyegan Stream. A combination of flood walls, flood embankments and the construction of new or replacement culverts is required to alleviate this flooding. The proposed flood protection works is stated to include the following works at the following locations:</p> <ul style="list-style-type: none"> • Ballina Manor Hotel – proposed flood walls of at least 1.1m in height and 50m in length on the left bank in the maritime area, excavations of 2m deep x 1.8m wide and foundation for a total flood wall length of 115m; installations of a stone ramp and cofferdam are further proposed to facilitate works; • Emmet Street – proposed temporary working area for the reconstruction of the existing stone wall 278m in length on the left bank along the high water mark; • Bachelors Walk – proposed excavation of a 2m deep x 1.8m wide trench to accommodate the foundation for flood walls on the left bank of up to 1.1 m in height and approx. 538m in length, with approx. 100m in length in the maritime area; it is proposed that a cofferdam will be installed on the river side of a berm to facilitate construction works. • Ridgepool Road – proposed excavation 2m deep and 1.8m wide and foundation for flood walls along the right bank of up to 258m in length, with additional access steps for fishers. • Cathedral Road – proposed raised public amenity area to act as a flood defence of up to 0.6 m height and 275m in length, with 200m straddling the high water mark along the right bank of the river; it is further proposed to upgrade an existing fishers’ ramp. • Clare Street – proposed flood wall of up to 1.1 m height and 454m in length along the right bank of the river straddling the high water mark, with excavation of a 2m deep x 1.8m wide trench to accommodate the foundation. • Quignamanger Stream – proposed replacement of culvert under Quay Road and removal of another culvert downstream of Quay Road. It is further proposed that baffling will be installed to improve fish passage. <p>Operation, inspection and maintenance of the proposed scheme will be carried out by MCC. The proposed MAC area includes work areas to facilitate the above proposed works.</p>	Satisfactory

2.	Whether the proposed maritime usage is in the public interest.	GA	<p>According to MCC, the proposed scheme aligns with the following National policies:</p> <ul style="list-style-type: none"> • <i>National Planning Framework 2040;</i> • <i>National Development Plan 2021-2030;</i> • <i>National Marine Planning Framework 2021;</i> • <i>Climate Action Plan 2023;</i> • <i>Climate Change Sectoral Adaptation Plan for Flood Risk Management 2019-2024;</i> • <i>National Flood Policy 2024;</i> • <i>The Planning System and Flood Risk Management 2009;</i> • <i>National Catchment-based Flood Risk Assessment and Management (CFRAM) Programme River Basin Management Plan for Ireland 2018 - 2021;</i> • <i>Draft River Basin Management Plan for Ireland 2022 – 2027;</i> • <i>National Adaptation Framework 2018;</i> <p>and with European policies:</p> <ul style="list-style-type: none"> • <i>EU Directive on the Assessment and Management of Flood Risks (2007/60/EC);</i> • <i>EU Strategy on Adaption to Climate Change 2021; and</i> • <i>EU Floods Directive (2007/60/EC).</i> <p>MCC state that the proposed works will reduce flooding damage and remediation costs and facilitate future development by MCC of the riverfront area. They also state that improved facilities for fishers, provision of upgraded public areas and overall improvement to water quality resulting from the proposed activities will encourage increased tourism and further economic development in Ballina.</p>	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 includes for the capital dredging of eight areas (Areas A to H) of Maritime Area, measuring 0.614ha in total, along the River Moy and its tributaries including the Quignamanger Stream, Bunree Stream, Brusna River and Tullyegan Stream.</p> <p>On 16 January 2025 a Title Search Requisition was undertaken, including but not limited to a search with Tailte Éireann of the Land Registry and Registry of Deeds, for any documents granting or affecting rights to land. Based on this search, MARA is not aware of any conflicts of interest affecting the proposed MAC area.</p> <p>As set out in the EA Report dated 04 November 2024, a review was undertaken of existing foreshore authorisations within the vicinity of the proposed MAC area. While a number of overlapping privately registered lands were identified within the originally proposed MAC area, MCC submitted a revised application form, map and GIS files on 10 October 2024 removing overlaps with private lands from the proposed MAC area. Based on the searches undertaken, MARA is not aware of any conflicts with any existing consents or applications which should prevent the issuing of a MAC for this maritime usage.</p>	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	TCA: Based on TCA documentation and supporting information provided by the applicants, MARA have assessed the applicants' technical capability and have deemed the applicants to be technically capable on the basis of the information submitted. FCA: Based on FCA documentation and supporting information provided by the applicants, external financial consultants, EY, deemed MCC as applicants to be financially capable on the basis of the information provided. 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).	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	Applicant is 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

8.	The National Marine Planning Framework (NMPF).	GA	<p>One of the overall Economic objectives of the NMPF is to promote “the sustainable development of a thriving ocean economy”. In the application the applicant notes the River Moy as one of Ireland's most productive and internationally recognised salmon rivers and describes how the proposed works are necessary to facilitate the sustained and continued economic development of the area.</p> <p>An overall Tourism objective of the NMPF is to maintain natural marine and coastal areas, which are a significant factor in bringing tourism and revenues to coastal communities in Ireland.</p> <p>I am satisfied that the proposed works align with the above overall objectives and with the following policy objectives of the NMPF:</p> <ul style="list-style-type: none"> • Co-existence Policy 1 – proposals that demonstrate consideration on how to optimise the use of space, including consideration of opportunities for co-existence and co-operation with other activities, enhancing other activities where appropriate, should be supported. • Infrastructure Policy 1 – appropriate maritime infrastructure which facilitates land based activity should be supported. • Tourism Policy 1 – proposals enabling, promoting or facilitating sustainable tourism and recreation activities should be supported. <p>In the application, the applicant states that the proposed project is consistent with the environmental objectives of the NMPF. The proposed works constitute development which require planning permission and environmental assessment of the proposed maritime usage, which is undertaken at development permission stage by the relevant planning authority.</p> <p>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.</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	<p>MCC has stated that to date they have undertaken the following preparatory works to inform a planning application and assist with the detail design of the proposed Flood Relief Scheme:</p> <ul style="list-style-type: none"> • Flood wall condition surveys; • Topographical Survey of the River Moy and the Quignamanger Stream; • Terrestrial Ground Investigation Survey; • Environmental Baseline Surveys of the River Moy and tributaries; • Hydrological and hydraulic model build; and • An EIAR is also being prepared. <p>The extent of the preparatory works undertaken is deemed acceptable for a project of this scale and nature.</p>	Satisfactory

10.	The extent and nature of stakeholder engagement undertaken by the applicant in respect of the proposed maritime usage.	GA	<p>The applicant described the following engagement activities undertaken to date:</p> <ul style="list-style-type: none"> • A workshop with government bodies and local organisations; • Two public information evenings; • Details for public consultation were posted on the Ballina Flood Relief Scheme (FRS) Website (www.ballinafrs.ie) which allowed members of the public to submit comments; • 69 Government, national and local bodies were identified as stakeholders for consultation and four stakeholder consultations were completed with these bodies between July 2020 and February 2023; and • Information is also published by OPW at the following URL: https://www.flood-info.ie/frs/en/ballina/home/ 	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 €2,465.00 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 04 November 2024, the TCA Report dated 04 November 2024, the FCA Assessment Report dated 26 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.

As recommended in the EA Report, the following Permitted Maritime Usage has been included within the recommended MAC:

“The construction, use, operation and maintenance of a flood relief scheme on the River Moy, Ballina, Co. Mayo, including all associated decommissioning, demolition, rehabilitation and any other works required on foot of any development permission relating to the infrastructure”

for a term of 45 years.

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 has been included, as recommended, under Condition 3.7 of the proposed MAC. For consistency, reference to the MAC and MAC conditions has been replaced with “this Consent” and “MAC Holder” has been replaced by “Holder”.

- 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 already provided for under Condition 7.4 of the proposed MAC.

- The Holder shall submit an application for Development Permission relating to the Permitted Maritime Usage the subject of this Consent on or before the date set out in the

Particulars Schedule. This date may be extended on request in writing by the Holder and provided the Grantor is satisfied that there are reasonable grounds for doing so and the extension does not constitute a material amendment to this Consent. The application for Development Permission shall have attached to it a Rehabilitation Schedule, within the meaning of section 95 of the Act.

- **Reason:** To ensure the orderly undertaking of the Permitted Maritime usage. This condition is already provided for under the Particulars Schedule and Condition 5.1 of the proposed MAC.

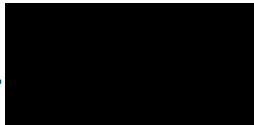
It is considered that the application for a MAC complies with all the requirements of Part 4 of the Act, with particular regard to Schedule 5 criteria. Accordingly, it is recommended that the proposed MAC is granted.

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: _____

25/02/2025