



Aquaculture Licences Appeals Board

## Technical Advisor's Report

Appeal(s) Reference No:

1. AP32/2019
2. AP49/2019

**Final Report**

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## Summary Description

<b>Description:</b>	Cultivation of mussels using longlines on the foreshore at Glanlough in Bantry Bay, Co. Cork.
<b>Licence Application</b>	
<b>Department Ref No:</b>	<b>T05/430A</b>
<b>Applicant:</b>	West Cork Seafoods Ltd.
<b>Minister's Decision:</b>	Grant of Aquaculture Licence
<b>Appeal</b>	
<b>Type of Appeal:</b>	Appeal(s) against the decision by the Minister for Agriculture, Food and Marine to grant Aquaculture and Foreshore Licences to West Cork Seafoods Ltd. For the cultivation of mussels using longlines.
<b>Appellant(s):</b>	<b>AP32/2019</b> – Ian Leslie Stretch <b>AP49/2019</b> – Bantry Inshore Fishermen
<b>Observers:</b>	N/A
<b>Technical Advisor:</b>	Altermar, Marine and Environmental Consultants
<b>Site Inspection:</b>	5 <sup>th</sup> August 2020

## 1.0 General Matters / Appeal Details

This report constitutes a complete account of technical advice and information provided to the Aquaculture Licence Appeals Board (ALAB) to support its assessment of the appeals submitted in respect to the granting of aquaculture application reference number T05/430A in Bantry Bay, Cork.

### 1.1 Appeal Details & Observer Comments/Submissions

#### Date Appeal Received:

Appeal Number	Date Received by ALAB
AP 32/2019	20 <sup>th</sup> November 2019
AP 49/2019	26 <sup>th</sup> November 2019

#### Location of Site Appealed:

Appeal Number	Location of Site Appealed
AP 32/2019	Glanlough, along the south shore of Bantry Bay, County Cork.
AP 49/2019	

### 1.2 Name of Appellant(s):

Appeal Number	Appellant	Address
AP 32/2019	Ian Leslie Stretch	Loughaninish, Glenlough, Bantry, Co. Cork.
AP 49/2019	Bantry Inshore Fishermen	Ahakista, Durrus, Bantry, Co. Cork. Trafrask West, Adrigole, Beara, Co. Cork.

### 1.3 Name of Observer(s):

No official observations outside of Appellants/Applicants responses were submitted/received.

### 1.4 Grounds for Appeal

The grounds for appeal for each Appellant are summarised below.

Appellant 1	Ian Leslie Stretch	AP32/2019
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#### Issues

#### 1. Carrying Capacity

The Appellant suggested that the subject area is currently over-exploited in terms of aquaculture and commercial activities and any further aquaculture activities will have a detrimental effect on fish stocks.

#### 2. Lack of EIA

The Appellant expressed dissatisfaction that there was no Environmental Impact Assessment carried out as part of the decision-making process.

#### 3. Site Suitability (weather)

The Appellant questioned whether the location of the proposed site is too exposed to “Atlantic fronts and high swells”, which could result in damage to infrastructure.

#### 4. Site Suitability (visual impact)

The Appellant expressed concern over the potentially obtrusive impact of the licenced activities in an area of immense scenic beauty, particularly as there are more suitable locations already supporting licensed activities elsewhere in the Bay that would prove less obtrusive.

## 5. Cumulative Impacts

The Appellant noted the extent of commercial activity in the area, both on land and in sea, and argues that the *“density of commercial exploitation is far too intense”* for the area.

## 6. Amenity Impact (tourism)

The Appellant drew attention to the area’s popularity with tourists and a growing leisure economy, with proposed activity potentially impacting this important industry.

## 7. Statutory Consultees

The Appellant maintains that some of the bodies consulted during the statutory consultation process are not suitable/relevant and that there may be a conflict of interest, while also maintaining that other relevant bodies were not consulted.

## 8. Public Consultation Process

The Appellant maintains that the aquaculture licence approval process is flawed as public requests for information were not adequately facilitated.

## 9. Alternative Siting

The Appellant maintains that there is no evidence that alternative, *“more suitable”* sites were explored as locations for development.

## 10. Site Designation Process

The Appellant questions the legitimacy of the process for designating an area of Bantry Bay as a ‘Shellfish Growing Area’.

## 11. Legal Requirements

The Appellant argues that the Applicant is legally allowed to operate a stated number of longlines and the proposed application will see the Applicant exceed this quota.

## 12. Ownership Issues

The Appellant questions the legitimacy of claims made by the Applicant and repeated throughout the application documentation that the Applicant is in ownership of Gearhies Pier. Instead, the Appellant cites documentation that implies alternative ownership of this site by Cork County Council.

## 13. Licencing Process

The Appellant argues that the Applicant has links to a third-party who has had an application lodged for “two decades” which has, in effect, “obstructed” all other parties from attempting to obtain a licence.

## 14. Sentimental Value

The Appellant argues that the area is a location of immense sentimental value due to historical events that occurred, namely the death of eight fishermen in an incident in 1918.

### Issues

#### 1. Cumulative Impacts

The Appellant expressed concern about the impact that an additional licenced activity will have on the existing fisheries and aquaculture activities.

#### 2. Site Suitability

The Appellant questioned the suitability of the site and whether adequate research has been carried out to investigate the potential damaging effects of storm surges. They claim the site is in an exposed area and there is significant potential for storm damage to take place during inclement weather.

#### 3. Impacts on Herring

The Appellant raised concerns on the impact the mussel farm practices may have on the spawning grounds of herring.

#### 4. Threats to Shellfish

The Appellant maintains that mussel farming will lead to an increase in the population of starfish which will, in turn, significantly threaten local shellfish and shellfish fisheries.

#### 5. Consultation Process

The Appellant raised concerns that adequate consultation with key, local stakeholders did not take place, highlighting a failure on behalf of the Department and its officials.

### 1.5 Minister's Submission

Section 44 of the Fisheries (Amendment) Act 1997 part 2 states that:

*"The Minister and each other party except the Appellant may make submissions or observations in writing to the Board in relation to the appeal within a period of one month beginning on the day on which a copy of the notice of appeal is sent to that party by the Board and any submissions or observations received by the Board after the expiration of that period shall not be considered by it".*

**No submissions are enclosed from the Minister in the light of appeals.**

### 1.6 Applicant Response

The Applicant may submit a response to appeal submissions under the provision set out in Section 44(2) of the Fisheries Amendment Act 1997 which states:

*"The Minister and each other party except the Appellant may make submissions or observations in writing to the Board in relation to the appeal within a period of one month beginning on the day on which a copy of the notice of appeal is sent to that party by the Board and any submissions or observations received by the Board after the expiration of that period shall not be considered by it."*

## Responses from Application Ref No. T05/430A

The Applicant made two separate submissions as respondent to other Appellant submissions. The Applicant responses of the 22<sup>nd</sup> May 2019 and 15<sup>th</sup> January 2020 are outlined here and where possible the issue addressed is referenced back to the appropriate Appellant(s).

### (i) Threats to Shellfish (Appellant 2 – Bantry Inshore Fishermen)

The Applicant has responded to the claims of Appellant 2 that the addition of the proposed mussel farm to Bantry Bay would threaten livelihoods of locals as mussels attract starfish which will, in turn, see the reduction in shellfish stocks. The Applicant argues that since the introduction of mussel farming in 1982 the *“fishing of potted shrimp and swimming crab has increased”* due to the shelter and food that is attributed to mussel lines. Furthermore, the Applicant states that starfish are a concern to both mussel farmers and inshore fishermen.

In a further response, dated 15<sup>th</sup> January, the Applicant reiterates these statements and adds that cooperation between both parties (Applicant and Appellant), with *“support from BIM”*, should be sought to reduce the effect of starfish.

### (ii) Amenity Impact (tourism) and Cumulative Impacts (Appellant 1 – Ian Leslie Stretch)

The Applicant made a broad statement that acted as a response to several of the Appellants' arguments against the proposed activity, in particular the suggestions that there has been a *“steady decline in the rugged beauty [of the area] due to the two processing factories”*. The Applicant argues that the aforementioned industries employ *“over 120 people locally”* and also result in multiple indirect employment opportunities in other sectors. It is stated that mussel exports from the area *“are in excess of €3million”* and that aquaculture, as a sector, offers the *“only viable industry”* in rural sea communities, such as those in Bantry Bay.

### (iii) Ownership Issues (Appellant 2)

The Applicant has provided a scanned copy of a Land Register Folio Map (No. 36789f) which, it is claimed, indicates that the Applicant's father is in ownership of Gearhies Pier. However, it is stated that Cork County Council maintain the pier and that a public right of way exists. This is in response to the suggestion by the Appellant that Cork County Council are the owners of the pier.

### (iv) Site Suitability (Appellant 2)

The Applicant argues that there has been *“considerable”* improvement in the *“mooring systems for the aquaculture industries”* which will improve the safety and production of the farm.

### (v) Impacts on Herring (Appellant 2)

The Applicant acknowledges that the area was traditionally an important location for herring fishing, however, it is claimed that herring fishing has declined significantly over-time. The Applicant states that, to their knowledge, *“no herring have been landed at Gearhies pier”* in 30 years.

## 1.6.1 Additional Submissions/Responses

In addition to the formal appeals, two further submissions were received in response to the application for license with reference number T05/430A. These are summarised below:

### T05/430A - Submission 1 (Valerie Bush)

The Party responsible for the submission, received by email on 06/01/2020, stated their *“dismay”* at their perception that *“few, if any”* of the comments or observations made by the local community were considered by the Minister when passing judgement. They ask that the following points raised throughout previous observations are re-considered:

1. Overusing the area;
2. Other sites are more suitable [for activity] yet are left “*defunct*”;
3. The “impartiality of [the] review by the Marine Institute is vague”
4. The “*record of the applicant in past enterprises is certainly documented*”
5. Ownership of Gerahies Pier
6. The impact on the natural environment and an area of natural beauty

The statement continues by highlighting a need to address the “*environmental impact and the degradation of the Sheephead peninsula by commercial development*”. Furthermore, the statement argues that the area has become known for tourism and its immense scenic beauty due to the relatively undisturbed and remote nature of it. It has been “unexploited” until recently, however this has been jeopardised by recent commercial developments and increasing road traffic.

### **T05/430A - Submission 2 (Michael and Donna O’Driscoll)**

A submission was received on 13/01/2020 where the Party responsible sought to outline their opposition to the decision by the Minister to grant the aquaculture licence. In a broad opening statement, it is argued that: the concentration of “*multiple marine industries*” has negatively impacted the area; there are concerns about the past practices of the Applicant; there was a disregard for the economic and environmental interests of the wider community; a lack of supporting evidence for decision-making; an absence of an Environmental Impact Statement; and, a lack of stakeholder engagement.

Additionally, detailed comments were made under two main themes: ‘Inadequate Standard of Review’ and ‘Adverse Effects on the Tourism Economy’. Summary descriptions of the comments contained under each theme are provided below.

#### Inadequate Standard of Review

1. It is argued that there is no documentary evidence provided to support the ministerial decision. References to “*scientific advice*” have not been elaborated upon or supported by proof of such advice;
2. It is claimed that the subject site is “*exposed to frequent high winds, heavy swells and storm surge*” and, therefore, other sites (T05/306A, T05/069A, T05/69B and T05/433) under licence by the Applicant which are currently unused would prove more suitable alternatives. In addition, the legal validity of the current application is questioned as it is claimed there is “*no information at all*” on licence number T05/430 A&B being granted or denied, an application that relates to the Applicant
3. It is stated that there has been insufficient research undertaken into the effects of the mussel farm on either the existing wild fisheries or the economic impact on the fishermen.
4. An argument is made that Failte Ireland were not consulted with prior to a decision on the application. It is claimed that this is particularly important considering the tourism potential of the area and the stated objectives in Cork County Council’s Development Plan to protect and enhance tourist assets ( Core Strategy Objective 4.4; 8.2.1 and 13.7.1)
5. It is stated that sufficient consultation with “*major stakeholders*” and, in particular, the surrounding community in relation to decision-making on behalf of the Department failed to take place.



## Adverse Effects on the Tourism Economy

1. The area is designated as a *“Very High Value Landscape, Very High Sensitivity Landscape, Nationally Important Landscape, and an Area of Strategic Tourism Potential”* and it supports significant tourism and associated services industries. It is claimed that the continued expansion of commercial activity, which includes the Applicant’s proposal, is having an adverse impact on the tourism industry, an industry which generates *“far more income for many more people”* than the mussel farm could. It is claimed that no proper assessment of the impact on the tourism and services sectors has been carried out.
2. The statement in the minister’s decision that *“the proposed development should have a positive effect on the economy of the local area”* is contested as it is claimed that *“should have”* is insufficient and a detailed review of the performance of existing marine industries is required. The persons responsible for the submission argue that the existing marine industries have been performing poorly and have a *“problematic”* history, unlike the tourism enterprises that will be impacted negatively, but have *“demonstrated the capacity for sustainability”*
3. It is claimed that the Applicant, and associated companies, have *“breached [previous licence] conditions with impunity”*, resulting in the accumulation of waste and other dumped material in the area.

### **T05/430A - Submission 3 (Finnian O’Driscoll)**

A submission was sent by email by Finnian O’Driscoll on 01/01/2020 outlining eight observations (summarised below):

- 1) West Cork Seafoods state the area in question is a *“designated shellfish growing area”*. This was contended as *“any area of the country which has an Aquaculture Licence to grow shellfish is therefore in fact a Designated growing area.”*
- 2) In relation to economic benefits *“due to toxins absorbed in the summer months which would render the shellfish unsafe for consumption , the growers specifically altered their cycle to have mature Mussels ready for the Autumn Winter market from November to May approximately, 60-70 percent of Bantry Bays Mussels go straight to the European continent for the fresh shellfish market. Before 2010 there was two Mussel Factories in the area but with the large Bantry Bay Seafoods plant which would Have processed most of Bantrys Mussel now defunct and turned into a FinFish utility there now is little option but to ship direct to Europe. This is costly as the grower has Freight, pallet and Mussel bag which are not returned to cater for which amounts to €115 per Ton approximately yet the price per Ton of Mussel has not increased in over a decade, therefore surely with the amount of already omnipresent idle Mussel growing areas in Bantry Bay there is every possibility of flooding this seasonal market thus negatively impacting on the present growers who are producing Mussels for export continuously with years of a virtuous track record.”*
- 3) *“The Marine Institute’s decision to undertake the screening matrix for this licence was vacuous in my opinion, it should have stood aside when as it’s stated in the appeal it has grounds leased from a family member of West Cork Seafoods, better yet to have sought an area such as from the Port of Cork which operate Bantry Marine and Pier, that way it would have avoided this issue and the money used for the grounds could have been put back into the area from Port of Cork .”*
- 4) *“Abandoned Sites, as stated axiomatically in the appeal there are a number of unused sites for Mussels already licenced in outer Bantry Bay, Most of these are nearer Bantry which would be more prudent to operate as would be less of a journey for Boats.”*
- (5) *“Fastnet Mussels as you see from documentation provided already applied in 1998 for this licence along with T05/430B, On examining the coordinates from then and the present applications they are for the same area however the latter applications take in more area due North. Why has the Department not clarified why the 1998 application was not dealt with, also why does Fastnet who by the Departments website hold a number of licences for Mussel growing not use these, its quiet extraordinary that if companies/families are not using*

*their licences which apparently is in contravention to protocol that this somehow is advantageous to acquiring more licences.”*

*6) “As stated and well known is that just East of this licence lies the Salmon farm T05 122/N1 which suffered huge storm damage in February 2014, this resulted in a major fish escape and ended up with the Department unsuccessfully attempting to revoke the licence in the High court, perversely this current licence was granted West of here which goes against all scientific advice pertaining to climate and more frequency of storm surges predicted. The fact that the site at Gortnakilla has been unused for a decade would indicate its folly to licence this area, also the fact that the accompanying licence T05/430B was correctly refused means that the original claim by the applicant of six jobs is not accurate and should have been redressed by the Department prior to this appeal because it appears it is not financially viable nor environmentally so to ruin such a salient area of natural beauty for an unneeded licence.”*

*(7) “The issue raised with accompanied documentation about the ownership of Gearhies highlights the Departments desultory efforts pertaining to all matters associated with the Statutory public consultation process, it also clearly defines the presumptive arrogance of a person to lay claim to a structure hundreds of years old and which public money has been used to upkeep.”*

*(8) In addition it is stated that there is “a clear apathy associated with the Department, BIM and the Marine Institute which further foments the public perception, these are public bodies and it’s now time for them to address the fact there’s ample area in Bantry already to grow Mussels, it’s quiet extraordinary that at no point has it been stated this licence is actually needed, as outlined a huge Mussel processing Factory was left mutate from shellfish to finfish production, these unused licenced areas with the exception of T5/408 which was an egregious decision to grant anyway must be dealt with, I cannot see why these sites are not demanded by the Department to start production again, revoking the licences as was the case with the Salmon Farm would lead almost definitely to legal action thus more taxpayer money used, No one has called for a stop to grow Shellfish in Bantry but just to utilise the area there already and liase with current growers who are producing sufficient tonnage and perhaps they can grow more if markets dictate. I understand this is a long submission however it cannot be overstated the current state outer Bantry Bay is at and the North Side of the Sheep’s Head Peninsula where this latest licence has been granted. Ministers come and go and I am sure are only acting on the advice of the relevant divisions so I call on the ALAB board to please overturn this licence T05/430A and preserve this most outstanding area of the Peninsula.”*

## 2.0 Oral Hearing Assessment

In line with Section 49 of the Fisheries Amendment Act 1997 an oral hearing may be conducted by the ALAB regarding the license appeals.

**An oral hearing was not requested by any of the Appellants.**

## 3.0 Minister's File

In line with particulars of Section 43 of the Fisheries Amendment Act 1997 the following documented items were sent to the ALAB from the Minister and were reviewed:

- Copy of the submission to Minister;
- Copy of the application form maps and drawings,
- Copies of reports received in relation to the application;
- Copy of the Screening Matrix for Aquaculture activities in Outer Bantry Bay;
- Copies of the Draft Aquaculture and Foreshore Licences;
- Copy of the notification of the Minister's decision to the applicant;
- Copy of the applicant's reply to the public and statutory comments;
- Location map of the surrounding area including the following;
  - Sites under application;
  - Licensed sites; and,
  - Sites currently under appeal (if any).

ArcGIS shapefiles were also sent from the Department to Altemar Ltd. for the review.

## 4.0 Context of Area

This Technical Advisors Report considers two separate appeals (AP32/2019 & AP49/2019) that relate to an application for an aquaculture licence (T05/430A). The proposed site is located on the southern shore of Bantry Bay, near the Townland of Glanlough. The following sections provide an overview of Bantry Bay and the relevant factors to be considered as part of an assessment of each appeal.

### 4.1 Physical Descriptions

Bantry Bay (Figure 1) is a marine inlet located in south west County Cork. It is the largest of the marine inlets in south-west Ireland at approximately 35 km in length, running in a south-west to north-easterly direction. The entrance to the Bay is approximately 10 km wide, steadily narrowing to 3-4 km at its head. Bere Island, situated on the north shore, adjacent to Castletownbere, and Whiddy Island lying near the head of the Bay on the southern shore are the two largest islands in the Bay. The Bay is relatively deep in nature, with 20 – 30m water depth at its head.

The main population centres around the Bay include Bantry (2,722, Census 2016), Castletownbere (860, Census 2016), Durruss (305, Census 2016) and Kilcrohane (127, Census 2016). The Bay is part of the West Cork Municipal District, an administrative area in County Cork with a population totalling 57,052 as of 2016.

Bantry Bay is located in temperate climate with the closest weather station being Sherkin Island Marine Station (24 km to the south), which has on average over 1200 mm of rain per annum Figure 5. It has a 30 year long term average Max of 18°C (July/Aug) and Min of 5°C (January/February). It is predominantly SW facing and therefore open to the prevailing south westerly winds, which tends to be the direction of the wind for around 35% of the time, with winds above Beaufort Force 4 (irrespective of direction) occurring for 50% of the time in south-western Ireland.

The extreme ambient seawater temperature range for Bantry Bay is from 4°C (rarely, in January or February) to 23°C (rarely, between July and September). There is little temperature variation with water depth in the winter months, due to vertical mixing. However, during the summer, a thermocline can develop in deeper areas, giving a vertical temperature gradient between the seabed (cooler) and the surface.

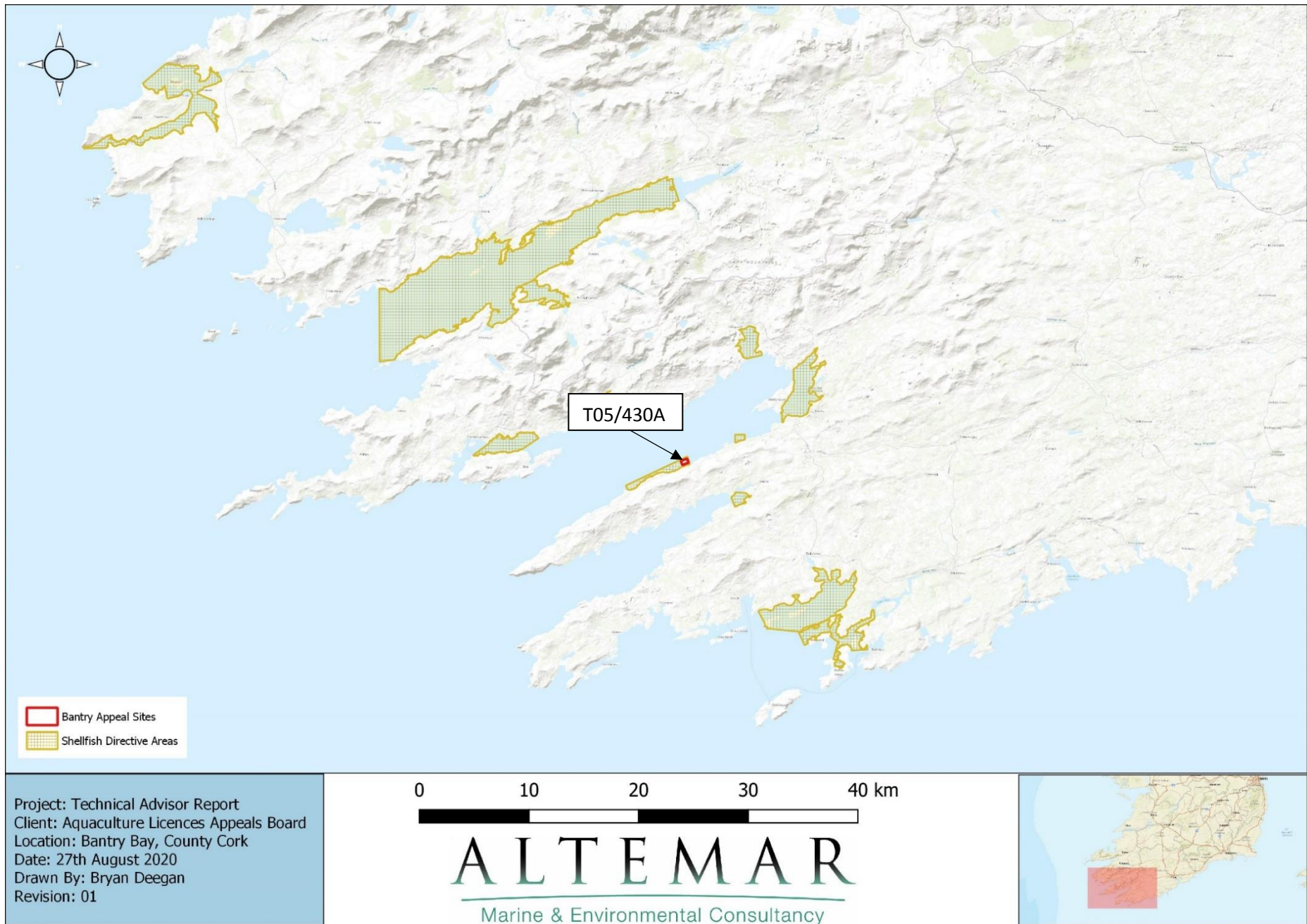


Figure 1. Appeal Site and Shellfish Directive Areas

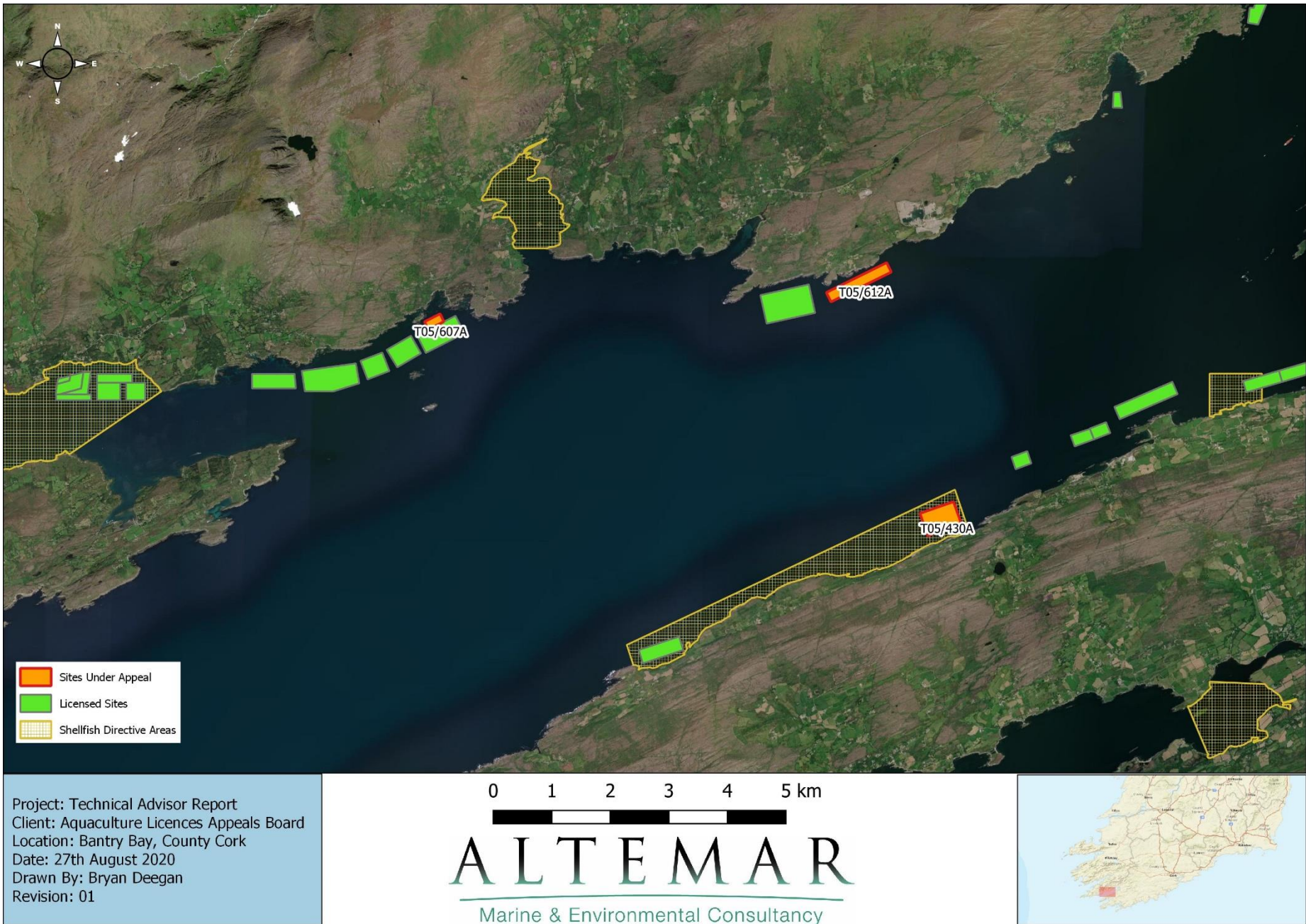


Figure 2. Aquaculture Licence sites and sites under appeal



Project: Technical Advisor Report  
 Client: ALAB  
 Location: Bantry Bay  
 Date: 1st September 2020  
 Drawn By: Bryan Deegan  
 Revision:01

0 240 480 960 Meters

**ALTEMAR**  
Marine & Environmental Consultancy



Figure 3. Appeal site T05/430A

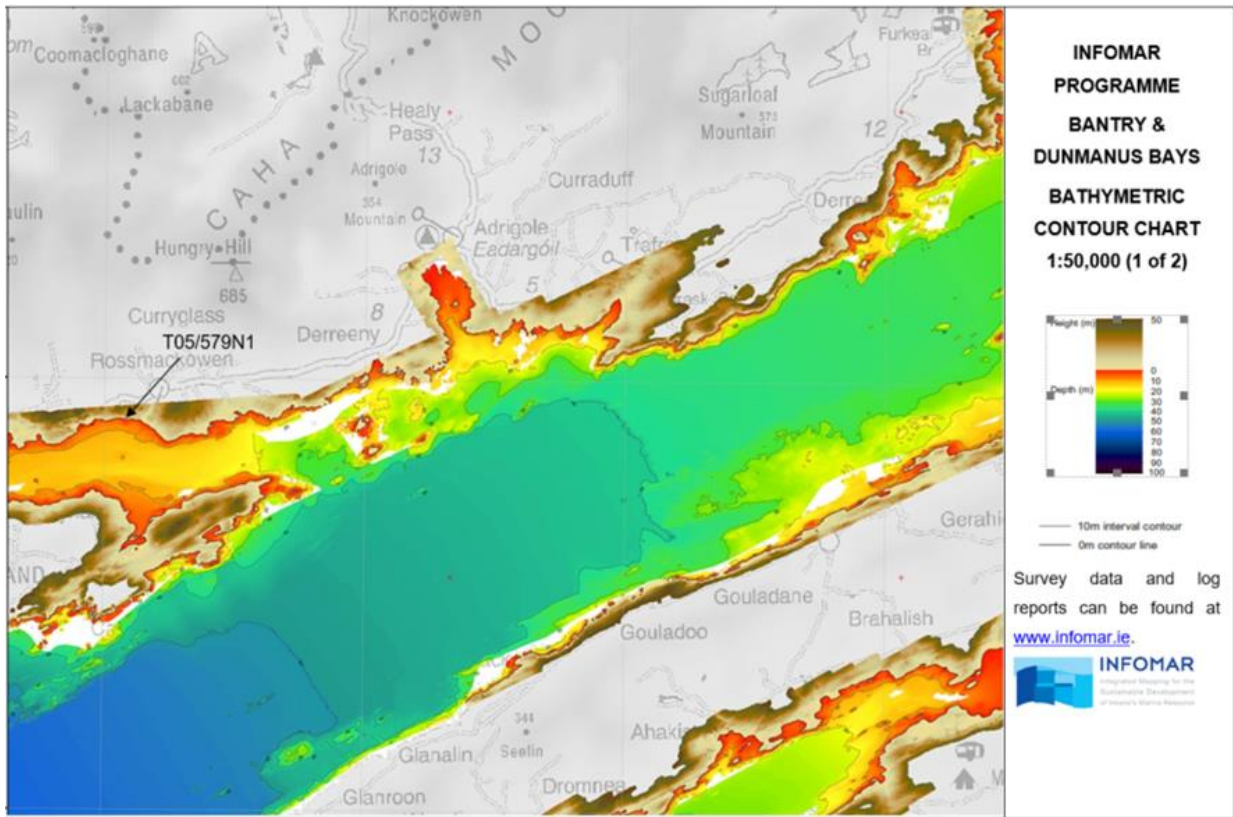


Figure 4. Bathymetric contour chart for Bantry Bay, INFOMAR

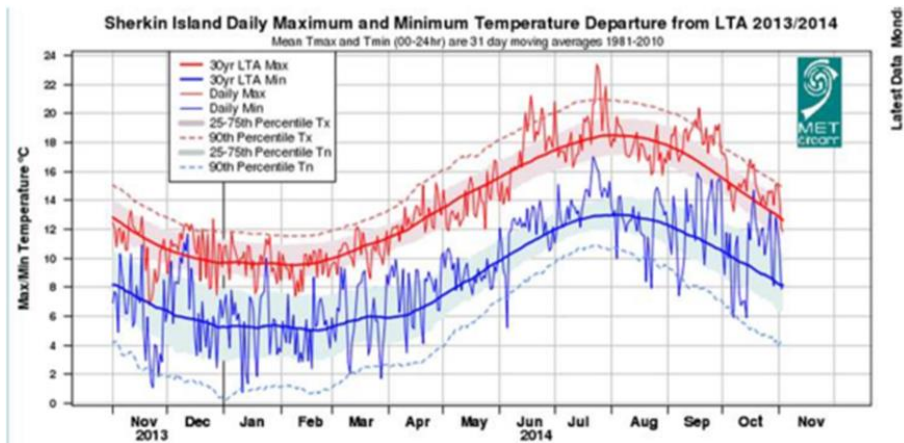
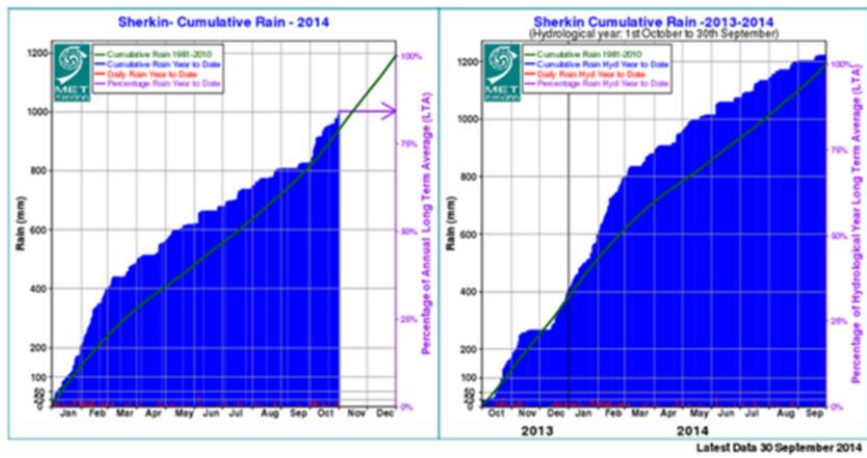


Figure 5. Sherkin Island meteorological trends, Met Eireann



## 4.2 Resource Users

### Aquaculture Activity

Fisheries and aquaculture are a significant sector in Ireland's economy, with the overall value of seafood exports estimated at €564 million in 2015. In their 2016 development strategy FLAG South stated that in the previous year the "largest Irish seafood export by value is pelagic (€204m, 36%), followed by crustaceans (€113m, 20%), freshwater fish (€85m, 15%), molluscs (€82m, 15%), whitefish (€53m, 9%) and fish meat and oil (€26m, 5%). Sectorally, shellfish led the way – rising 12% to €195 million; followed by salmon – where exports increased to an impressive €75 million; and whitefish – where exports grew by 7% to €53 million. The only decline in 2015 was seen in pelagics, where exports fell 7% to €204 million as a result of falling trade and market prices"<sup>1</sup>.

Bantry Bay is a major centre for marine aquaculture activities, with a range of licenced facilities in operation. Oysters, clams, abalone, urchins, scallop, mussels and finfish are cultured in the bay, while applications to culture macroalgae exist. In total there are 75 recorded aquaculture licences in Bantry Bay, four of which are 'Under Appeal', while the remaining 71 are licensed. The following table provides a breakdown of the aquaculture sites that are recorded.

Aquaculture	Method	Status	No. Licensed
Finfish	Intensive	Licensed	5
Finfish	Intensive	Under Appeal	1
Seaweed	Extensive	Licensed	4
Seaweed	Extensive	Under Appeal	2
Shellfish	Extensive	Licensed	62
Shellfish	Extensive	Under Appeal	1

The table below is adapted from an Environmental Impact Statement that was prepared as part of the Bantry Harbour Development<sup>2</sup> in 2010. It references information provided by BIM (data attributed to Mr John Denis, BIM) that indicates the importance of aquaculture (specifically rope mussel and salmon) for the local economy, in terms of both revenue and employment. Rope Mussel aquaculture activity in Bantry Bay accounts for approximately 22% of total National production and this amounts to 17% of the total revenue generated nationally. These figures showcase the substantial positive impact that this industry has on the local economy of the Bantry Bay area.

		Bantry Bay		% of National Total	
		Rope Mussel	Salmon	Rope Mussel	Salmon
Employment	Full-time	12	10	18.5	9.0
	Part-time	9	16	11.0	30.2
	Casual	17	0	15.3	0
	Total	37	26	14.3	15.9
Production	Volume (tonnes)	1,923	1,882	21.9	12.0
Sales	Value (€)	1,087,014	8,972,640	17.0	12.7

<sup>1</sup> <http://www.bim.ie/media/bim/content/funding-forms/flags/6083-BIM-FLAGS-South-Strategy-1.pdf>

<sup>2</sup> [https://www.housing.gov.ie/sites/default/files/foreshore-applications/application-documents/eis\\_part\\_9.pdf](https://www.housing.gov.ie/sites/default/files/foreshore-applications/application-documents/eis_part_9.pdf)

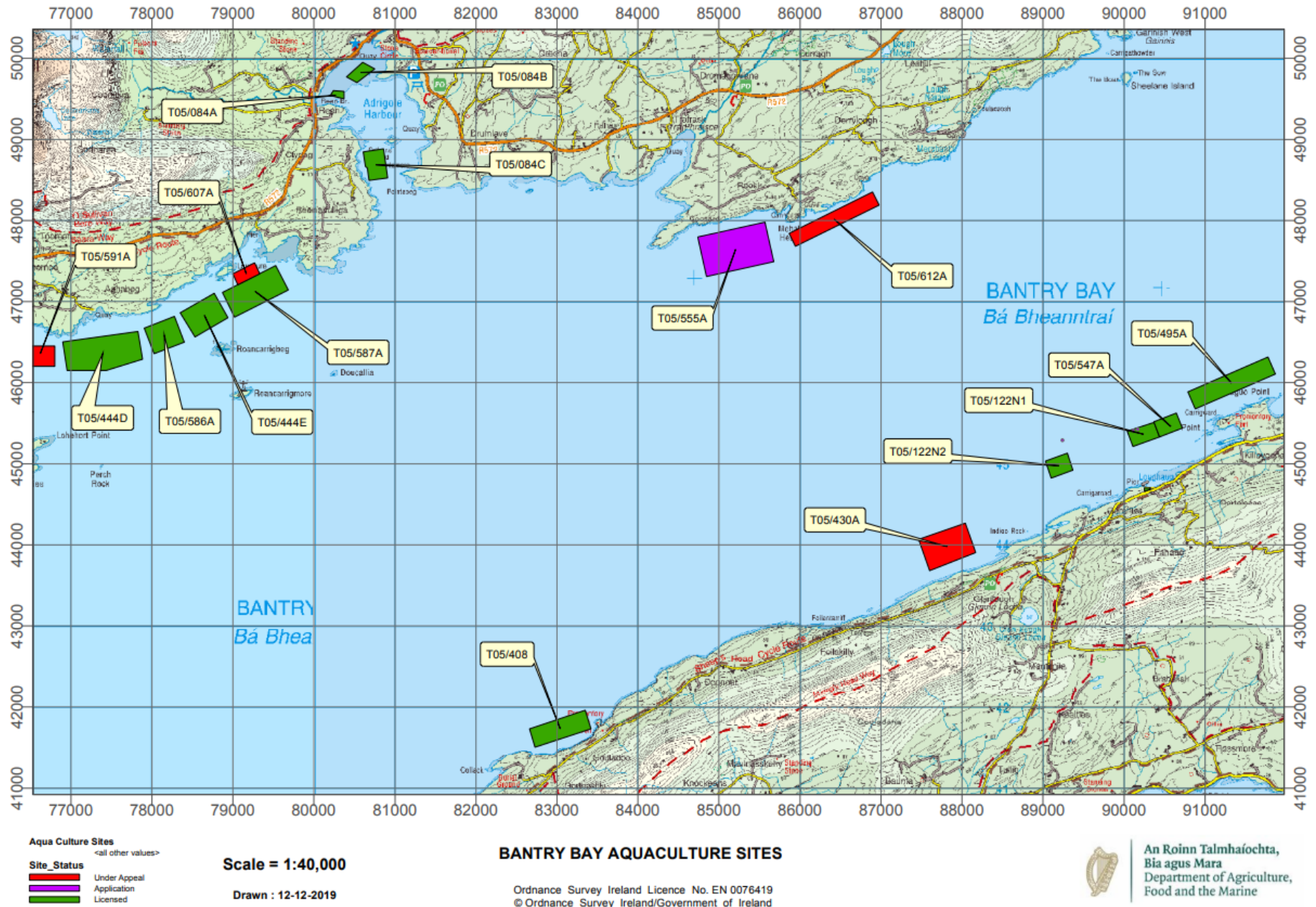


Figure 6. Bantry Bay Aquaculture Sites, DAFM

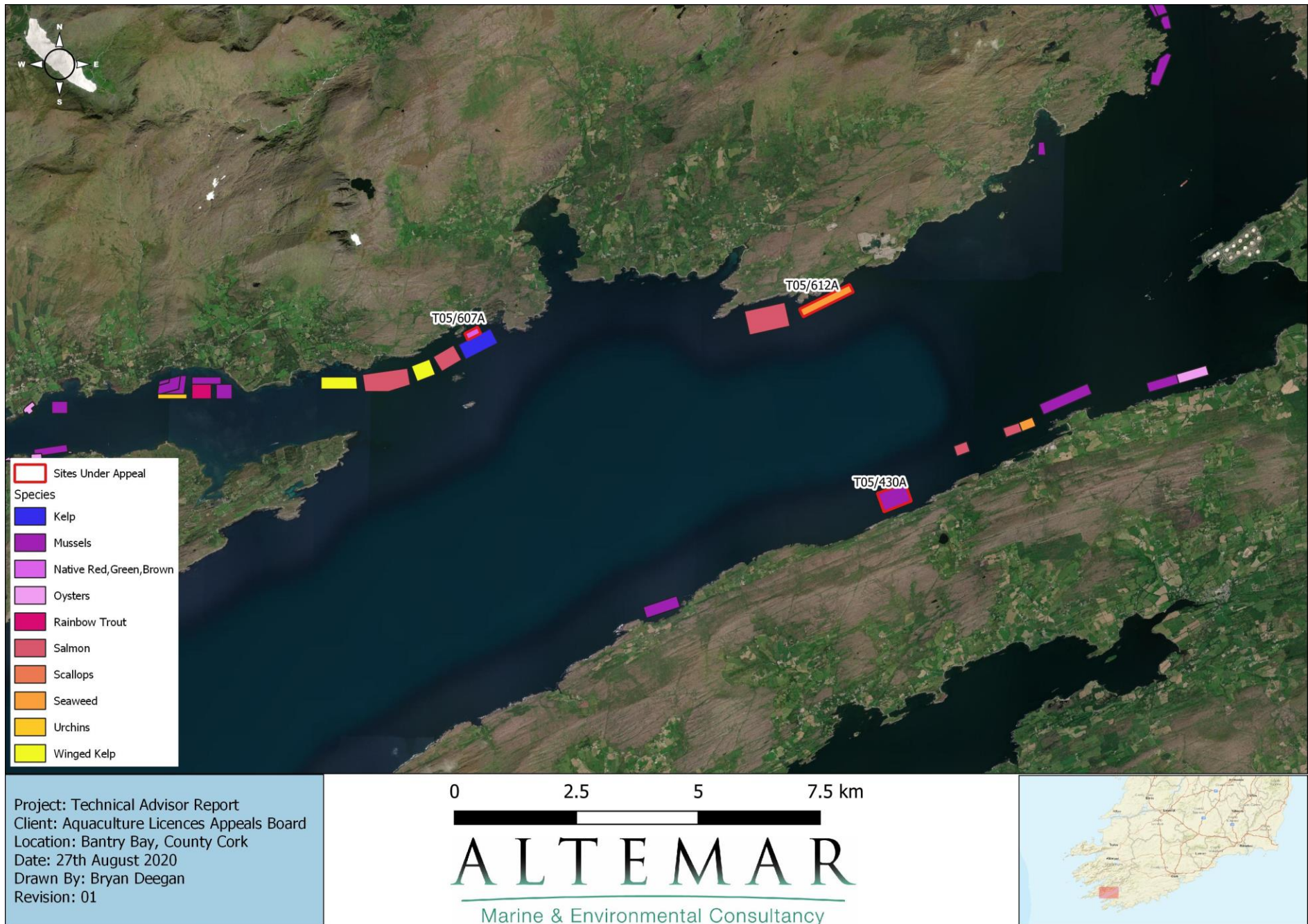


Figure 7. Aquaculture sites (species) in Bantry Bay

### Finfish:

Of the six finfish aquaculture sites that exist, five are licensed while the remaining one is currently under appeal. Five of the sites, including the license currently under appeal, are Salmon farms, while the sixth site is a Rainbow Trout farm.

Salmon farming appears well established in Bantry Bay with four fully licensed facilities, two operated by Murphy's Irish Seafood Ltd. and two operated by Comhlucht Iascaireachta Fanad Teoranta. Salmon farming is an intensively farmed aquaculture type. Marine finfish farms can be associated with increased nutrient levels in waters, arising from fish excretion and excess feed input. The Bantry South Characterisation Report identified no "marine point source pressures", such as those arising from finfish farms, in the vicinity of the shellfish area.

### Seaweed:

There are six sites where the cultivation of seaweed is undertaken, or is due to be undertaken. Four sites are fully licensed while there are two which are under appeal. A range of seaweed species are cultivated, with Kelp the most common. Other species cultivated include: Native Red, Green and Brown; Dulse; Nori; Oarsweed; and, Devil's Apron.

Of the six seaweed aquaculture sites two are operated by Allihies Seafood Ltd., with another two operated by Wild Atlantic Sea Products (including site T05/612A which is under appeal). A further site is operated by the Marine Research Station, while the final site is an application by Dingle Bay Seaweed Ltd., and subject to appeal (T05/607A).

### Shellfish:

Shellfish aquaculture is encouraged within Designated Shellfish Areas as per the European Communities (Quality of Shellfish Waters) (Amendment) Regulations, 2009 (S.I. No.55 of 2009). There are 63 Designated Shellfish Areas in Ireland. There are six Designated Shellfish Areas in Bantry Bay:

- **Adrigole Harbour** lies within Adrigole Harbour on the northern shore of Bantry Bay, and is 1.4 km<sup>2</sup> in area. It includes the relatively sheltered inner part of Adrigole Harbour, and the more exposed outer area south of Orthon Island
- **Bantry Inner** is 11 km<sup>2</sup> in area and is located due south from Ardnamanagh South on the mainland to Whiddy Point East on Whiddy Island, and from Cusroe on Whiddy Island due south to the mainland near Dromclough, with the exclusion of Bantry Harbour. This is the largest designated shellfish area in Bantry Bay.
- **Bantry South** is 2.9 km<sup>2</sup> in area and is located on the southern shoreline of Bantry Bay, extending out in the bay along the shoreline from Collack to Indigo Rock (Site **T05/430A** is located within the Bantry South Shellfish Area).
- **Castletownbere** lies between Bere Island and the mainland, on the northern shore of outer Bantry Bay. It is 6.2 km<sup>2</sup> in area, and its boundaries are the northern shore of Bere Island eastwards from Sheep Islands to Donegans Point, thence from Donegans Point across Berehaven to Coarrid Point on the mainland, westwards along the mainland coast from Coarrid Point to Minanekeal, and from Minanekeal across Berehaven back to Sheep Islands.
- **Glengariff** is located at the north-eastern corner of Bantry Bay. The designated shellfish area is 4.1 km<sup>2</sup> in area and includes all of Glengariff Harbour. The southern boundary of the designated area is a line from Big Point on the western side of Glengariff Harbour entrance to a point immediately south of Illauncreeven on the eastern side of Glengariff Harbour.
- **League Point** is 0.5 km<sup>2</sup> in area and is located on the southern shoreline of Bantry Bay, extending out into the Bay east of League Point.

Shellfish cultivation is by far the most common form of aquaculture activity being undertaken in Bantry Bay, with 62 licensed sites and one under appeal (**T05/430A**). Mussels tend to be the species of shellfish that are predominantly cultivated, accounting for 55 of the 63 sites. Of the remaining sites, there are five Oyster farms, two Scallops' farms and a single Urchin facility.

The Sea Fisheries Protection Authority (SFPA) prepared a Sanitary Survey Report of the Adrigole Harbour Classified Protection Area (CPA) in 2016<sup>3</sup>. Regarding aquaculture activities, it states that rope mussel aquaculture see annual production rates of approximately 60 tonnes and is "*classified as B for Mussels and B for Oysters*". Intertidal cultivation of *C. gigas* oysters is said to have commenced in 2013 on one oyster farm, with two more applications in existence, which "*currently has 1-2 tonnes of market size oysters*".

Biotoxin testing of shellfish cultivated on sites in the bay is performed regularly and it offers an indication of the health status of these species. Over a five-year period between July 20<sup>th</sup> 2015 and March 9<sup>th</sup> 2020, a total of 207 samples of *Mytilus edulis* were tested from **Bantry South**. Samples are usually taken on a weekly basis and the results of the testing determines whether harvesting of the named species can occur. On a total of 42 occasions the tests returned results that required the closure of the waters for harvesting, 13 of these occasions were 'Closed-Pending', 32 were 'Closed' and one was 'Rejected'. However, on 161 occasions the samples taken were deemed to be of the required standard for harvesting.

### **Agricultural Activity**

Agriculture accounts for the majority of land use in the Bantry Bay area and is a significant sector of employment. For example, CSO data for the West Cork Municipal District indicates that approximately 14% of all persons at work were employed in the Agriculture, Forestry and Fishing industries as of 2016. At the level of Electoral Divisions (ED) figures for industries of employment are even higher in certain EDs around the Bay, with some showing over 20% of the workforce as employed in these industries (Glanlough ED records 21.6%, CSO 2016). Such figures are far above the national average for these industries and this gives an indication of the reliance on agriculture and fishing that exists in the area.

The Central Statistics Office (CSO) undertook a 'Census of Agriculture' that covered the period from 1991 to 2010, the aim of which was to compile census data on crops, livestock, farm labour and miscellaneous agricultural items<sup>4</sup>. Information from this exercise is useful to understand the composition of agricultural activities in particular areas and will now be used to provide some insights into activities in the areas adjacent to the subject site(s).

Site **T05/430A** is located alongside the Electoral Division (ED) of Glanlough. The following information for Glanlough ED was retrieved from the CSO's Census of Agriculture:

- The total number of farms, classified by Agricultural Area Utilised (AAU), has decreased from 29 in 1991 to 24 in 2010. However, while the number of farms that are less than 30 hectares have decreased, there has been an increase in those larger farms sized between 30 and 50 hectares.
- In terms of the usage of the total area farmed it was found that Pasture was the most common and had increased from 240 hectares to 352, accounting for almost 50% of total area farmed. Silage and Rough Grazing accounted for the majority of the remainder with 145 and 144 hectares respectively, with Hay recording 9 hectares.
- Total cattle numbers have decreased from 754 in 1991 to 678 in 2010, whereas total sheep numbers have also decreased from 812 to 379.

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<sup>3</sup> <https://www.sfpa.ie/LinkClick.aspx?fileticket=uD2d8E2V9IQ%3d&portalid=0&resourceView=1>

<sup>4</sup> <https://www.cso.ie/en/methods/agricultureandfishing/censusofagriculture/>

- The total number of persons engaged in farm activity saw a slight increase from 44 in 1991 to 49 in 2010, however the total number of ‘Annual Work Units’ saw a slight decrease from 30 to 28 over the same time period<sup>5</sup>.

**T05/430A** is a proposed mussel cultivation site and is located in the Bantry South Designated Shellfish Growing Area. Table 1 provides an estimate of the average number of dairy and drystock livestock units and the average loadings of nitrogen and phosphorus chemical fertiliser per hectare of farmed land within the contributing catchment areas for Bantry South, along with the national averages for comparison purposes. This information was obtained from the Shellfish Waters Characterisation Reports prepared by the Department of the Environment, Community and Local Government<sup>6</sup>.

Table 1. Average number of dairy and drystock livestock units and the average loadings of nitrogen and phosphorus chemical fertiliser per hectare

Indicator	Bantry South Catchment (p/ha of farmed land)	National Average (p/ha of farmed land)
Livestock Units	1.12 LU	1.20 LU
Nitrogen Fertiliser	116.48 kg	92.09 kg
Phosphate Fertiliser	8.31 kg	9.74 kg

In relation to the figures for Bantry South that are contained within the previous table, the Bantry South Site Characterisation Report states that:

*“Over 50% of the area of this catchment is farmed land and, though livestock densities are similar to the national average, the estimates of fertiliser usage in this catchment are quite high compared to the national averages. The EPA’s diffuse model risk assessment, which investigates the relationship between catchment attributes (percentages of diffuse land cover including agriculture), water chemistry and ecological status, does not highlight many diffuse risk areas. However, the prevalence wet soils in the catchment could result in runoff from agricultural land and the steep slopes could increase the risk of runoff. However, monitoring in this shellfish area does not indicate any water quality issues likely to be associated with agriculture and therefore agriculture is unlikely to be affecting shellfish water quality in this shellfish area.”*

The report notes that there are several water discharge sources into the **Bantry South** designated area, including: the Inner Bantry Estuary which has a ‘high’ water quality status; the Glanlough River which has a ‘high’ status; and, the Killoveenoge Rover which has a ‘good’ status. The status off each of these sources is considered satisfactory.

In reference to the vulnerability of catchment surface waters to pathogens from subsoil discharges, the site characterisation report considers subsurface waters in the adjoining lands as “high risk” and “very high risk” potential. In this regard, there may be a risk of negative impacts on the Shellfish Growing Area if contamination of subsurface waters occurs.

### Angling and Inshore Fishing Activity

The Inshore Fishing Atlas (2006) GIS shapefiles (<http://data.marine.ie/Dataset/Details/20963>) were consulted in relation to this appeal and seen in Figures 9a. Fishing methods used in Bantry Bay include, bottom trawling for Nephrops, whiting and other white fish; midwater trawling for pelagic species; tangle netting; line fishing; setting pots for large and small crustacea (lobsters, crabs, Nephrops and shrimps); bottom dredging for scallops; and, gathering of periwinkles by hand. This atlas has a poor data resolution. All areas up to the HWM

<sup>5</sup> The labour input of each person who worked on the farm was measured in terms of AWUs with one AWU being defined as 1800 hours or more of labour per person per annum.

<sup>6</sup> <https://www.housing.gov.ie/water/water-quality/shellfish-waters/shellfish-waters-final-characterisation-reports-and-prps>

along the entire coastline are classed as fishing areas. As a result it may over exaggerate the potential fishing resource. Data relating to the site in question indicate that only Charter Angling (Hook and line fishing), Shrimp and Large Crustaceans are carried out in this area.

BioAtlantis Ltd is proposing to harvest *Laminaria hyperborea* in areas of Bantry Bay. As outlined in the Foreshore Application (FS006061) "the area applied for using a purposely designed vessel equipped with a winch, suction pump and cutter. In an initial study BioAtlantis found *Laminaria hyperborea* to be the main species in the areas applied for. *Laminaria digitata* was not present in any of these areas. This is the preferred species and was present in Kenmare Bay. The objective is to harvest the material without disrupting the foreshore i.e. without making physical contact with the foreshore surface. This will be achieved by applying moderate suction which will draw the weed into the cutter where it will be cut and pumped into the boat. There, it will be stored in bags for transportation to the factory by road. The weed will be cut at a minimum 25 centimetres from its holdfast. This will be controlled by using sonar and sounder automation to operate the winch so the cutter is maintained at this set-point distance the foreshore."



The Marine Institute GIS based data on the inshore fishing activity/extent that were compiled in 2014, were also examined (Figure 9b). The resolution of the data is not high but, it does indicate that the area of the proposed site is fished using pots.

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### Inshore Angling

Information obtained from Inland Fisheries Ireland for Bantry Bay<sup>7</sup> identifies several areas that are suitable for Shore Angling, of which the most relevant, in terms of proximity, are (Figure 9):

- Bank Harbour (12): Bottom fishing for flatfish on flooding tide. Floatfish for mullet at high water.
- Shot Head (13)– Spinning for mackerel and Pollack, and float fishing for wrasse.
- Zetland Pier (14) – Bottom fishing for flatfish on flooding tide. Floatfish for mullet at high water.
- Gerahies Pier (19) – Float fishing for mullet and bottom fishing for conger.
- Goats Path (20)– Spinning for mackerel and Pollack and float fishing for wrasse.
- Collack (21)– Float fishing for wrasse and spinning for Pollack.
- Adrigole (C): Lugworm can be dug on middle banks, also in the mud inshore mussel beds.
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<sup>7</sup> <https://fishinginireland.info/sea/maps/>

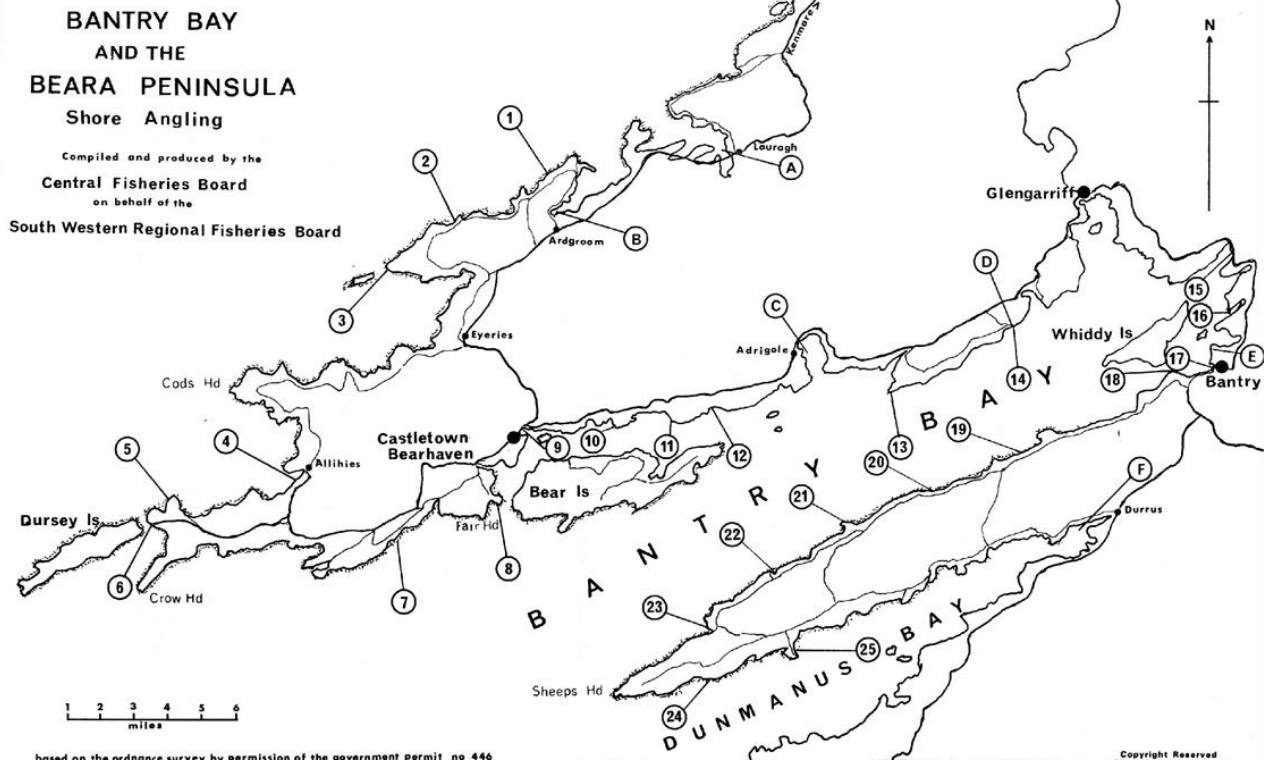


Figure 8. Shore Angling locations in Bantry Bay, Fishing Ireland



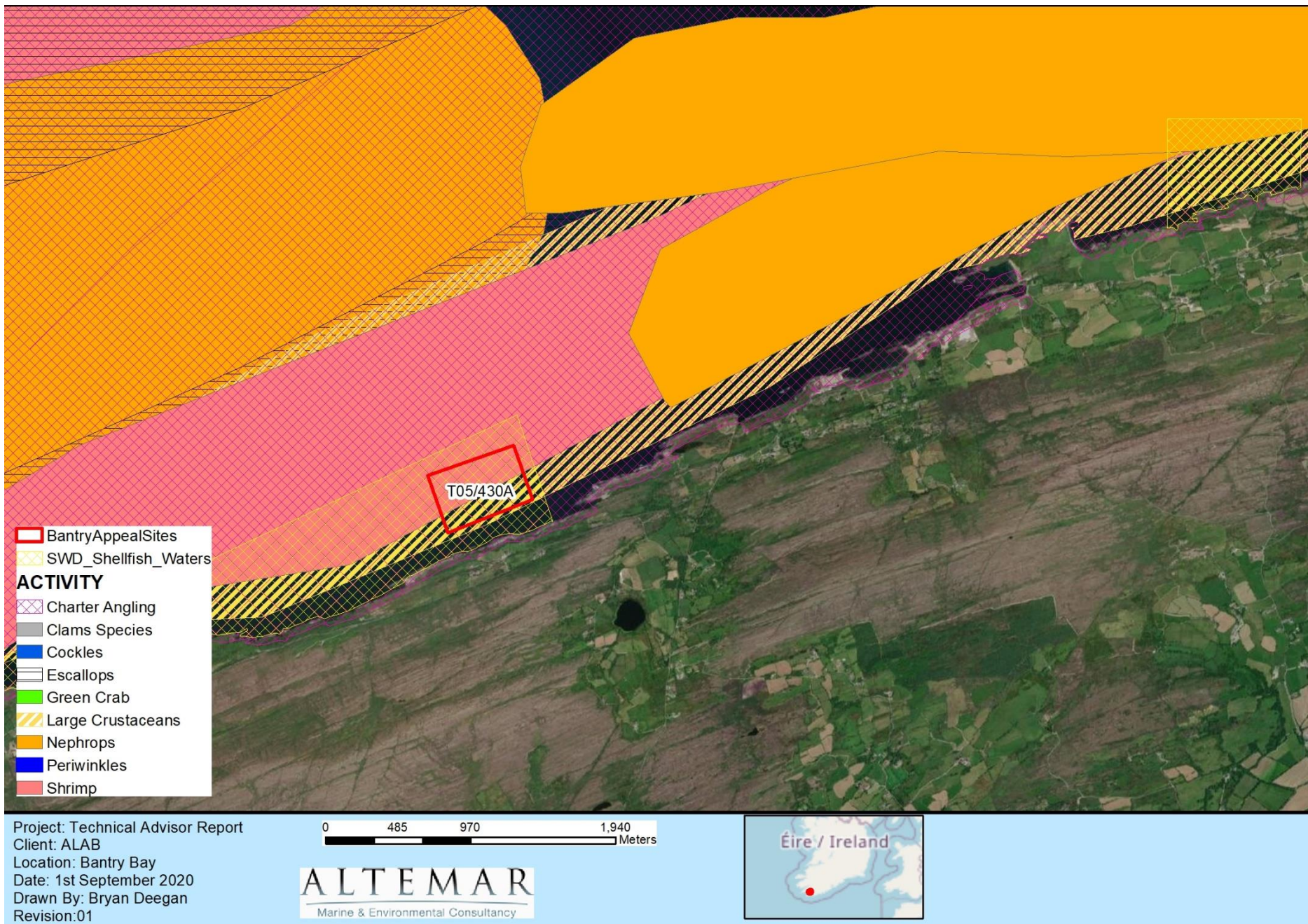


Figure 9a. Inshore fishing activity

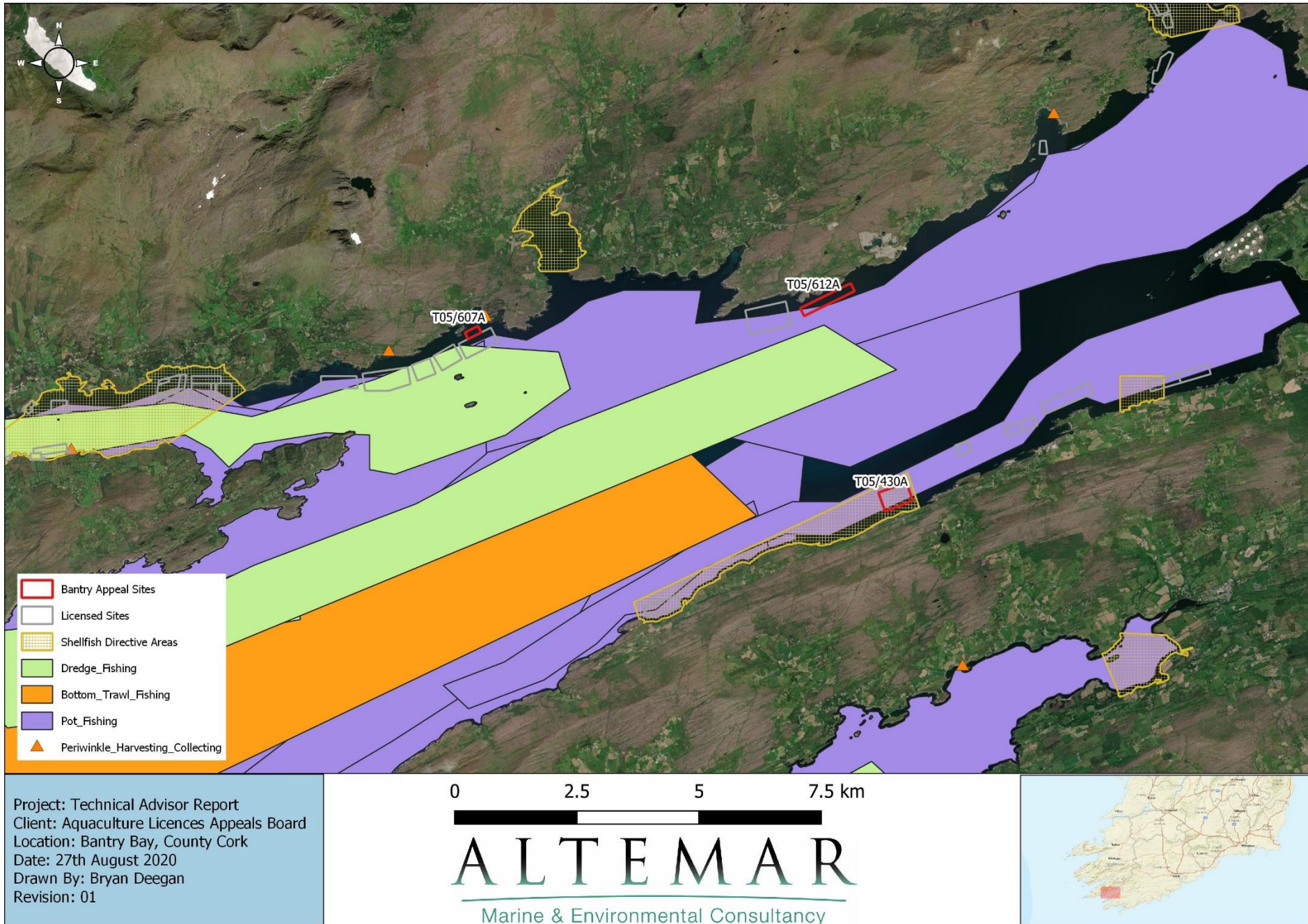


Figure 10b. Inshore fishing activity

## Tourism and Leisure

Faite Ireland provide statistics on tourism in Ireland, with regional breakdowns for visitor numbers and estimated spend<sup>8</sup>. Outside of Dublin, the South-West region which contains counties Cork and Kerry proved the most popular for overseas tourists in 2018, attracting approximately 2.5million people in 2018. The estimated total revenue generated by these overseas tourists is roughly €987 million, according to Faite Ireland.

In terms of domestic tourists, the South-West region is actually Ireland's most popular, surpassing Dublin with a total of 2.4 million visitors who generated approximately €474 million in revenue. From these figures alone it is clear that Ireland's South-West, and by association the Bantry area, are important tourist locations.

Breakdowns for tourism statistics at settlement level do not exist, with County and Regional levels providing the lowest level of publicly available data. However, although figures for Bantry are not available, it is generally agreed that tourism and recreation are significant contributors to the local economy of the Bantry Bay area. The major success of Ireland's Wild Atlantic Way, which incorporates the peninsulas of West Cork, is seen as a clear indication of the growing importance of tourism to coastal communities.

The bay's islands, particularly Bear and Whiddy Islands, prove immensely popular to tourists and attract a growing number during the summer months. This is in addition to the many land based activities that are undertaken on both the Beara and Sheep's Head peninsulas. Walking, cycling and hiking is undertaken by many visitors to these areas, with the rugged landscape and scenic walks proving extremely attractive to people.

In terms of water-based activities, leisure boating (yachting and kayaking), swimming, whale and dolphin watching, bird watching, scuba diving and other water sports are key components of marine tourism in the region. The bay is also host to regular, scheduled cruise liner stops that see tourists from across Europe arrive in the area, with anchorage occurring in Bantry Inner and Whiddy NE.

Sailing is a popular pastime in Bantry Bay and along the peninsula with information on the areas with highest frequency of sailing recorded on the Marine Atlas<sup>9</sup>. Data indicates the most popular sailing areas tend to be based along the northern shore of the bay, with particularly high concentrations along Castletownbere Sound. There are two marinas identified in the Marine Atlas as being located in Bantry Bay: Bantry Marina, which is located in Bantry town; and, Lawrence Cove Marine, which is located on Bear Island. Four ferry ports are identified at Castletownbere, Lawrence Cove, Whiddy Island and Bantry.

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<sup>8</sup> [https://www.failteireland.ie/FaiteIreland/media/WebsiteStructure/Documents/3\\_Research\\_Insights/Key-Tourism-Facts-2018.pdf?ext=.pdf](https://www.failteireland.ie/FaiteIreland/media/WebsiteStructure/Documents/3_Research_Insights/Key-Tourism-Facts-2018.pdf?ext=.pdf)

<sup>9</sup> <http://atlas.marine.ie/#?c=51.7196;-9.7593;11>



Project: Technical Advisor Report  
 Client: Aquaculture Licences Appeals Board  
 Location: Bantry Bay, County Cork  
 Date: 27th August 2020  
 Drawn By: Bryan Deegan  
 Revision: 01

0 2.5 5 7.5 10 km



Figure 11. Tourism activities and locations of interest in Bantry Bay

## Other Activity

**Bantry Bay Oil Terminal:** A Conoco Phillips oil terminal exists on Whiddy Island serving as a distribution facility for oil products and it is one of Ireland's largest oil storage facilities. In general, the vessels that service the Bantry Bay terminal are comparatively small in size, mostly under 100,000 DWT and predominantly within the range 20,000 to 50,000 DWT. The Site Characterisation Report for the Bantry South Shellfish Area found there are no associated water quality issues.

**Quarries:** There are two quarries located adjacent to Inner Bantry Bay, on the northern shore near Adrigole. The registered Owners/Occupiers of these quarries are Cornelius Sullivan and Tarmac Fleming Ltd. The Tarmac Fleming Quarry was formerly known as the Wimpey Fleming Adrigole Quarry which at one stage recorded annual production of 1.2 million tonnes. There are no recorded impacts on water quality for the Adrigole Shellfish Area resulting from this quarry.

**Waste-water Treatment Systems:** The **Bantry South** Site Characterisation Report identified 99 WWT systems in a catchment of up to 20 kilometres from the area. It was found that the risk to surface and ground waters from pathogens and phosphorus is high throughout the catchment, possibly due to inadequate percolation. Many of the systems are located in hydrological unsuitable locations or/and are the incorrect type of system for their particular area. However, monitoring did not identify any water quality issues that can be attributed to these WWT systems.

## 4.3 Environmental Data

### Water Quality

Bantry Bay is part of the Dunmanus-Bantry-Kenmare water catchment, which, according to the EPA, drains an area of approximately 1,900 kilometres squared and possesses a population of roughly 24,280 people. It is stated that the catchment is *“dominated by the east–west trending series of sandstone ridges and limestone valleys that dominate the landscape of south and west Munster. In this catchment, the limestone valleys are nearly completely submerged by the sea – having been preferentially eroded compared to the sandstone ridges lying between them and these valleys now make up Dunmanus, Bantry and Kenmare Bays while the sandstone ridges form the Mizen, Sheep’s Head, Beara and Iveragh Peninsulas.”*

The EPA regularly sample and monitor bathing water quality at 147 locations across Ireland, however there are no bathing water sampling location in Bantry Bay. The nearest sampling points are found in Dunmanus Bay to the south and Kenmare Bay to the north of Bantry Bay. The locations are Barley Cove (Dunmanus Bay) and Derrynane (Kenmare Bay), both of which recorded bathing water quality statuses of ‘excellent’ in the 2019 bathing season results<sup>10</sup>. Both locations have achieved the ‘excellent’ status in each of the previous four bathing season sampling results (2015, 2016, 2017 and 2018). ‘Excellent’ status is the highest status that can be achieved and suggests waters in this region are of a high standard.

### Water Framework Directive

The Water Framework Directive (WFD) Monitoring Programme uses regular sampling of water bodies to assign a classification on their status. The Shellfish Area Characterisation Report for **Bantry South** provides details on the WFD Monitoring Programme and it states that the status of the coastal waters where this area is based are ‘high’ and, therefore, satisfactory. The Inner Bantry Estuary which discharges into the designated area is also ‘high’ status and therefore satisfactory. The two coastal rivers that discharge directly into the designated area, the Glanlough River and Killoveenoge River are ‘high’ and ‘good’ and therefore satisfactory.

The report concludes its water quality section by stating that the *“results of the WFD monitoring programme does not indicate any water quality issues within the area or in the waters discharging in the vicinity of this*

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<sup>10</sup> <https://www.epa.ie/pubs/reports/water/bathing/Bathing%20Water%20Quality%20Map%20of%20Ireland%202019.pdf>

shellfish area. However, these status classifications do not reflect the results from these water bodies, as they were extrapolated from similar water body types.”

Water catchments are made up of a series of subcatchments and the six subcatchments that lie immediately adjacent to Bantry Bay are: Calashaduff; Coomhola; Fahane; Fanahy; Glengarriff; and, Mealagh.

The Water Framework Directive Cycle 2 Assessment Report for the sub-catchment of **Fahane** is based on information available to the end of 2015<sup>11</sup>. This subcatchment lies adjacent to the Bantry South Shellfish Growing Area and also the proposed aquaculture site T05/430A. All five river water bodies in the subcatchment were revised from Unassigned to “NOT AT RISK”. Five potentially dependent transitional and coastal waterbodies have been identified and four considered not at risk while one, Reen Point Pool, is deemed to require further review. The sole potentially dependent groundwater water body, Beara Sneem, is classified as not at risk. A single significant pressure was identified and it relates to the pressures that exist at Reen Point Pool, this pressure is considered to be anthropogenic in nature.

### Shellfish Monitoring Programme

Shellfish flesh classifications are carried out under the European Communities (Live Bivalve Molluscs) (Health Conditions for Production and Placing on the Market) Regulations, 1996 (S.I. No. 147 of 1996)). The Marine Institute carries out shellfish monitoring at designated shellfish areas. This dedicated shellfish monitoring programme involves analysing for general components, metals and organics in both water and biota samples. Shellfish safety data can be obtained from the Marine Institute HABs website and it provides results of sampling of specified shellfish flesh from each of the designated shellfish areas<sup>12</sup>.

Biotoxin results for shellfish species *Mytilus edulis* in the **Bantry South** Designated Shellfish Area are provided in the table below. The results are taken from regular sampling that occurred from July 20<sup>th</sup> 2015 to March 9<sup>th</sup> 2020, of which there are a total of 207 sample results.

Area Species Status	# of Occurrences	% of Total
Closed	32	15.5%
Closed Pending	13	6%
Open	161	78%
Rejected – Nonstandard Reason	1	0.5%

<sup>11</sup> [https://catchments.ie/wp-content/files/subcatchmentassessments/21\\_3%20FAHANE\\_SC\\_010%20Subcatchment%20Assessment%20WFD%20Cycle%202.pdf](https://catchments.ie/wp-content/files/subcatchmentassessments/21_3%20FAHANE_SC_010%20Subcatchment%20Assessment%20WFD%20Cycle%202.pdf)

<sup>12</sup> <http://webapps.marine.ie/HABs/Locations/Inshore>

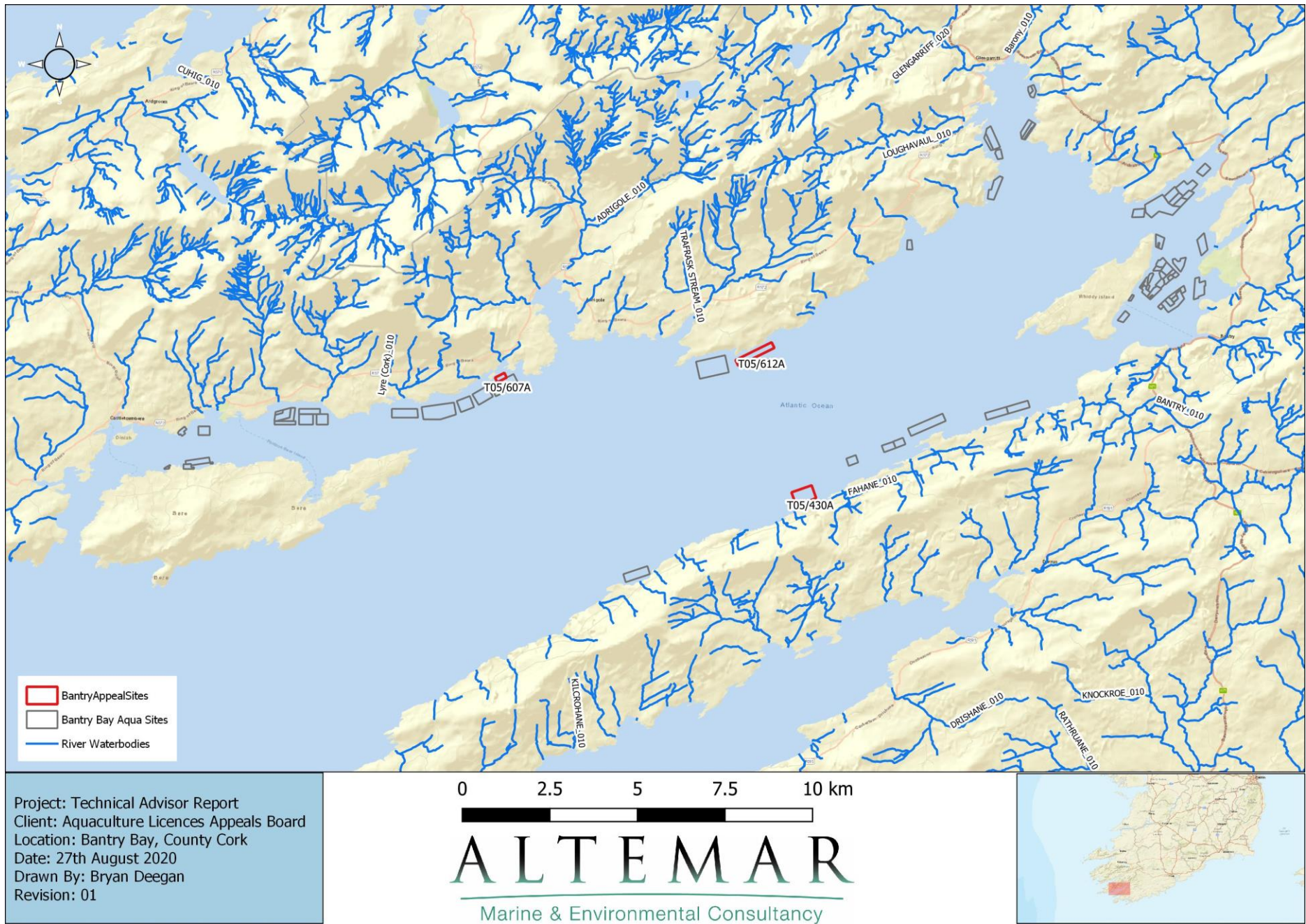


Figure 12. River waterbodies, EPA

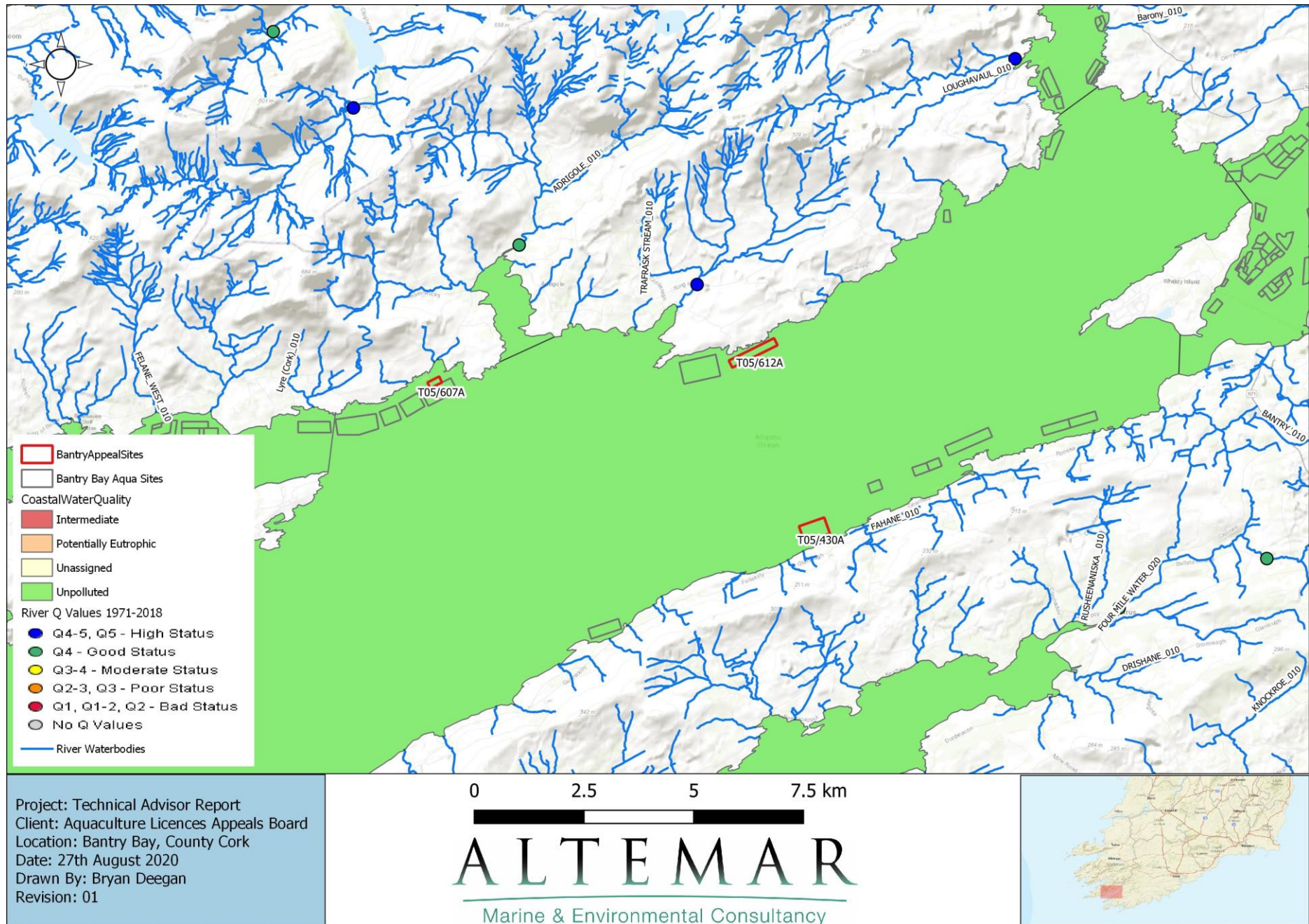


Figure 13. WFD status Bantry Bay, EPA



## 4.4 Statutory Status

### Nature Conservation Designations

The area of Bantry Bay within which proposed aquaculture site T05/430A is based is not located in any Natura 2000 sites, nor does it have any other conservation or environmental designations attached. However, the bay is adjacent to two Special Areas of Conservation (SAC) and two Special Protection Areas (SPA):

- Sheep's Head SAC (000102) – Sheep's Head is the southern bounding peninsula of Bantry Bay, 400m from the site and has a SAC designation due to the presence of terrestrial features, dry heath and wet heath, habitats listed on Annex II of the Habitats Directive. It has received its designation due to the presence of a range of habitats/species, including the following features of interest:
  - Northern Atlantic wet heaths with *Erica tetralix* [4010]
  - European dry heaths [4030]
  - *Geomalacus maculosus* (Kerry Slug) [1024]
- Glengarriff Harbour and Woodland SAC (00090) – It has received its designation due to the presence of a range of habitats/species listed on Annex I/II of the EU Habitats Directive. Features of interest are:
  - Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]
  - Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
  - *Geomalacus maculosus* (Kerry Slug) [1024]
  - *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
  - *Lutra lutra* (Otter) [1355]
  - *Phoca vitulina* (Harbour Seal) [1365]
- Beara Peninsula SPA (004155) – This site is a designated SPA under the Birds Directive due to the presence of the following habitats/species listed on Annex I/II of the EU Habitats Directive:
  - Fulmar (*Fulmarus glacialis*) [A009]
  - Chough (*Pyrrhocorax pyrrhocorax*) [A346]
- Sheep's Head to Toe Head SPA (004156) – The sea cliffs, cliff edges and land adjacent to these cliff edges are considered some of the most important sites in Ireland for Chough. It has received its designation due to the presence of a range of habitats/species listed on Annex I/II of the EU Habitats Directive. Features of interest are:
  - Peregrine (*Falco peregrinus*) [A103]
  - Chough (*Pyrrhocorax pyrrhocorax*) [A346]

### Protected Species

The areas within which the aquaculture sites are located are not, themselves, protected conservation sites. However, there are a number of protected sites in the areas that surround Bantry Bay, some of which have been outlined in the previous section. Many of these sites have received their special protection designation due to the presence of protected, or important species of flora and fauna.

The Kerry Slug (*Geomalacus maculosus*) is a species that is listed on Annex II of the E.U. Habitats Directive and one that has a remarkably disjunct distribution in Europe, being known only from south-west Ireland, north-west Spain and northern Portugal. At Sheep's Head the species is particularly associated with open areas of rocky wet heath and grassland.

The Lesser Horseshoe Bat (*Rhinolophus hipposideros*) is an Annex II species and were formerly recorded in high numbers in Glengarriff Castle. However numbers decreased at the Castle from the late 1990's onwards. Since then, summer roosts within the Glengarriff Harbour SAC boundary have been found in three buildings. The highest combined counts for the three summer sites were taken in July 2002 with a total of 228 bats.

The rocky islets in Glengariff Harbour support the largest colony of Common (Harbour) Seal (*Phoca vitulina*) in the south-west of Ireland (maximum count of 151 in the all-Ireland survey of 2003). This legally protected species is listed on Annex II of the E.U. Habitats Directive. In addition to the seal, there are Otter (*Lutra lutra*) found throughout the wider area, in particular near Glengariff.

The Chough (*Pyrrhocorax pyrrhocorax*) is a species that is listed on Annex I of this Directive and an internationally important population of breeding Chough are found on Sheep's Head and Beara Peninsula. 58 breeding pairs were recorded within the Beara Peninsula site in the 1992 survey and 54 in the 2002/03 survey. 82 breeding pairs were recorded from the Sheep's Head site in the 1992 survey and 73 in the 2002/03 survey.

Other species of protected bird that have been sighted in the areas around Bantry Bay include the Fulmar (*Fulmarus glacialis*) and the Peregrine (*Falco peregrinus*). In addition, widespread sightings of dolphins and other sea mammals are said to occur in areas of Bantry Bay. The marine mammal sightings of the Irish Whale and Dolphin Group are shown in Figure 16.

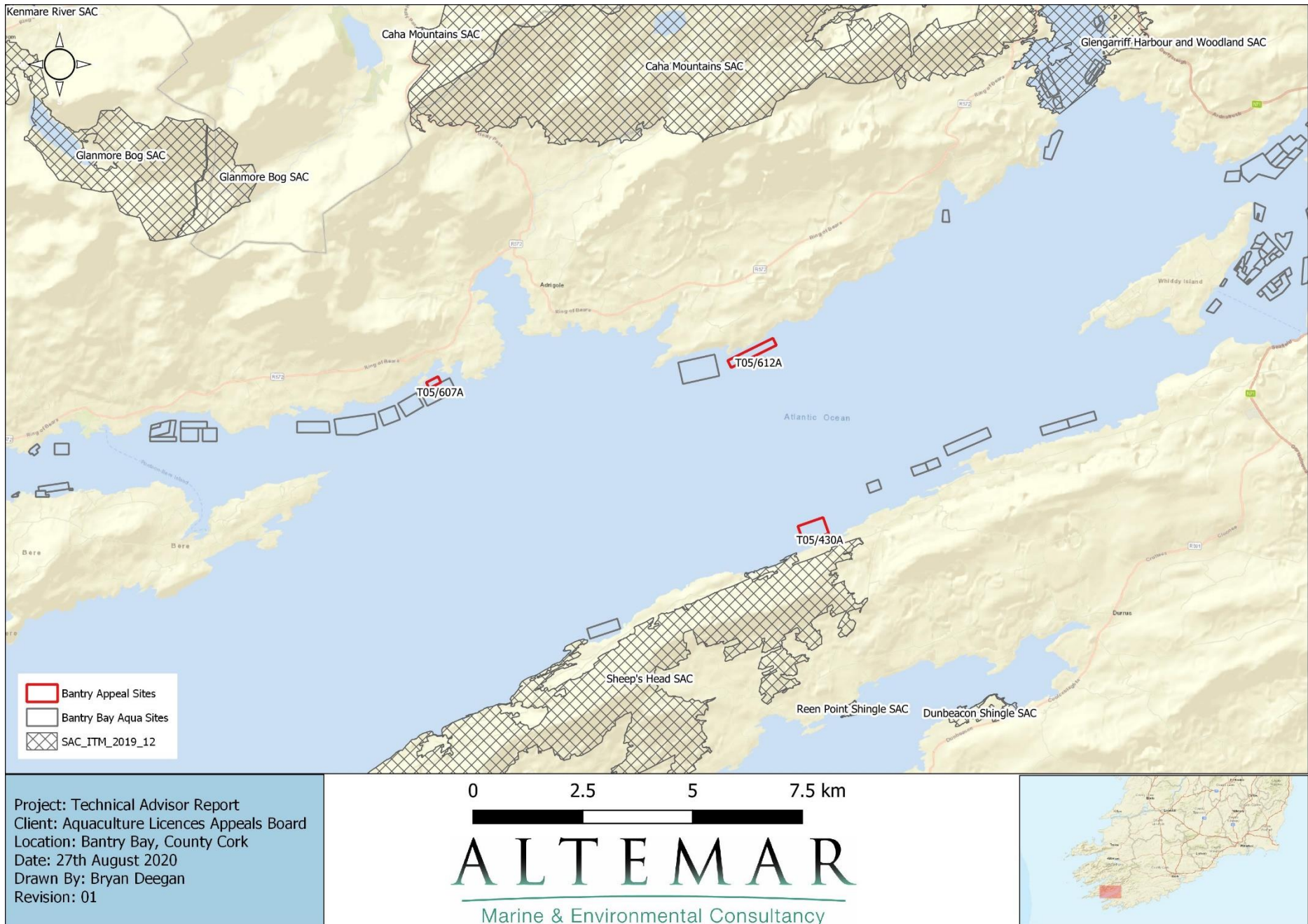


Figure 14. Special Areas of Conservation in proximity to the appeal sites

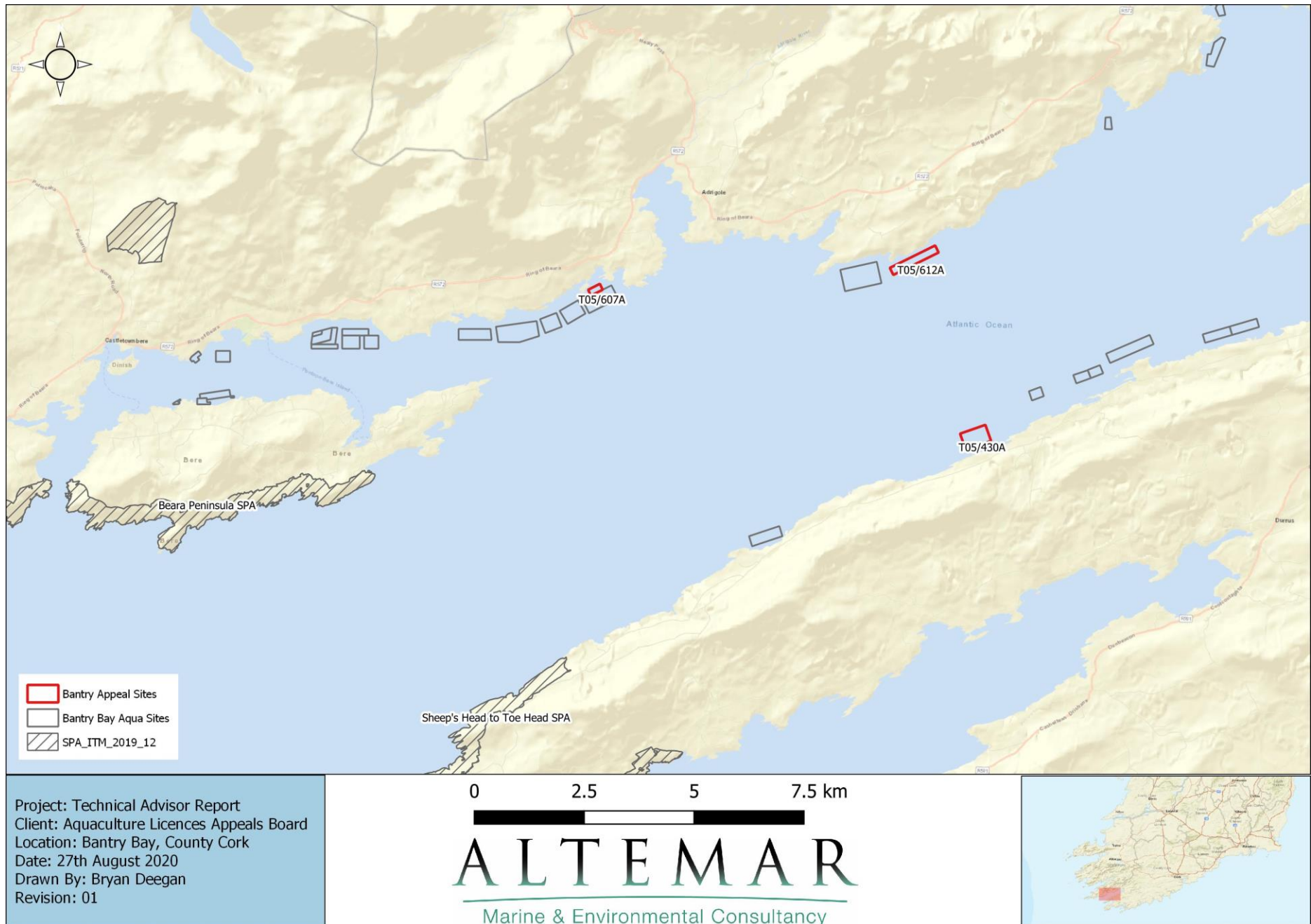


Figure 15. Special Protection Areas in proximity to the appeal sites

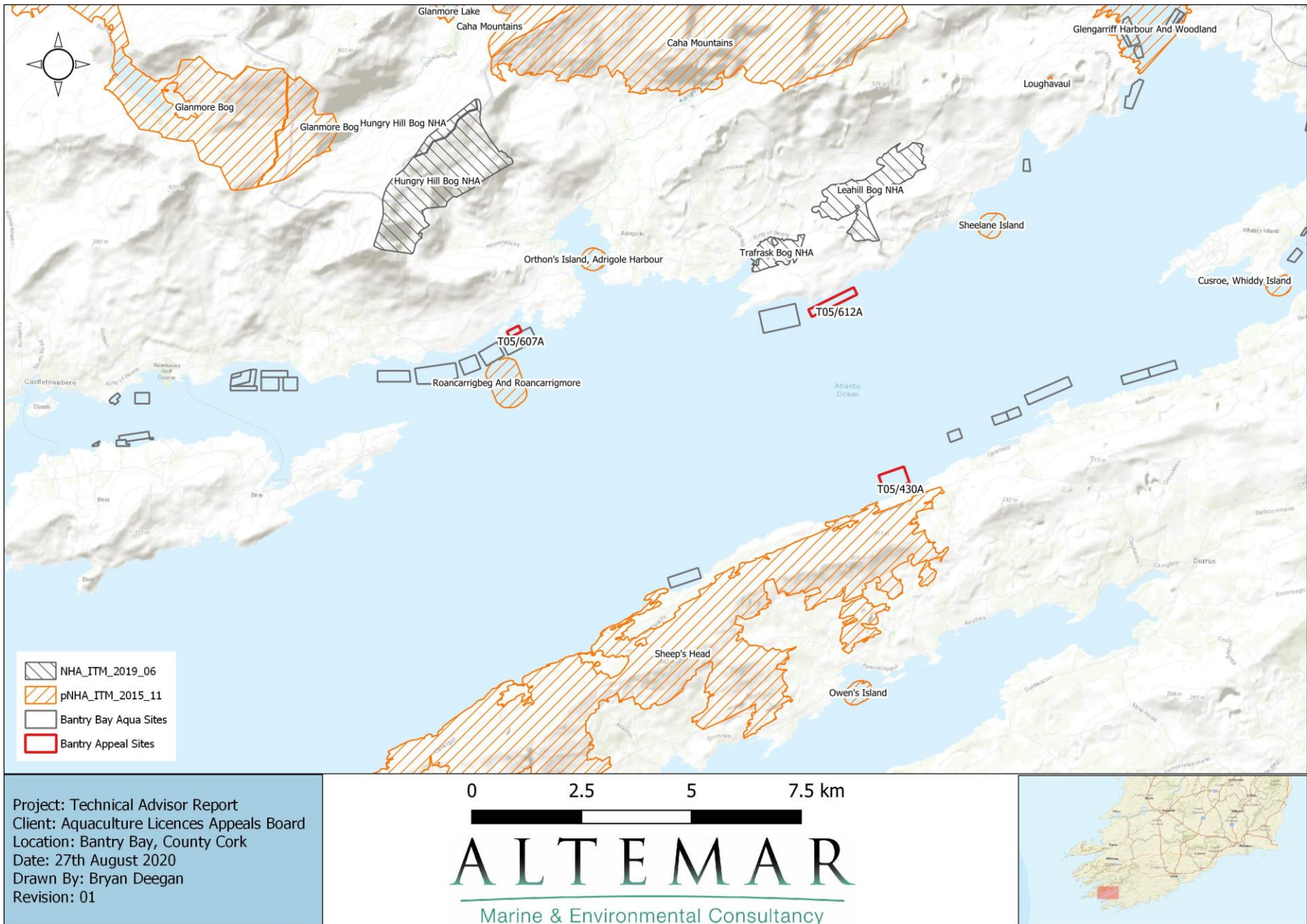


Figure 16. (proposed) Natural Heritage Areas in proximity to the appeal sites

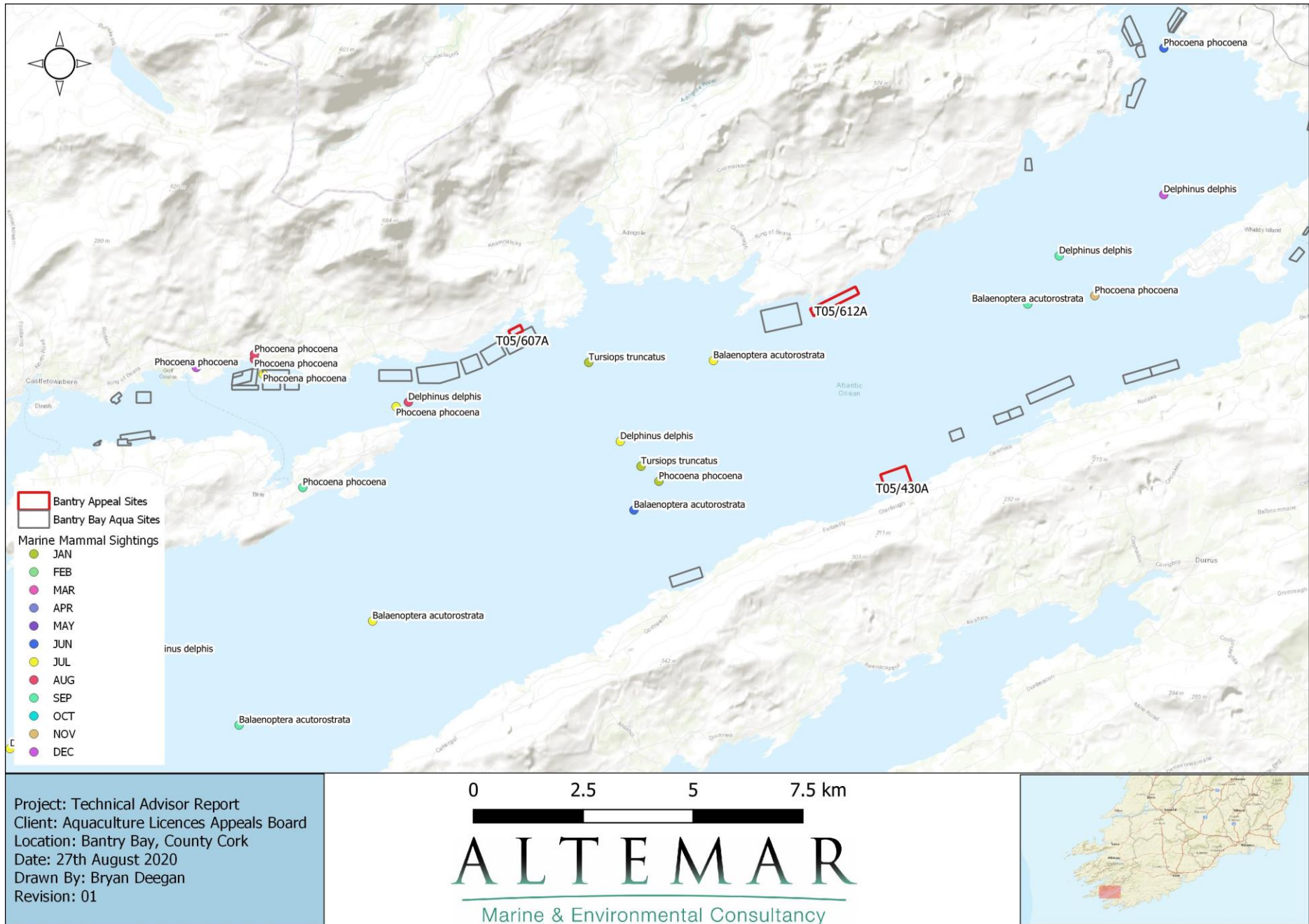


Figure 17. Marine mammal sightings in the vicinity of Bantry Bay, IWGD

## Statutory Plans

There are no statutory plans that specifically concern Bantry Bay. However, Bantry Bay is covered under the following plans:

### Southern Assembly Regional Spatial Economic Strategy

County Cork is part of the Southern Regional Assembly, which is one of three regional-level administrative units in Ireland. One of the core functions of these newly established Assemblies is to prepare a Regional Spatial and Economic Strategy (RSES) for their respective regions which will guide all future economic and spatial development. The RSES is guided by the overarching aims contained in the National Planning Framework (NPF), a high-level strategic document prepared by the Irish Government, and it transposes these aims and objectives to a more regional context. All future Local Authority Development Plans must be cognisant of the objectives set out in their respective RSES, and for this reason alone the RSES is an important document to consider.

Section 3.8 calls for the establishment of a ‘*West Cork Marine Network*’ that is “*based on the N71 West Cork to South Kerry Corridor across settlements of Clonakilty as the Key Town with Skibbereen, Bantry, Schull and Castletownbere, leveraging significant marine economy, tourism, food and beverage, digital and other assets with strategic transport connections to the Cork Metropolitan Area*” (pg.91).

Section 4.9.2 discusses the importance of ‘growing the blue economy’ where it acknowledges that future challenges to this will be in attempting to “*align marine resources with conservation of biodiversity and ecosystem health*”. The importance of fisheries and aquaculture to the economies of coastal areas is reiterated and support given to Fishing Local Area Group Development Strategies, which have identified Castletownbere as a location for a National Fisheries Harbour Centre (NFHC).

The RSES has outlined a range of key aims and objectives which will be the focus of future policy-making and co-ordinated development entitled Regional Policy Objectives (RPOs). The following table provides a list of RPOs that are exclusive to the aquaculture sector and context of this Technical Advisor Report.

Table 2. Regional Policy Objectives, Southern Assembly RSES

Regional Policy Objective	Focus
RPO 80 Marine Resource and Blue Economy	It is an objective to support the development of new coalitions amongst productive sector enterprises, coastal communities and public agencies to support the sustainable development of the marine resource and Blue Economy. Any supports arising, which result in further expansion of or new enterprise will be subject to the outcomes of the required appraisal, planning and environmental assessment process.
RPO 81 Fishery Harbour Centres and Local Authority Harbours	It is an objective to seek investment in the sustainable development of infrastructure improvements to Fishery Harbour Centres and Local Authority Harbours in the Southern Region. Robust site selection and environmental feasibility and assessment is required in advance of seeking investment
RPO 82 Seafood Sector	It is an objective to seek investment in the delivery of sustainable actions and development of the seafood sector under existing and future European Maritime and Fisheries Fund Operational Programmes. Robust site selection and environmental feasibility and assessment is required in advance of seeking investment.
RPO 83 Island and Coastal Communities	It is an objective to seek investment in the sustainable development of infrastructure (physical and social), access (upgraded pier infrastructure, landing facilities and passenger and cargo ferry services), regional connectivity (transport networks and digital), enterprise growth and deliver initiatives by Local Authorities, UnG, local communities and other stakeholders to strengthen and sustainably grow our Region’s island and coastal communities. Robust site selection and environmental feasibility is

	required in advance of seeking investment including all necessary flood risk assessments.
RPO 111 Water Resources	It is an objective to ensure the efficient and sustainable use and development of water resources and water services infrastructure to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.
RPO 112 Water Quality	It is an objective to support commitments to achieve and maintain “At Least Good” status, except where more stringent obligations are required, and no deterioration of status for all water bodies under the Marine Strategy Framework Directive and its programme of measures, the Water Framework Directive and the River Basin Management Plan. Key challenges include, inter alia, the need to address significant deficits in urban waste-water treatment and water supply, addressing flooding and increased flood risks from extreme weather events and increased intense rainfall because of climate change

### Cork County Development Plan 2014

Bantry Bay is located in West Cork, which is part of the Cork County Council administrative area. Development Plans are the main strategic documents that direct the future growth and development of local authority areas. The most recent development plan for Cork County is the 2014 Development Plan, which sets out the planning and sustainable development strategy for the County over a six year period.

As previously stated, Bantry Bay is located in West Cork and this area is considered one of the County’s Strategic Planning Areas. A specific Development Plan Objective is set for the West Cork Strategic Planning Area, with some of the most pertinent elements of this objective listed below:

*Objective CS 4-4: a) Establish an appropriate balance in the spatial distribution of future population growth so that Bantry, Castletownbere, Dunmanway and Skibbereen, can accelerate their rate of growth, in line with this Core Strategy and achieve a critical mass of population to enable them to maximise their potential to attract new investment in employment, services and public transport;*

*d) Recognise the international importance and the importance to the region’s tourism economy, of the scenic and landscape qualities of the coastal and upland areas, particularly along the peninsulas in the southwest and to protect these landscapes from inappropriate development;*

*k) Recognise the role to be played by Castletownbere and its deepwater port facilities in the future growth of the fishing and tourism industry and to promote its future development and potential for other port related activities subject to the requirements of the Habitats, Birds, Water Framework, SEA and EIA Directives.*

Under the ‘Economy and Employment’ section the Plan establishes an “employment hierarchy” which assigns a strategy for the different areas of the county. For rural areas, such as the areas surrounding Bantry Bay, the overall strategy is to:

*“Support agriculture, fishing & food processing sectors. Encourage rural diversification (especially tourism but also on and off farm employment activities such as processing of agricultural produce, manufacturing of crafts and specialist farming) and support innovation in indigenous enterprise.”*

A sub-section of Economy and Employment is dedicated to fishing and aquaculture and it highlights the important role that commercial fishing and aquaculture play in the economies of rural coastal areas. The plan states its support for the “provision of appropriate harbour infrastructure that facilitates a modern and innovative fishing industry” (pg.101). Furthermore, the Plan considers aquaculture as having significant potential to enable the diversification of rural areas and will support this sector. A specific Development Plan Objective is outlined for fishing and aquaculture:



Objective EE 11-1: a) Support the use of existing port facilities for the catching and processing of fish as an economic activity that contributes to the food industry in the County. b) Support and protect designated shell fish areas as an important economic and employment sector.

Under the Energy section there is reference to Bantry Bay made when the importance and future roles of the oil storage facility at Whiddy Island and the ports and dry-docks in Castletownbere are discussed. Regarding the latter, it is stated that Castletownbere/Bere Island port and dry dock facilities possess “significant potential to service future ocean and off shore wind energy developments”. In addition, a specific Development Plan Objective is made for the Whiddy Island oil storage facility:

Objective ED 1-4: Safeguard and support the strategic role and function of Whiddy Island oil terminal and associated storage facilities in meeting the future energy needs of the county and the state.

Chapter 11 provides details on Water Services, Surface Water and Waste, giving an overall assessment for settlements and identifying the capacity of current water services infrastructure to accommodate planned population growth. In Bantry it is considered that there is a strategic infrastructure deficit in the current drinking water infrastructure that will require immediate upgrading if future developments are to proceed, and this is also the case for Castletownbere. New drinking water sources and major system upgrades to water services are short-term aims for both locations.

Regarding waste water infrastructure, again Castletownbere has a strategic deficit that will require significant works to enable development, whereas Bantry’s waste-water infrastructure will allow for some development but further improvements needed for any future growth. In the short term there is a requirement for a waste-water treatment plant (WWTP) in Castletownbere, while a medium term aim for Bantry is to upgrade the existing WWTP.

The peninsulas that surround Bantry Bay are deemed to be High Value Landscapes (HVL) which implies they have a high value, have very high landscape sensitivity and are of regional or national importance and, therefore, require special protection and conservation.

There are several routes and roads designated as ‘Scenic Routes’ in the Bantry Bay area. The following Scenic Routes are adjacent to, or in close proximity of the aquaculture licence sites:

- Scenic Route S110 Roads from Bantry via Gerahies to Kilcrohane
- Scenic Route S113 Road between Glengariff, Trafrask, Ardrigole and Castletownbere

#### FLAG South Local Development Strategy 2016

The Fisheries Local Action Groups (FLAG) are regional organisations focused on community-led development to enhance the economic opportunities and social sustainability of Fisheries and Aquaculture dependent areas. Each FLAG has, through a process of public consultation developed a Local development Strategy, aimed at supporting job creation, adding value, promoting innovation as well as enhancing environmental assets and promoting each area’s maritime cultural heritage. Bantry Bay is located in the FLAG South region (Figure 17). Although not statutory documents, the FLAG Development Strategies offer useful insights into the local economies of Irish coastal communities.



Figure 18. FLAG South region

The following points are derived from the FLAG South strategy:

- The FLAG South area has the 2nd highest percentage of total gross tonnage (12.2 tonnes or 18.9% of National) of fishing vessels out of all FLAGs
- The FLAG South area recorded a total volume of 33,329 tonnes of fish landed, which represents 16.4% of total volume across all FLAGs
- The value of the fish landed in the FLAG South area is estimated at €61.5 million, which is 28% of the total value nationally
- The fishing industry in the FLAG South area is substantial and provides significant employment opportunities, accounting for 21% of the total seafood sector employment, which is in part due to the existing infrastructure in the area
- FLAG South's activity is concentrated within Castletownbere, which represents 12% of all Irish tonnes landed, and 25% of the total value representing the significance of Castletownbere to the sector and for the local economy

#### 4.5 Man-made Heritage

The proposed aquaculture site is located in sub-tidal/sub-intertidal waters and, therefore, it does not interfere with built heritage structures, such as those recorded by the National Monuments Service. Nonetheless, a study of the National Monuments Service database was undertaken and recorded built heritage sites in close proximity to the proposed aquaculture site have been identified. Sites that are contained within a 2km buffer from the aquaculture site have been recorded and details of them are set out below, taken from the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs' 'Historic Environment Viewer'<sup>13</sup>.

Descriptions of recorded national monuments are derived from the published 'Archaeological Inventory of County Cork. Volume 1: West Cork' (Dublin: Stationery Office, 1992). In certain instances the entries have been revised and updated in the light of recent research. Descriptions of sites recorded on the National Inventory of Architectural Heritage are taken from the Inventory website<sup>14</sup>.

- CO130-002 Ringfort in the townland of Glanlough. In pasture, atop hillock. Circular, slightly raised area (35.7m N-S; 33.4m E-W) enclosed by earthen bank (H 2.3m) SSE->W; scarp (H 1m) elsewhere; external fosse (D 0.4m) SSE-NNW. Cultivation ridges cross interior on E-W axis.
- CO130-049 Hut site in townland of Glanlough. In rough hill pasture, on a NE-SW terrace on the NW-facing slopes of Gouladane overlooking Bantry Bay. The remains of a rectangular hut site (3.9m E-W; 3.4m N-S) defined by the lower horizontally set courses of a partially collapsed drystone wall (T

<sup>13</sup> <https://webgis.archaeology.ie/historicenvironment/>

<sup>14</sup> <https://www.buildingsofireland.ie/>

0.75m; H 0.65m). The entrance (Wth 0.4m) is at the E. Large upright slabs line the wall internally at the S corner and along the S side. The entire hut site is obscured by ferns.

- CO130-050 Hut site in townland of Glanlough. In rough hill pasture, on a NE-SW terrace, on the NW-facing slopes of Gouladane, overlooking Bantry Bay. The remains of a rectangular hut site (3m E-W; 2m N-S) defined by the lower, well-built, horizontally set courses of a partially collapsed stone wall (T 0.65m; H 0.8m). The entrance (Wth 0.6m) is at the NE corner. Rubble is scattered in the interior and ferns obscure the entire hut site.
- CO130-051 Radial stone enclosure in the townland of Glanlough. On a natural terrace of a SW-sloping rocky hillside, in rough pasture, on the NW-facing slopes of Gouladane overlooking Bantry Bay. A circular area (int. dims. 7.2m N-S; 7.1m E-W) is enclosed by a low, penannular bank (Wth 0.9m; H 0.2m) from which six radially set slabs protrude at irregular intervals. The tops of other stones are just visible on the crest of the bank and further stones were noted at intervals along the external perimeter. The enclosure is raised (H 0.6m) externally at N to compensate for the slope.
- CO130-052 Hut site in townland of Glanlough. In rough hill pasture, on a NE-SW terrace with outcropping rock on a NW-facing hillslope overlooking Bantry Bay. The remains of an oval hut site (3.4m E-W; 2.4m N-S) defined by a fern-covered, partially collapsed, stone wall (T 0.5m; H 0.8m) which is embedded in the peaty soil. The lower course consists of mainly large stones, one of which (H 0.8m; L 1.8m; T 0.35m) forms the SW side. The entrance (Wth 0.4m) is at the E. Rubble is scattered along the perimeter, especially along the W arc externally.
- CO130-053001 (053002) Hut site(s) in townland of Glanlough. In rough hill pasture, on a NE-SW terrace on a NW-facing hillslope overlooking Bantry Bay. The remains of a circular hut site (4.7m N-S; 4.5m E-W) defined by a stone wall (T 0.4m; H 0.3m) which protrudes above the surface of the bog. The level interior, which is covered with moor grass, is raised (H 0.4m) at the N to compensate for the hillslope. Rubble is exposed externally along the N arc. Another hut site (CO130-053002-) is c. 25m to the SW.
- Reg. No. 20911701 is a farmhouse in Gerahies that dates from between 1800-1820 which is described as a charming addition to the local area, retaining much of its character. The thick walls, substantial chimneystacks and low, horizontal form of the building are typical vernacular features. The adjoining outbuildings contribute to its setting and provide valuable context.

## 4.6 Visual Impact

### Cork County Development Plan 2014

In relation to visual impact the proposed site is in an area of High Value Landscape, located beside scenic routes. However, it would not be expected that the proposed sites would impact significantly on landscape as it is within an existing designated shellfish area and views from the site would be from an road relatively high above the site. As outlined in the site suitability assessment in the Ministerial File "These applications are for mussels grown on 220 metre single head-rope longlines. Details of the farm layouts and structures have been submitted and are suitable. The flotation barrels should be battleship grey in colour. The farm layouts and type of structures proposed are in accordance with the best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001." "Travelling in a westerly direction along the roadway, Site T05/430A is not visible due to vegetation and topography, while T05/430B becomes visible as the road rises and the viewer approaches the site. Travelling in an easterly direction and as the road descends, Site T05/430B is visible briefly and T05/430A becomes visible in the distance along a section of approximately 500 metres of roadway. The existing aquaculture sites at Gerahies are visible to the east also." "Given that aquaculture already exists along this coastline; the proposed sites are small in the context of the overall available scenic views from both the public road and the walkway; the farm layouts and type of structures adhere to the best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001; the area is lightly populated; and this road is not heavily trafficked and does not have designated laybys or public viewing areas at this location, I believe that the visual impact is moderate and the applications should not be refused on visual impact grounds."

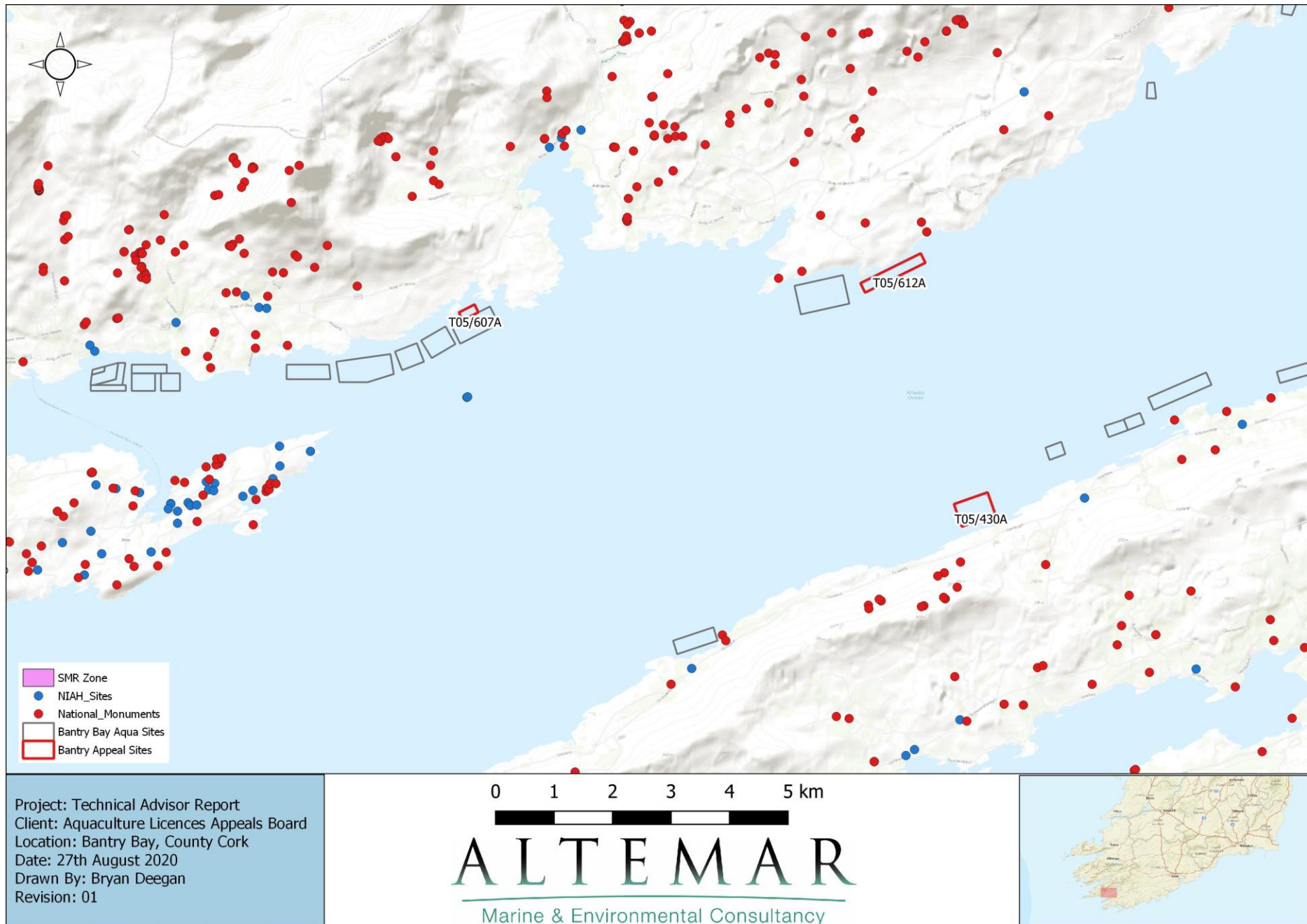


Figure 19. National Monuments and Architectural Heritage Areas

## 5.0 Section 61 Assessment

The Section 61 assessment is being carried out on appeals that have previous outlined as having potential issues:

Appeal	Site	Issues addressed under Section 61 Assessment
AP32/2019	T05/430A	<p><b>Appellant 1 Ian Leslie Stretch</b></p> <ol style="list-style-type: none"> <li>1. Carrying Capacity The Appellant suggested that the subject area is currently over-exploited in terms of aquaculture and commercial activities and any further aquaculture activities will have a detrimental effect on fish stocks.</li> <li>2. Lack of EIA The Appellant expressed dissatisfaction that there was no Environmental Impact Assessment carried out as part of the decision-making process.</li> <li>3. Site Suitability (weather) The Appellant questioned whether the location of the proposed site is too exposed to <i>“Atlantic fronts and high swells”</i>, which could result in damage to infrastructure.</li> <li>4. Site Suitability (visual impact) The Appellant expressed concern over the potentially obtrusive impact of the licenced activities in an area of immense scenic beauty, particularly as there are more suitable locations already supporting licensed activities elsewhere in the Bay that would prove less obtrusive.</li> <li>5. Cumulative Impacts The Appellant noted the extent of commercial activity in the area, both on land and in sea, and argues that the <i>“density of commercial exploitation is far too intense”</i> for the area.</li> <li>6. Amenity Impact (tourism) The Appellant drew attention to the area’s popularity with tourists and a growing leisure economy, with proposed activity potentially impacting this important industry.</li> <li>7. Statutory Consultees The Appellant maintains that some of the bodies consulted during the statutory consultation process are not suitable/relevant and that there may be a conflict of interest, while also maintaining that other relevant bodies were not consulted.</li> <li>8. Public Consultation Process The Appellant maintains that the aquaculture licence approval process is flawed as public requests for information were not adequately facilitated.</li> <li>9. Alternative Siting The Appellant maintains that there is no evidence that alternative, <i>“more suitable”</i> sites were explored as locations for development.</li> <li>10. Site Designation Process The Appellant questions the legitimacy of the process for designating an area of Bantry Bay as a ‘Shellfish Growing Area’.</li> <li>11. Legal Requirements The Appellant argues that the Applicant is legally allowed to operate a stated number of longlines and the proposed application will see the Applicant exceed this quota.</li> <li>12. Ownership Issues The Appellant questions the legitimacy of claims made by the Applicant and repeated throughout the application documentation that the Applicant is in ownership of Gearhies Pier. Instead, the Appellant cites documentation that implies alternative ownership of this site by Cork County Council.</li> <li>13. Licencing Process</li> </ol>

Appeal	Site	Issues addressed under Section 61 Assessment
		<p>The Appellant argues that the Applicant has links to a third-party who has had an application lodged for “two decades” which has, in effect, “obstructed” all other parties from attempting to obtain a licence.</p> <p>14. Sentimental Value</p> <p>The Appellant argues that the area is a location of immense sentimental value due to historical events that occurred, namely the death of eight fishermen in an incident in 1918.</p>

<b>AP49/2019</b>	<b>T05/430A</b>	<p><b>Appellant 2 Bantry Inshore Fishermen</b></p> <p>1. Cumulative Impacts</p> <p>The Appellant expressed concern about the impact that an additional licenced activity will have on the existing fisheries and aquaculture activities.</p> <p>2. Site Suitability</p> <p>The Appellant questioned the suitability of the site and whether adequate research has been carried out to investigate the potential damaging effects of storm surges. They claim the site is in an exposed area and there is significant potential for storm damage to take place during inclement weather.</p> <p>3. Impacts on Herring</p> <p>The Appellant raised concerns on the impact the mussel farm practices may have on the spawning grounds of herring.</p> <p>4. Threats to Shellfish</p> <p>The Appellant maintains that mussel farming will lead to an increase in the population of starfish which will, in turn, significantly threaten local shellfish and shellfish fisheries.</p> <p>5. Consultation Process</p> <p>The Appellant raised concerns that adequate consultation with key, local stakeholders did not take place, highlighting a failure on behalf of the Department and its officials.</p>
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#### Additional Submissions:

<p><b>Submission 1 (Valerie Bush).</b></p> <p>The Party responsible for the submission, received by email on 06/01/2020, stated their “dismay” at their perception that “few, if any” of the comments or observations made by the local community were considered by the Minister when passing judgement. They ask that the following points raised throughout previous observations are re-considered:</p> <ol style="list-style-type: none"> <li>1. Overusing the area;</li> <li>2. Other sites are more suitable [for activity] yet are left “defunct”;</li> <li>3. The “impartiality of [the] review by the Marine Institute is vague”</li> <li>4. The “record of the applicant in past enterprises is certainly documented”</li> <li>5. Ownership of Gerahies Pier</li> <li>6. The impact on the natural environment and an area of natural beauty</li> </ol>
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## **Submission 2 (Michael and Donna O'Driscoll)**

A submission was received on 13/01/2020 where the Party responsible sought to outline their opposition to the decision by the Minister to grant the aquaculture licence. In a broad opening statement, it is argued that: the concentration of "multiple marine industries" has negatively impacted the area; there are concerns about the past practices of the Applicant; there was a disregard for the economic and environmental interests of the wider community; a lack of supporting evidence for decision-making; an absence of an Environmental Impact Statement; and, a lack of stakeholder engagement.

Additionally, detailed comments were made under two main themes: 'Inadequate Standard of Review' and 'Adverse Effects on the Tourism Economy'. Summary descriptions of the comments contained under each theme are provided below.

### **Inadequate Standard of Review**

1. It is argued that there is no documentary evidence provided to support the ministerial decision. References to "scientific advice" have not been elaborated upon or supported by proof of such advice;
2. It is claimed that the subject site is "exposed to frequent high winds, heavy swells and storm surge" and, therefore, other sites (T05/306A, T05/069A, T05/69B and T05/433) under licence by the Applicant which are currently unused would prove more suitable alternatives. In addition, the legal validity of the current application is questioned as it is claimed there is "no information at all" on licence number T05/430 A&B being granted or denied, an application that relates to the Applicant
3. It is stated that there has been insufficient research undertaken into the effects of the mussel farm on either the existing wild fisheries or the economic impact on the fishermen.
4. An argument is made that Failte Ireland were not consulted with prior to a decision on the application. It is claimed that this is particularly important considering the tourism potential of the area and the stated objectives in Cork County Council's Development Plan to protect and enhance tourist assets ( Core Strategy Objective 4.4; 8.2.1 and 13.7.1)
5. It is stated that sufficient consultation with "major stakeholders" and, in particular, the surrounding community in relation to decision-making on behalf of the Department failed to take place.

### ***Adverse Effects on the Tourism Economy***

1. The area is designated as a "Very High Value Landscape, Very High Sensitivity Landscape, Nationally Important Landscape, and an Area of Strategic Tourism Potential" and it supports significant tourism and associated services industries. It is claimed that the continued expansion of commercial activity, which includes the Applicant's proposal, is having an adverse impact on the tourism industry, an industry which generates "far more income for many more people" than the mussel farm could. It is claimed that no proper assessment of the impact on the tourism and services sectors has been carried out.
2. The statement in the minister's decision that "the proposed development should have a positive effect on the economy of the local area" is contested as it is claimed that "should have" is insufficient and a detailed review of the performance of existing marine industries is required. The persons responsible for the submission argue that the existing marine industries have been performing poorly and have a "problematic" history, unlike the tourism enterprises that will be impacted negatively, but have "demonstrated the capacity for sustainability"
3. It is claimed that the Applicant, and associated companies, have "breached [previous licence] conditions with impunity", resulting in the accumulation of waste and other dumped material in the area.

## **Submission 3 (Finnian O'Driscoll)**

A submission was sent by email by Finnian O'Driscoll on 01/01/2020 outlining eight observations (summarised below):

1. West Cork Seafoods state the area in question is a "designated shellfish growing area". This was contended as "any area of the country which has an Aquaculture Licence to grow shellfish is therefore in fact a Designated growing area."
2. In relation to economic benefits "due to toxins absorbed in the summer months which would render the shellfish unsafe for consumption , the growers specifically altered their cycle to have mature Mussels ready for the Autumn Winter market from November to May approximately, 60-70 percent of Bantry Bays Mussels go straight to the European continent for the fresh shellfish market. Before 2010 there was two Mussel Factories in the area but with the large Bantry Bay Seafoods plant which would Have processed most of Bantrys Mussel now defunct and turned into a FinFish utility there now is little option but to ship direct to Europe. This is costly as the grower has Freight, pallet and Mussel bag which are not returned to cater for which amounts to €115 per Ton approximately yet the price per Ton of Mussel has not increased in over a decade, therefore surely with the amount of already omnipresent idle Mussel growing areas in Bantry Bay there is every possibility of flooding this seasonal market thus negatively impacting on the present growers who are producing Mussels for export continuously with years of a virtuous track record."
3. "The Marine Institute's decision to undertake the screening matrix for this licence was vacuous in my opinion, it should have stood aside when as it's stated in the appeal it has grounds leased from a family member of West Cork Seafoods, better yet to have sought an area such as from the Port of Cork which operate Bantry Marine and Pier, that way it would have avoided this issue and the money used for the grounds could have been put back into the area from Port of Cork ."
- 4) "Abandoned Sites, as stated axiomatically in the appeal there are a number of unused sites for Mussels already licenced in outer Bantry Bay, Most of these are nearer Bantry which would be more prudent to operate as would be less of a journey for Boats."
5. "Fastnet Mussels as you see from documentation provided already applied in 1998 for this licence along with T05/430B, On examining the coordinates from then and the present applications they are for the same area however the latter applications take in more area due North. Why has the Department not clarified why the 1998 application was not dealt with, also why does Fastnet who by the Departments website hold a number of licences for Mussel growing not use these, its quiet extraordinary that if companies/families are not using their licences which apparently is in contravention to protocol that this somehow is advantageous to acquiring more licences."
6. "As stated and well known is that just East of this licence lies the Salmon farm T05 122/N1 which suffered huge storm damage in February 2014, this resulted in a major fish escape and ended up with the Department unsuccessfully attempting to revoke the licence in the High court, perversely this current licence was granted West of here which goes against all scientific advice pertaining to climate and more frequency of storm surges predicted. The fact that the site at Gortnakilla has been unused for a decade would indicate its folly to licence this area, also the fact that the accompanying licence T05/430B was correctly refused means that the original claim by the applicant of six jobs is not accurate and should have been redressed by the Department prior to this appeal because it appears it is not financially viable nor environmentally so to ruin such a salient area of natural beauty for an unneeded licence."
7. "The issue raised with accompanied documentation about the ownership of Gearhies highlights the Departments desultory efforts pertaining to all matters associated with the Statutory public consultation process, it also clearly defines the presumptive arrogance of a person to lay claim to a structure hundreds of years old and which public money has been used to upkeep."
- 8) In addition it is stated that there is "a clear apathy associated with the Department, BIM and the Marine Institute which further foments the public perception, these are public bodies and it's now time for them to address the fact there's ample area in Bantry already to grow Mussels, it's quiet extraordinary that at no point



has it been stated this licence is actually needed, as outlined a huge Mussel processing Factory was left mutate from shellfish to finfish production, these unused licenced areas with the exception of T5/408 which was an egregious decision to grant anyway must be dealt with, I cannot see why these sites are not demanded by the Department to start production again, revoking the licences as was the case with the Salmon Farm would lead almost definitely to legal action thus more taxpayer money used, No one has called for a stop to grow Shellfish in Bantry but just to utilise the area there already and liase with current growers who are producing sufficient tonnage and perhaps they can grow more if markets dictate. I understand this is a long submission however it cannot be overstated the current state outer Bantry Bay is at and the North Side of the Sheep’s Head Peninsula where this latest licence has been granted. Ministers come and go and I am sure are only acting on the advice of the relevant divisions so I call on the ALAB board to please overturn this licence T05/430A and preserve this most outstanding area of the Peninsula.”

### 5.1 Section 61 of the Fisheries Amendment Act 1997

This act states that “The licensing authority, in considering an application for an aquaculture licence or an appeal against a decision on an application for a licence or 11 revocation or amendment of a licence, shall take account, as may be appropriate in the circumstances of the particular case, of-

- (a) the suitability of the place or waters at or in which the aquaculture is or is proposed to be carried on for the activity in question,
- (b) other beneficial uses, existing or potential, of the place or waters concerned,
- (c) the particular statutory status, if any, (including the pro-visions of any development plan, within the meaning of the Local Government (Planning and Development) Act, 1963 as amended) of the place or waters,
- (d) the likely effects of the proposed aquaculture, revocation or amendment on the economy of the area in which the aquaculture is or is proposed to be carried on,
- (e) the likely ecological effects of the aquaculture or proposed aquaculture on wild fisheries, natural habitats and flora and fauna, and
- (f) the effect or likely effect on the environment generally in the vicinity of the place or water on or in which that aqua-culture is or is proposed to be carried on-
  - (i) on the foreshore, or
  - (ii) at any other place, if there is or would be no discharge of trade or sewage effluent within the meaning of, and requiring a licence under section 4 of the Local Government (Water Pollution) Act, 1977, and
- (g) the effect or likely effect on the man-made environment of heritage value in the vicinity of the place or waters.”

### 5.2 Screening for Environmental Impact Assessment and Appropriate Assessment

#### Note on Environmental Impact Statement Requirements

S.I. No. 236/1998: AQUACULTURE (LICENCE APPLICATION) REGULATIONS, 1998

Environmental impact statement required for certain applications

5. (1) An application under section 10 of the Act for an aquaculture licence **in respect of seawater salmonid breeding installations shall be accompanied by an environmental impact statement.**

(2) In the case of an application other than one referred to in paragraph (1), the Minister may require the applicant to submit an environmental impact statement **if the Minister considers that the proposed aquaculture is likely to have significant effects on the environment.**

As outlined in Statutory Instruments S.I. No. 410 of 2012 (European Union (Environmental Impact Assessment (Aquaculture) Regulations 2012):

“In the case of an application other than one referred to in paragraph (1), the Minister may require the applicant to submit an environmental impact statement if the Minister considers that the proposed aquaculture is likely to have significant effects on the environment.

“(2) An environmental impact assessment shall be carried out by the Minister in respect of an application for- (a) aquaculture of a class specified in Regulation 5(1)(i) and (ii), unless the application is one which is solely for movement of navigation buoys, internal reconfiguration of the site, upgrading equipment used on the site, technology changes or improvements, or to comply with public safety requirements or a combination of these and which the Minister determines would not be likely to have significant effects on the environment, or

(b) aquaculture of a class specified in Regulation 5(1) (ii) which does not exceed a quantity, area or other limit specified in that Regulation which the Minister determines would be likely to have significant effects on the environment.”

**This applications for aquaculture licences is not for a “salmonid breeding installation” and the Minister has considered that it is deemed not to have a significant effect on the environment. Therefore, an Environmental Impact Statement in not required.**

### Appropriate Assessment

As outlined by the Marine Institute in the Ministerial file *“Sites T05/430A and T05/430B are not located within a designated Natura 2000 site and, as set out in the AA Screening Report for outer Bantry Bay, the Marine Institute is of the view that significant impacts on any adjacent Natura 2000 are not likely.”*

### 5.3 Site Suitability

The proposed aquaculture site is within open water where there would be adequate dilution of impacts from the mussel farm. It would not be located within a designated Natura 2000 site or seen to have the potential to impact on migratory fish species. Cetaceans are potentially within the vicinity of the development but would not be expected to be significantly impacted by the location of mussel farm which would be deemed to be relatively passive in nature with no significant acoustic emissions. The proposed location would be deemed to be suitable for the location of a mussel farm based on the evidence provided within the Ministerial File. Additional aquaculture sites are operating within the vicinity. As outlined in the Ministerial File *“The Department’s Scientific Advisors, the Marine Institute, are of the view that there will be no significant impacts on the marine environment and that the quality status of the area will not be adversely impacted”*. In addition, *“The proposed site is located in Bantry Bay, which is not a Natura 2000 area. However, it is adjacent to a number of Natura sites. A screening matrix was carried out by our scientific advisors who considered that there will be no significant effects on the qualifying interests of the Natura sites”*.

### 5.4 Other Uses

#### Tourism/Recreation/Leisure

The aquaculture sites are not located an area of high Tourism/Recreation/Leisure activity. However, Bantry Bay is on the Wild Atlantic Way and the Bay is well known area for the aquaculture industry. This is discussed in more detail in Section 6.0 in response to point 5 of Appellant 1. The proposed aquaculture licences, would not be expected to significantly impact on the scenic landscape.

## 5.5 Statutory Status

The site is within an Areas of High Value Landscape As outlined in the Cork County Development Plan. As outlined in the County development Plan *“Within these High Value Landscapes considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. Therefore, the location, siting and design of large scale developments within these areas will need careful consideration and any such developments should generally be supported by an assessment including a visual impact assessment which would involve an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.”* However, the County Development Plan also states that *“The Council recognises and will continue to support the sustainable development of the aquaculture industry in order to maximise its contribution to employment and the economic well being of rural coastal communities and the economic wellbeing of the county. This plan also recognises the important role aquaculture can play in the diversification of rural areas.”* It is not foreseen that the aquaculture operations at the sites would impact on current or potential development plans due to the visual impact. Bantry Bay is a recognised aquaculture area and additional facilities are proximate to the proposed aquaculture sites.

This applications for aquaculture licences is not for a “salmonid breeding installation” and the Minister has considered that it is deemed not to have a significant effect on the environment. Therefore, an Environmental Impact Statement is not required As outlined in the Ministerial File “The proposed site is located in Bantry Bay, which is not a Natura 2000 area. However, it is adjacent to a number of Natura sites. A screening matrix was carried out by our scientific advisors who considered that there will be no significant effects on the qualifying interests of the Natura sites. “The proposed aquaculture sites will have not a significant impact on the statutory status of the area.”

## 5.6 Economic Effects

The scale of the proposed aquaculture site is relatively small and would only be expected to benefit the applicant and his employees. The proposed project is relatively small in scale and would not be expected to have a significant economic impact on the local community No significant local employment beyond

The proposed sites are **likely to have a positive effect** on the local economy of the area.

## 5.7 Ecological Effects

The proposed aquaculture site is not within or proximate to a designated conservation site of National or international importance. It is located within an open unobstructed section of a large bay where good water circulation would be expected. As a result, it would particulate matter from the mussel farm would be expected to be readily distributed through the water column. In calm periods where wave action and currents are low some material could locally settle impacting on benthic biodiversity locally, beneath the site. However, given the relatively exposed nature of the site to open circulation and movement of water, it would not be expected that significant quantities of material would settle beneath the site and significantly impact on the ecology of the area.

The proposed aquaculture **sites are not likely to have a significant impact** on the designated sites or significant ecological effects.

### 5.7.1 Potential impacts

As outlined above the proposed aquaculture site would not be expected to impact on designated sites or on the ecology of the area. Impacts would be expected to the immediate vicinity of the mussel farm and given the good water circulation in the area these effects would not be deemed to be significant. Having assessed the potential environmental impacts outlined above, the proposed sites do not have the potential to have a significant impact on the environment.

### 5.8 Effect on Man-Made Heritage

See section 4.5 for additional details. No National Monuments are in the vicinity of the proposed aquaculture developments.

The proposed aquaculture site will not significantly impact on man-made heritage of the area

## 6.0 Technical Advisor's Evaluation of the Substantive Issues in Respect of Appeal and Submissions/Observations Received

A technical review was carried out by Altemar Ltd. in relation to the granted aquaculture licence. A review of the appeal and Ministerial file and a site visit was carried out. As outlined in the reviewed determinations the Minister has approved the granting of a 10-year Aquaculture Licence and Foreshore Licence, for the cultivation of mussels using longlines on site no. T05/430A. Having reviewed the issues raised by the appellants, it is felt that the Minister was correct in approving the licence on T05/430A.

### AP32/2019 (T05/430A)

Appellant 1     Ian Leslie Stretch

#### 1.     Carrying Capacity

As outlined in the Site Suitability Assessment in the Ministerial File *"There are no other aquaculture applications at this location that would result in a cumulative impact. The existing aquaculture has become embedded in the landscape and these applications are small in scale and do not significantly increase the licenced aquaculture area in the context of the bay."* The proposed site is an open section of the bay with unobstructed access to clean marine water. It would not obstruct other aquaculture installations. Localised impacts may occur in the vicinity of the farm but these would not be expected to significantly impact on fish stocks, particularly as the site is relatively unsheltered from prevailing winds, significant mixing would be seen on site.

#### 2.     Lack of EIA

As outlined in Section 5.2 an EIAR is not required for the proposed aquaculture licence.

#### 3.     Site Suitability (weather)

The Marine Engineering Division have assessed the site and the proposed structures and have no objection to the licensing of this site and but have recommend conditions in the licence regarding the site layout. Given the presence of additional aquaculture facilities in the area and based on the review carried out by the Marine Engineering Division and the implementation of the conditions outlined by Marine Engineering Division it would be expected that the site would be suitable.

#### 4.     Site Suitability (visual impact)

As outlined in the Site Suitability Assessment *"the area is lightly populated; and this road is not heavily trafficked and does not have designated laybys or public viewing areas at this location, I believe that the visual impact is moderate and the applications should not be refused on visual impact grounds."* The Technical Advisor would agree with this statement.

#### 5.     Amenity Impact (tourism)

The proposed aquaculture site is along the Wild Atlantic Way route. However, it is within a bay with existing aquaculture development in addition to the Bantry Bay Oil terminal. It would not be expected to have a significant negative impact on the area. As outlined in the Ministerial File and conditions, *"The flotation barrels should be battleship grey in colour"* and *"Each mussel longline will not be longer than 220 metres in length."* As outlined in the Marine Engineering Division Assessment in the Ministerial File *"The terrestrial area adjacent to these applications is designated as high value scenic landscape. The local county road adjacent to these applications is designated as a scenic route (S110) in the Cork County Development Plan 2014 and is part of the Wild Atlantic Way. The views from the road are of Bantry Bay and the mountains of the Beara Peninsula to the north.*

*The Sheep's Head Way, a marked walking route passes along the mountain to the south of the public road. The views from the Sheep's Head Way are of Dunmanus Bay and Mizen peninsula to the south; Sheeps Head to the*

east and west; and Bantry Bay and the mountains of the Beara Peninsula to the north. The area is lightly populated and there is a farm guesthouse to the south of Site T05/430A.

There are licenced aquaculture sites for mussel longlines along the coastline to the west and east of these applications; and licenced salmon farm sites to the east at Gerahies. These existing aquaculture sites are as visible from the road and walkway as the sites of these applications; and are of a similar nature and scale to the proposed sites. Any viewers in the vicinity of these applications will have passed these existing sites and will be aware of aquaculture in this area.

Travelling in a westerly direction along the roadway, Site T05/430A is not visible due to vegetation and topography, while T05/430B becomes visible as the road rises and the viewer approaches the site. Travelling in an easterly direction and as the road descends, Site T05/430B is visible briefly and T05/430A becomes visible in the distance along a section of approximately 500 metres of roadway. The existing aquaculture sites at Gerahies are visible to the east also.

Given that aquaculture already exists along this coastline; the proposed sites are small in the context of the overall available scenic views from both the public road and the walkway; the farm layouts and type of structures adhere to the best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001; the area is lightly populated; and this road is not heavily trafficked and does not have designated laybys or public viewing areas at this location, I believe that the visual impact is moderate and the applications should not be refused on visual impact grounds." The Technical Advisor concurs with this assessment.

## 6. Statutory consultees

Claims against the suitability of certain stated statutory consultees and the failure to consult with other named bodies were made by appellants.

Following the October 2021 Aquaculture Licences Appeals Board Meeting in October 2021, S47 consultation request was sent to DAFM concerning Failte Ireland and the consultation in relation to the proposed aquaculture site.

The S47 letter dated 19<sup>th</sup> November 2021 from ALAB to DAFM stated that "*The Board requires you to clarify whether Failte Ireland were notified by your division regarding this site, T05/430A, during the statutory consultation phase of the application process, as required by Regulation 10 of the Aquaculture (Licence Application) Regulations, 1998. The file provided by your department relating to T05/430A does not make this clear.*

*Assuming Failte Ireland were contacted, can you please inform the Board as to the response (if any) received from them in relation to site T05/430A.*" In response to the above communication DAFM stated on the 19<sup>th</sup> November 2021 the following:

*"I refer to the Section 47 (1) (a) request received today 19<sup>th</sup> November. Failte Ireland were notified on 8<sup>th</sup> March 2019 by this Division, regarding site T05/430A, during the statutory consultation phase of the application process as required by Regulation 10 of the Aquaculture (Licence Application) Regulations, 1998 (SI No. 236 of 1998). No response was received from Failte Ireland."*

## 7. Consultation process

Concerns were raised by appellants that adequate access to information was not provided to the public while, in other instances, proper public and stakeholder consultation did not occur. This, it is claimed, highlights a failure on behalf of the Department and calls into question the validity of the entire application process.

It is beyond the scope of the Technical Advisors Report to explore the public consultation process that preceded the decision to grant a licence. However, as outlined in the Ministerial File (T05/430A) "*The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in The*

*Southern Star on 30 March, 2019. The application and supporting documentation were available for inspection at Bantry Garda Station for a period of 4 weeks from the date of publication of the notice in the newspaper. There were 30 objections received from the public consultation process. It is not possible to disaggregate the comments into aquaculture and foreshore elements."*

#### 8. Alternative siting

It is argued that alternative and more suitable sites were not explored, particularly those that are under licence by the Applicant for some time. These sites, it is claimed, are under licence yet remain un-used and are not operational, therefore, it is argued that these sites would provide alternative and more suitable locations.

Exploring such claims are beyond the scope of the Technical Advisor Report, particularly when claims relate to other applications/licences. This report is to assess this site, not other alternatives

#### 9. Site designation process

An appellant questioned the legitimacy of the process that led to the designation of an area within Bantry Bay as a 'Shellfish Growing Area'. They question whether appropriate and transparent processes for designation occurred and argue that such a designation has subsequently allowed for the farming of mussels. The appellant felt that the validity of the designation is called into question and should be explored.

Exploring such a claim is beyond the scope of the Technical Advisor Report.

#### 10. Legal requirements

It is claimed that the Applicant, and their associated enterprises, already operate several other licenced facilities and are restricted to a maximum quota of longlines that they can use. The implication is that the proposed facility will breach the quota of longlines when in operation and should, therefore, not be granted a licence.

The Technical Advisor Report relates to a single application for a licence and the existence of other licenced premises, in this particular instance, are not a consideration of this report.

#### 11. Ownership issues

Ownership and access rights to the Gearhies Pier are questioned by the Appellant, with claims that public ownership through Cork County Council exists, countering the claim of the Applicant that they have ownership of the aforementioned pier.

Issues of ownership are beyond the scope of the Technical Advisor Report. However, as outlined in Appeal by the Seefin Group *"On viewing the ministerial file it came to our attention that there was a serious issue relating to a claim by John Murphy that he was the owner of Gearhies Pier. These claims are repeated several times as we have highlighted in FL1. These claims are disturbing in that the Department never clarified those statements. We have enclosed documents stating the Department actually gave grant assistance to Cork County Council on five occasions for maintenance and upgrade works to Gearhies Pier, the last was just 2012, so it's perverse as to why it did not take issue with these outrageous claims. As of now. we-have written confirmation from Minister Creed that states Gearhies Pier is under the ownership of Cork County Council and available for public use. The department however has not clarified, after all this time, their interpretation. It is a nefarious claim on a pier that has been in existence over a century."*

#### **Cork County Council**

Following the October 2021 Aquaculture Licences Appeals Board Meeting in October 2021, S47 consultation requests were sent to Cork County Council.

In the S47 (19<sup>th</sup> November 2021) to Cork County Council ALAB Stated that *"The Board requires Cork County Council to clarify whether it is the current owner of Gearhies Pier located at Gearhies, Bantry, Co. Cork (latitude and longitude: 51°38'42.6"N, 9°35'10.5"W) and whether the Pier is in charge of Cork County Council."*

In the Cork County Council response to the ownership received on the 21/01/2022 Cork County Council stated that *“A significant portion of the pier at Gearhies is in charge of Cork County Council. The Council does not have a registered title to the property. Current searches have not revealed an unregistered title to the property either. That is not in itself unusual, as there are many piers within the county for which the Council does not have a documentary title. As the pier is in charge of the Council, it maintains it and carries out capital works to it from time to time. In the circumstances, and having particular regard to expenditure on the pier, the Council is of the view is that it has a beneficial interest in the Gearhies pier.”*

## 12. Licencing process

The Appellant argues that the Applicant has links to a third-party who has had an application lodged for several years and this has, in effect, prevented others in their attempts to obtain licences.

Such a dispute and claims to this effect are beyond the scope of the Technical Advisor Report. However, the application is addressed in the MED site suitability report. It was initially recommended that it be rejected but it was resubmitted in 2019 when it was reassessed

**AP49/2019 (T05/430A)** Appellant 2 Bantry Inshore Fishermen

### 1. Cumulative Impacts

As outlined above, within the Site Suitability Assessment in the Ministerial File “There are no other aquaculture applications at this location that would result in a cumulative impact. The existing aquaculture has become embedded in the landscape and these applications are small in scale and do not significantly increase the licenced aquaculture area in the context of the bay.” The proposed site is an open section of the bay with unobstructed access to clean marine water. It would not obstruct other aquaculture installations. Localised impacts may occur in the vicinity of the farm but these would not be expected to significantly impact on fish stocks, particularly as the site is relatively unsheltered from prevailing winds, significant mixing would be seen on site.

### 2. Site Suitability

As outlined above Marine Engineering Division have assessed the site and the proposed structures and have no objection to the licensing of this site and but have recommend conditions in the licence regarding the site layout.

### 3. Impacts on Herring

Data from the Marine Institute digital atlas in relation to the Atlantic Herring Grounds was investigated (Figure 19). The proposed aquaculture site is outside of the recognised herring spawning area. No impact would be seen on the herring spawning area.



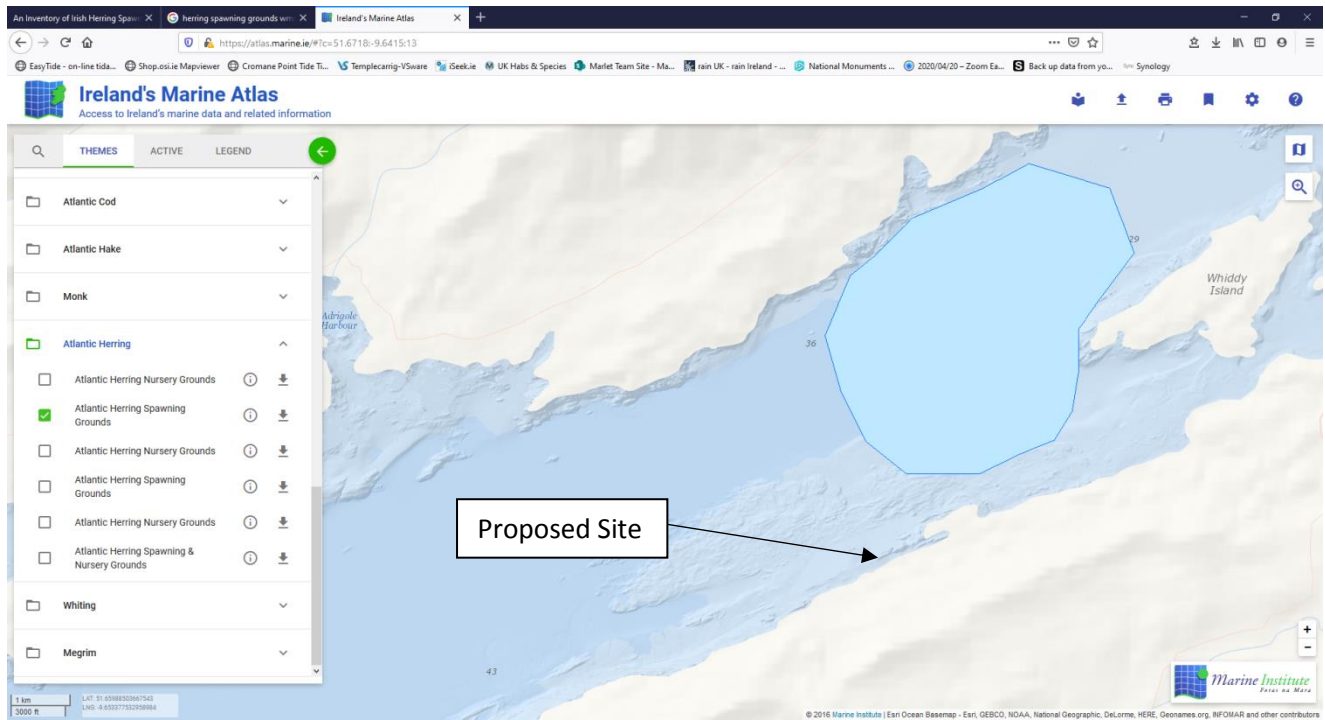


Figure 19. Atlantic Herring Spawning Sites (Source Marine Institute)

#### 4. Threats to Shellfish

It would be expected that the population of starfish would increase locally in the vicinity of the proposed aquaculture facility. However, lobster and native crab species would prey on starfish while bivalves would be preyed upon by starfish. Potting is seen as the main fishery activity in the area, and this aquaculture site may lead to an additional food resource for larger crustaceans. In addition, based on the bathymetry seen in Figure 19 the majority of the seabed appears to be hard bedrock type habitats with softer sediments more offshore. This would tend to favour larger crustaceans in the vicinity of the site and would not be an ideal habitat for bivalves.

## T05/430A - Submission 1 (Valerie Bush)

The Party responsible for the submission, received by email on 06/01/2020, stated their “dismay” at their perception that “few, if any” of the comments or observations made by the local community were considered by the Minister when passing judgement. They ask that the following points raised throughout previous observations are re-considered:

1. Overusing the area;
2. Other sites are more suitable [for activity] yet are left “defunct”;
3. The “impartiality of [the] review by the Marine Institute is vague”
4. The “record of the applicant in past enterprises is certainly documented”
5. Ownership of Gearhies Pier
6. The impact on the natural environment and an area of natural beauty

The statement continues by highlighting a need to address the “environmental impact and the degradation of the Sheepshead peninsula by commercial development”. Furthermore, the statement argues that the area has become known for tourism and its immense scenic beauty due to the relatively undisturbed and remote nature of it. It has been “unexploited” until recently, however this has been jeopardised by recent commercial developments and increasing road traffic.

In response to the six points raised by the appellant the following should be noted:

The proposed aquaculture site is within a designated Shellfish Directive Area where as outlined by DAFM “The Directive is implemented in Ireland by the European Communities (Quality of Shellfish Waters) Regulations 2006 (SI No 268 of 2006). Pollution reduction programmes (PRP’s) were established for 14 sites already designated under these Regulations. In August 2008, DAFF invited submissions from interested parties on the proposal to designate an additional 49 water bodies for protection or improvement under the above Directive.

On foot of this consultation process, the Minister for the Environment, Heritage and Local Government, on 10<sup>th</sup> February 2009, signed the European Communities (Quality of Shellfish Waters) (Amendment) Regulation 2009, SI 55 of 2009. This SI amends the 2006 Statutory Instrument by providing for designation of an additional number of important shellfish growing areas.” As a result of this Directive and selection of these Designated Shellfish Areas it is anticipated that shellfish aquaculture would be carried out within these designated areas. However, the selection/choice made by an applicant to develop one aquaculture site over another or to review “record of the applicant in past enterprises” is beyond the scope of a technical advisor review.

In relation to the ownership of the pier “A significant portion of the pier at Gearhies is in charge of Cork County Council. The Council does not have a registered title to the property. Current searches have not revealed an unregistered title to the property either. That is not in itself unusual, as there are many piers within the county for which the Council does not have a documentary title. As the pier is in charge of the Council, it maintains it and carries out capital works to it from time to time. In the circumstances, and having particular regard to expenditure on the pier, the Council is of the view is that it has a beneficial interest in the Gearhies pier.”

In relation to the natural environment, no significant impacts are foreseen following the placement of the proposed aquaculture facility in the proposed location. Sufficient information and assessment has been provided within the Ministerial File to allay concerns in relation to the natural environment. The proposed site is not within or proximate to a designated site or watercourse and the proposed site is within an open bay where circulation would be expected to be good. The site is within an Areas of High Value Landscape As outlined in the Cork County Development Plan and is proximate to the Wild Atlantic Way. As outlined in the Cork County Development Plan “Within these High Value Landscapes considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. Therefore, the location, siting and design of large scale developments within these areas will need careful consideration and any such developments should generally be supported by an assessment including a visual impact assessment which would involve an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.” However, the County Development Plan also states that “The Council recognises and will continue to support the sustainable development of the aquaculture industry in order to maximise its contribution to

*employment and the economic well being of rural coastal communities and the economic wellbeing of the county. This plan also recognises the important role aquaculture can play in the diversification of rural areas.”* In addition, Bantry Bay is a recognised aquaculture area and additional facilities are proximate to the proposed aquaculture site. As outlined in the Ministerial File *“These applications are for mussels grown on 220 metre single head-rope longlines. Details of the farm layouts and structures have been submitted and are suitable. The flotation barrels should be battleship grey in colour. The farm layouts and type of structures proposed are in accordance with the best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001.”*

In addition, *“The local county road adjacent to these applications is designated as a scenic route (S110) in the Cork County Development Plan 2014 and is part of the Wild Atlantic Way. The views from the road are of Bantry Bay and the mountains of the Beara Peninsula to the north. The Sheep’s Head Way, a marked walking route passes along the mountain to the south of the public road. The views from the Sheep’s Head Way are of Dunmanus Bay and Mizen peninsula to the south; Sheeps Head to the east and west; and Bantry Bay and the mountains of the Beara Peninsula to the north. The area is lightly populated and there is a farm guesthouse to the south of Site T05/430A. There are licenced aquaculture sites for mussel longlines along the coastline to the west and east of these applications; and licenced salmon farm sites to the east at Gerahies. These existing aquaculture sites are as visible from the road and walkway as the sites of these applications; and are of a similar nature and scale to the proposed sites. Any viewers in the vicinity of these applications will have passed these existing sites and will be aware of aquaculture in this area.*

*Travelling in a westerly direction along the roadway, Site T05/430A is not visible due to vegetation and topography, while T05/430B becomes visible as the road rises and the viewer approaches the site. Travelling in an easterly direction and as the road descends, Site T05/430B is visible briefly and T05/430A becomes visible in the distance along a section of approximately 500 metres of roadway. The existing aquaculture sites at Gerahies are visible to the east also.*

*Given that aquaculture already exists along this coastline; the proposed sites are small in the context of the overall available scenic views from both the public road and the walkway; the farm layouts and type of structures adhere to the best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001; the area is lightly populated; and this road is not heavily trafficked and does not have designated laybys or public viewing areas at this location, I believe that the visual impact is moderate and the applications should not be refused on visual impact grounds.”*

The Draft Cork County Development Plan 2021 also noted the area as High Value Landscape and the road as a scenic route. However, it should also be noted that as outlined in the DAFM communication relating to the Bord Failte consultation, no response was received from Bord Failte in relation to the consultation. It would be expected that if Bord Failte felt that the proposed aquaculture site would impact on tourism they would have formulated a response to the consultation. In addition, as outlined above *“Travelling in a westerly direction along the roadway, Site T05/430A is not visible due to vegetation and topography, while T05/430B becomes visible as the road rises and the viewer approaches the site. Travelling in an easterly direction and as the road descends, Site T05/430B is visible briefly and T05/430A becomes visible in the distance along a section of approximately 500 metres of roadway.”* This level of low level of visibility from the road was confirmed during the site assessment by the Technical Advisor. The proposed aquaculture site would be in a designated shellfish area and would not be expected to significantly impact on the visual landscape.

#### **T05/430A - Submission 2 (Michael and Donna O’Driscoll)**

A submission was received on 13/01/2020 where the Party responsible sought to outline their opposition to the decision by the Minister to grant the aquaculture licence. In a broad opening statement, it is argued that: the concentration of *“multiple marine industries”* has negatively impacted the area; there are concerns about the past practices of the Applicant; there was a disregard for the economic and environmental interests of the wider community; a lack of supporting evidence for decision-making; an absence of an Environmental Impact Statement; and, a lack of stakeholder engagement. These items have been previously addressed in sections 5 and 6 of the Technical Advisor Report.

Additionally, detailed comments were made under two main themes: 'Inadequate Standard of Review' and 'Adverse Effects on the Tourism Economy'. Summary descriptions of the comments contained under each theme are provided below.

#### Inadequate Standard of Review

1. It is argued that there is no documentary evidence provided to support the ministerial decision. References to "*scientific advice*" have not been elaborated upon or supported by proof of such advice;
2. It is claimed that the subject site is "*exposed to frequent high winds, heavy swells and storm surge*" and, therefore, other sites (T05/306A, T05/069A, T05/69B and T05/433) under licence by the Applicant which are currently unused would prove more suitable alternatives. In addition, the legal validity of the current application is questioned as it is claimed there is "*no information at all*" on licence number T05/430 A&B being granted or denied, an application that relates to the Applicant
3. It is stated that there has been insufficient research undertaken into the effects of the mussel farm on either the existing wild fisheries or the economic impact on the fishermen.
4. An argument is made that Failte Ireland were not consulted with prior to a decision on the application. It is claimed that this is particularly important considering the tourism potential of the area and the stated objectives in Cork County Council's Development Plan to protect and enhance tourist assets ( Core Strategy Objective 4.4; 8.2.1 and 13.7.1).
5. It is stated that sufficient consultation with "*major stakeholders*" and, in particular, the surrounding community in relation to decision-making on behalf of the Department failed to take place.

#### Adverse Effects on the Tourism Economy

6. The area is designated as a "*Very High Value Landscape, Very High Sensitivity Landscape, Nationally Important Landscape, and an Area of Strategic Tourism Potential*" and it supports significant tourism and associated services industries. It is claimed that the continued expansion of commercial activity, which includes the Applicant's proposal, is having an adverse impact on the tourism industry, an industry which generates "*far more income for many more people*" than the mussel farm could. It is claimed that no proper assessment of the impact on the tourism and services sectors has been carried out.
7. The statement in the minister's decision that "*the proposed development should have a positive effect on the economy of the local area*" is contested as it is claimed that "*should have*" is insufficient and a detailed review of the performance of existing marine industries is required. The persons responsible for the submission argue that the existing marine industries have been performing poorly and have a "*problematic*" history, unlike the tourism enterprises that will be impacted negatively, but have "*demonstrated the capacity for sustainability*"
8. It is claimed that the Applicant, and associated companies, have "*breached [previous licence] conditions with impunity*", resulting in the accumulation of waste and other dumped material in the area.

#### **Technical Advisor Response:**

Sufficient information has been provided to support the proposed aquaculture licence application. The information within the application and Ministerial File has provided adequate information to provide a determination. In relation to tourism impact the Marine Engineering Division provides a succinct evaluation (outlined above). In addition, the information gleaned for this Technical Advisor report (Sections 5 & 6) has not highlighted any specific risks or concerns that have not been adequately assessed in the information provided. The Marine Engineering Division acknowledge that "*The sites are located at a relatively exposed location at Glanlough along the south shore of Bantry Bay. The proposed sites are adjacent to the roadway from*

*Bantry via Gerahies to Kilcrohane. There are mussel longline sites to the west and east of the proposed application sites, as well as a number of salmon farm sites to the east, which indicates that the hydrodynamic regime at this location is suitable for this type of aquaculture."*

It should be noted as previously outlined, in the response to the ALAB communication to DAFM (19th November 2021) DAFM stated that: "Failte Ireland were notified on 8th March 2019 by this Division, regarding site T05/430A, during the statutory consultation phase of the application process as required by Regulation 10 of the Aquaculture (Licence Application) Regulations, 1998 (SI No. 236 of 1998). No response was received from Failte Ireland." However, the issue in relation to the breaching of previous licence is beyond the scope of the Technical Advisor Report. In relation to ownership of Gearhies Pier the pier is in charge of Cork County Council. "The Council does not have a registered title to the property. Current searches have not revealed an unregistered title to the property either. That is not in itself unusual, as there are many piers within the county for which the Council does not have a documentary title. As the pier is in charge of the Council, it maintains it and carries out capital works to it from time to time. In the circumstances, and having particular regard to expenditure on the pier, the Council is of the view is that it has a beneficial interest in the Gearhies pier."

### **Submission 3 (Finnian O'Driscoll)**

A submission was sent by email by Finnian O'Driscoll on 01/01/2020 outlining eight observations (summarised below):

1. West Cork Seafoods state the area in question is a "*designated shellfish growing area*". This was contended as "*any area of the country which has an Aquaculture Licence to grow shellfish is therefore in fact a Designated growing area*". This is acknowledged.

2. In relation to economic benefits "*due to toxins absorbed in the summer months which would render the shellfish unsafe for consumption, the growers specifically altered their cycle to have mature Mussels ready for the Autumn Winter market from November to May approximately, 60-70 percent of Bantry Bays Mussels go straight to the European continent for the fresh shellfish market. Before 2010 there was two Mussel Factories in the area but with the large Bantry Bay Seafoods plant which would Have processed most of Bantrys Mussel now defunct and turned into a FinFish utility there now is little option but to ship direct to Europe. This is costly as the grower has Freight, pallet and Mussel bag which are not returned to cater for which amounts to €115 per Ton approximately yet the price per Ton of Mussel has not increased in over a decade, therefore surely with the amount of already omnipresent idle Mussel growing areas in Bantry Bay there is every possibility of flooding this seasonal market thus negatively impacting on the present growers who are producing Mussels for export continuously with years of a virtuous track record.*" It should be noted that the proposed location of the site is in an open part of the Bay and it would not be expected to the same levels of biotoxin as in the inner parts of the Bay where circulation is poorer.

3. "*The Marine Institute's decision to undertake the screening matrix for this licence was vacuous in my opinion, it should have stood aside when as it's stated in the appeal it has grounds leased from a family member of West Cork Seafoods, better yet to have sought an area such as from the Port of Cork which operate Bantry Marine and Pier, that way it would have avoided this issue and the money used for the grounds could have been put back into the area from Port of Cork .*" This is beyond the scope of the Technical advisor report.

4) "*Abandoned Sites, as stated axiomatically in the appeal there are a number of unused sites for Mussels already licenced in outer Bantry Bay, Most of these are nearer Bantry which would be more prudent to operate as would be less of a journey for Boats.*" This is a commercial decision for the applicant.

5. "*Fastnet Mussels as you see from documentation provided already applied in 1998 for this licence along with T05/430B, On examining the coordinates from then and the present applications they are for the same area however the latter applications take in more area due North. Why has the Department not clarified why the 1998 application was not dealt with, also why does Fastnet who by the Departments website hold*

*a number of licences for Mussel growing not use these, its quiet extraordinary that if companies/families are not using their licences which apparently is in contravention to protocol that this somehow is advantageous to acquiring more licences.” This is beyond the scope of the technical advisor report.*

6. *“As stated and well known is that just East of this licence lies the Salmon farm T05 122/N1 which suffered huge storm damage in February 2014, this resulted in a major fish escape and ended up with the Department unsuccessfully attempting to revoke the licence in the High court, perversely this current licence was granted West of here which goes against all scientific advice pertaining to climate and more frequency of storm surges predicted. The fact that the site at Gortnakilla has been unused for a decade would indicate its folly to licence this area, also the fact that the accompanying licence T05/430B was correctly refused means that the original claim by the applicant of six jobs is not accurate and should have been redressed by the Department prior to this appeal because it appears it is not financially viable nor environmentally so to ruin such a salient area of natural beauty for an unneeded licence.”*

The Marine Engineering Division acknowledge that “The sites are located at a relatively exposed location at Glanlough along the south shore of Bantry Bay. The proposed sites are adjacent to the roadway from Bantry via Gerahies to Kilcrohane. There are mussel longline sites to the west and east of the proposed application sites, as well as a number of salmon farm sites to the east, which indicates that the hydrodynamic regime at this location is suitable for this type of aquaculture.”

7. *“The issue raised with accompanied documentation about the ownership of Gearhies highlights the Departments desultory efforts pertaining to all matters associated with the Statutory public consultation process, it also clearly defines the presumptive arrogance of a person to lay claim to a structure hundreds of years old and which public money has been used to upkeep.”*

Following the October 2021 Aquaculture Licences Appeals Board Meeting in October 2021, S47 consultation requests were sent to Cork County Council. In the S47 (19<sup>th</sup> November 2021) to Cork County Council ALAB Stated that *“The Board requires Cork County Council to clarify whether it is the current owner of Gerahies Pier located at Gerahies, Bantry, Co. Cork (latitude and longitude: 51°38'42.6"N, 9°35'10.5"W) and whether the Pier is in charge of Cork County Council.”*

In the Cork County Council response to the ownership received on the 21/01/2022 Cork County Council stated that *“A significant portion of the pier at Gearhies is in charge of Cork County Council. The Council does not have a registered title to the property. Current searches have not revealed an unregistered title to the property either. That is not in itself unusual, as there are many piers within the county for which the Council does not have a documentary title. As the pier is in charge of the Council, it maintains it and carries out capital works to it from time to time. In the circumstances, and having particular regard to expenditure on the pier, the Council is of the view is that it has a beneficial interest in the Gearhies pier.”*

8) In addition it is stated that there is “a clear apathy associated with the Department, BIM and the Marine Institute which further foments the public perception, these are public bodies and it’s now time for them to address the fact there’s ample area in Bantry already to grow Mussels, it’s quiet extraordinary that at no point has it been stated this licence is actually needed, as outlined a huge Mussel processing Factory was left mutate from shellfish to finfish production, these unused licenced areas with the exception of T5/408 which was an egregious decision to grant anyway must be dealt with, I cannot see why these sites are not demanded by the Department to start production again, revoking the licences as was the case with the Salmon Farm would lead almost definitely to legal action thus more taxpayer money used, No one has called for a stop to grow Shellfish in Bantry but just to utilise the area there already and liase with current growers who are producing sufficient tonnage and perhaps they can grow more if markets dictate. I understand this is a long submission however it cannot be overstated the current state outer Bantry Bay is at and the North Side of the Sheep’s Head Peninsula where this latest licence has been granted. Ministers come and go and I am sure are only acting on the advice of the relevant divisions so I call on the ALAB board to please overturn this licence T05/430A and preserve this most outstanding area of the Peninsula.” This comment is beyond the scope of the technical advisor report.

## 7.0 Recommendation of Technical Advisor with Reasons and Considerations.

Following a review of the information provided by the Aquaculture Licence Appeals Board including the Ministerial File, the Section 47 information requests made by ALAB to Cork County Council and to DAFM, in addition to a site visit, sufficient information has been provided to inform the Technical Advisor Report. However, the claim that the applicant has “breached [previous licence] conditions with impunity”, resulting in the accumulation of waste and other dumped material in the area, is not seen as being under the remit of the Technical Advisor Report. It would be expected that such an item could be dealt with as a condition of granting of a licence or enforcement action by Cork County Council. Given the location of the proposed facility in open water outside of a designated site, within a bay with existing aquaculture and compliance with best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001 (as noted in the Marine Engineering Division section of the Ministerial File), no significant impact would be foreseen.

Following the assessment of the Appeal, it is recommended to confirm approval of the Licence on T05/430A.

## 8.0 Draft Determination

Based on the assessment of the Issues it would be recommended to confirm the Ministers decision and grant the licence for the mussel farm at T05/430A

**Technical Advisor:** *Bryan Deegan*

**Date:** 15<sup>th</sup> March 2022.