



Supplementary Technical Advisors Report  
Appeal Ref AP6/1-2/2018

Site T05/590A Dunmanus Bay, County Cork  
Proposed longline suspended rope mussel (*Mytilus edulis*) farm

Dr Ciar O'Toole

18 November 2022

Final

This supplemental report was prepared in addition to the technical advisor's report provided to the Board by RPS Consultants dated April 2019, ("the RPS report") the report submitted by the applicant to the Board dated September 2021 entitled "Suitability of Mussel Production Site, Dunmanus Bay, County Cork" produced by AQUAFACT International Services Ltd ("the AQUAFACT Report") and the report submitted to the Board by MERC consultants on 22 July 2022 entitled "Survey Report- Dunmanus Bay AP6/2018" ("the MERC report").

This supplemental report provides the opinion and conclusions of the Board's own technical advisor.

Site T05/590A Dunmanus Bay, County Cork (longline suspended rope mussel (*Mytilus edulis*) farm).



Figure 1: Site location, taken from RPS report, 2019.

A licence decision for a new mussel growing site was appealed in Dunmanus Bay, Co. Kerry at Site T05/590A. This proposed development is located on the southern shore of Dunmanus Bay, Co. Cork.

A brief summary of the appeal issues before ALAB are given in Table 1 below, with a more detailed description given in the technical advisor report prepared for the Board by RPS (RPS, 2019).

Table 1: Appeal issues raised -AP6/1-2/2018.

Appeal Number	Reference number	Appellant	Appeal Issue
AP6/1/2018	T05/590A	Angela Putz, Robert Putz, Angela Putz Jr., Anna Putz,	<ul style="list-style-type: none"> <li>Lack of EIA</li> <li>Insufficient AA screening</li> </ul>

		Cashelfean Developments Ltd. and Dunmanus Bay Marine Association.	<ul style="list-style-type: none"> <li>• Does not fulfil criteria of Section 61(a) –(g) of the Fisheries Act (1997) being potential impacts on: <ul style="list-style-type: none"> <li>• suitability of place or waters</li> <li>• other beneficial users</li> <li>• statutory status</li> <li>• economic effects</li> <li>• ecological effects</li> <li>• environmental effects</li> <li>• man-made heritage</li> </ul> </li> </ul>
AP6/2/2018	T05/590A	Victor and Lynda Morgan	<ul style="list-style-type: none"> <li>• Negative impacts due to biodeposition and low flushing rates of proposed development at Site</li> <li>• Negative impacts on local amenities</li> <li>• Unfulfilled AA requirements</li> <li>• Short period of consultation</li> <li>• Negative impacts of odour from development</li> </ul>

### EIA Screening

As the application for development of Site T09/590A was submitted to the Department in January 2014, it falls under the 2011 EIA Directive. In his assessment, the Minister determined that the aquaculture activity was not likely to have a significant effect on the environment and that an Environmental Impact Statement was not required for this project. The Department's EIA Screening Group did not consider it likely that the proposed aquaculture would have significant effects on the environment.

The Board's technical advisor considered the project proposed in the Application for an Aquaculture Licence under the requirements of the Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012 and the EIA Directive (2011/92/EU) and determines, as mussels are filter feeders and are therefore defined as an extensive form of aquaculture, that an EIS is not required in this case and that the project is not likely to have significant effects on the environment by virtue of its size, nature or location.

### AA Screening

Section 5.4.1 of the RPS report (2019) looks at nearby Natura 2000 sites to the proposed development. The proposed development itself is not in or immediately adjacent to any Natura 2000 sites. The Marine Institute carried out a number of AA screening assessments in the Dunmanus Bay area, which all found that it was considered that there would be no

significant effects on any qualifying features/interests of the Natura 2000 sites. These assessments were entitled "Appropriate Assessment Screening Reports into Extensive Aquaculture Activity in Dunmanus Bay, Co. Cork" and were dated variously October 2015, July 2017, July 2020 and June 2022.

The Board's technical advisor finds that while the nearby SAC sites had been reasonably assessed, the assessment did not consider all the relevant SPA sites which could be potentially impacted by the proposed development as these assessments did not fully consider the foraging ranges of Special Protected Interest species. Therefore, it is not possible to form an opinion at this time on the potential impacts of the proposed development on the SCI species or conservation objectives for any SPA sites which have not yet been suitably assessed.

Therefore, the technical advisor cannot form an opinion at this time as to the potential for the development of the Site to result in a significant deleterious effect, either individually, or in combination with other plans or projects, on SCI species or conservation objectives for any SPA sites yet to be assessed.

## **Section 61 Assessment**

Section 61 of the Fisheries Amendment Act 1997 outlines that the licensing authority, in considering an appeal against a decision on an application for a licence, shall take into account the following criteria:

1) Section 61(a) - the suitability of the place or waters at or in which the aquaculture is proposed:

The RPS report in Section 6.1 did not make a conclusion regarding the site suitability of the proposed development. The statutory bodies who advised the Minister in making his decision found no issues in terms of site suitability when assessing the area, although there were a number of issues raised during the public consultation period regarding the suitability of the site in terms of exposure and flushing rates.

The Board previously found that the issue regarding current flow and biodeposition was an area for further research, and the applicant dealt with this further in the Aquafact report submitted in 2021. However, the findings of this report were not conclusive in the technical advisor's opinion in terms of ruling out ecological and environmental impacts. The Aquafact report also found the presence of maerl species in the local area, which is known to be both ecologically important and sensitive to disturbance and sedimentation.

A follow up survey carried out by MERC consultants on behalf of ALAB (the MERC report) found evidence of maerl and *Zostera* seagrass species in the area, along with an example of a

rare faunal species, which could potentially be of national importance (MERC, 2022). The MERC report outlines the ecological importance of these sensitive species which are known to be negatively impacted by biodeposition and cannot rule out negative impacts on these species due to the proposed development. This is due to the proximity of these species to the Site, which has the potential to overlap with the predicted plume of deposition from the proposed development. Previous studies have shown the impact of biodeposition on these particular species, which can lead to smothering and local extinction (MERC, 2014). The distances between the proposed development and the species under consideration, combined with what is now known regarding modelled impacts of sedimentation from the proposed development (Aquafact, 2021) lead the technical advisor to the conclusion that, at this Site, ecological and environmental impacts of a negative nature cannot be ruled out.

Due to the potential negative impacts of the proposed development on the sensitive species recorded in the vicinity of the proposed development, the technical advisor finds that **the site is not suitable for the proposed development.**

2) Section 61(b) - other beneficial uses, existing or potential, of the place or waters concerned:

The RPS report highlighted the concerns of the appellants in terms of other users and local amenity sites and mentioned the conclusion of the Minister's advisors who did not find that there was evidence of such an impact on the local bathing area being considered. The RPS report did not offer a conclusion on this issue. The Board's technical advisor feels that the evidence shown in the Aquafact report rules out any significant impact on local amenity sites due to biodeposition concerns.

The RPS report found that given the relatively small scale of the proposed activity significant impacts to users' access to commercial fishing grounds and recreation/ tourism areas are discounted. This report also found that measures will be implemented to effectively manage potential significant visual impacts and associated knock-on negative effects to the tourism industry; significant impacts in this regard are discounted. The Board's technical advisor does not feel there was sufficient evidence put forward in the RPS report to support the claims regarding issues for local inshore fishermen to be fully resolved but agrees regarding visual and tourism impacts in a broad sense. Due to the conclusions under Section 61(a) site suitability, the Board's technical advisor did not further investigate the claims regarding local commercial fishing access. Previous experience has shown that longline aquaculture developments can co-exist with the practises of local commercial inshore fishermen, particularly in relation to potting activities in a sheltered area such as this. It is to be noted that both BIM and the SFPA were not aware of any local fishing activity in this specific location.

The Board's technical advisor finds there may be potential impacts for other users in relation to impacts on other users, but these have not been clearly defined as significant or otherwise.

3) Section 61(c) - the particular statutory status of the place or waters:

The RPS report found in Section 6.3 that there were no anticipated negative impacts to designated Natura 2000 Sites and species listed under Annex II and IV of the Habitats Directive. This assessment excludes species listed under the Birds Directive.

The Board's technical advisor has reviewed the RPS report and the AA screenings carried out by the Marine Institute and finds that the assessments carried out did not consider all the relevant SPA sites and their Special Protected Interest species which could be potentially impacted by the proposed development.

Therefore, the Board's technical advisor finds that **the potential for significant negative impacts on Natura 2000 sites and species has not been ruled out in this case.**

4) Section 61(d) - the likely effects of the proposed aquaculture on the economy of the area:

The Board's technical advisor finds that the potential impact on other users of the site means that potential negative or positive economic impacts cannot be conclusively ruled out at this point.

5) Section 61(e) - the likely ecological effects of the aquaculture on wild fisheries, natural habitats and flora and fauna:

While the RPS TA report raised concerns regarding unresolved environmental and ecological issues, the final report submitted in April 2019 recommended the granting of the proposed development at the site. However, the Board felt that the conditions for granting a development had not been met and questions were outstanding in terms of potential environmental and ecological impacts. The Board requested further information from the applicant in terms of potential environmental impacts of the site, which was duly submitted by the applicant in September 2021 (the Aquafact report). This report carried out more extensive current modelling work and also carried out some limited video surveys in the surrounding area, which indicated the presence of environmentally sensitive species which had not previously been confirmed in the area.

Due to the presence of these species, the Board did not find that the outstanding questions relating to ongoing environmental and ecological concerns were satisfiably answered by the Aquafact report. Following an assessment and advice for the Board's technical advisor, a

follow up survey was commissioned by the ALAB Board which was carried out by MERC consultants in Spring 2022, the results of which are reported in a report submitted to the Board on 22 July 2022 entitled “Survey Report- Dunmanus Bay AP6/2018” (“the MERC report”).

The MERC report confirmed the presence of both maerl and seagrass in the nearshore area close to the proposed development, and also the presence of at least one faunal species (Giant fireworks anemone) in the area adjacent to the proposed development which is likely to be of national importance. This is also discussed above under Section 61 (a) Site Suitability.

The MERC report concluded that “Apart from their intrinsic value as indicator species for the health of the local ecosystem, both maerl and seagrass are known to provide a range of ecosystem services and functions generally very likely play an important role in the maintenance of biodiversity and associated local populations of a range of marine species. In this regard the maintenance and restoration of degraded ecosystems such that both maerl and seagrass communities recover and are protected from sources of future impact is a key focus of many current European marine conservation initiatives.

The need to protect of maerl and seagrass communities should therefore be reflected in the approach to licensing of new aquaculture sites in Irish waters. Where uncertainty exists in relation to possible impacts, then a precautionary approach is warranted and recommended until such time that risks to sensitive receptors are firmly quantified.” The Board’s technical advisor agrees with this assessment and the proposed use of the precautionary approach in this case.

Therefore, the Board’s technical advisor finds that **there is potential for significant ecological and environmental impacts on the area** if the proposed development was to go ahead

6) Section 61(f) - the effect or likely effect on the environment generally:

Please see 5) above.

7) Section 61(g) - the effect or likely effect on the man-made environment of heritage value:

There are no concerns raised in the RPS report or in the assessment of the Board’s technical advisor regarding man-made heritage in the vicinity of the proposed development.

## Technical Advisor’s Summary Assessment and Conclusions

**Table 2:** Appeal Issues and Technical Advisor Findings

Appeal Number	Appellant	Appeal Issue	TA Finding
AP6/1/2018	Angela Putz, Robert Putz, Angela Putz Jr., Anna Putz, Cashelfean Developments Ltd. and Dunmanus Bay Marine Association.	<ul style="list-style-type: none"> <li>• Lack of EIA</li> <li>• Insufficient AA screening</li> <li>• Does not fulfil criteria of Section 61(a) –(g) of the Fisheries Act (1997) being potential impacts on:               <ul style="list-style-type: none"> <li>– suitability of place or waters</li> <li>– other beneficial users</li> <li>– statutory status</li> <li>– economic effects</li> <li>– ecological effects</li> <li>– environmental effects</li> <li>– man-made heritage</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• EIS was not required in this case as proposed development is for extensive aquaculture.</li> <li>• AA screening was found to be insufficient in relation to SPA sites.</li> <li>• Does not fulfil criteria under Section 61 of the Fisheries Act in relation to:               <ul style="list-style-type: none"> <li>– suitability of place or waters</li> <li>– other beneficial users</li> <li>– statutory status</li> <li>– ecological effects</li> <li>– environmental effects</li> </ul> </li> </ul> <p>Please see assessment of Section 61 above for further details</p>
AP6/2/2018	Victor and Lynda Morgan	<ul style="list-style-type: none"> <li>• Negative impacts due to biodeposition and low flushing rates</li> <li>• Negative impacts on local amenities</li> </ul>	<ul style="list-style-type: none"> <li>• Negative impacts due to biodeposition and potential low flushing rates have been discounted for some issues, for example, impacts on local amenity areas. Potential negative impacts on ecologically and environmentally sensitive species were not however ruled out.</li> <li>• This has been found not to be a likely area of significant impact.</li> </ul>



		<ul style="list-style-type: none"> <li>• Unfulfilled AA requirements</li> <li>• Short period of consultation</li> <li>• Negative impacts of odour from development</li> </ul>	<ul style="list-style-type: none"> <li>• The TA finds there were some gaps in the AA screening carried out.</li> <li>• The statutory period of consultation was adhered to, as was required.</li> <li>• This ties into the issue relating to potential impacts on local amenities and was found not likely to be an area of potential significant impact.</li> </ul>
--	--	---	--

### Recommendation

The Board's technical advisor finds that the evidence presented in the Aquafact report, and the findings of the MERC report do not allow them to rule out potential negative environmental and ecological impacts at, and adjacent to the proposed site.

As such, it is the recommendation of the Board's technical advisor **to recommend that the Decision of the Minister to grant an application for longline mussel farming at Site T09/590A be overturned for reasons of site suitability, ecological and environmental grounds and statutory status under Section 61 of the Fisheries Act (1997).**