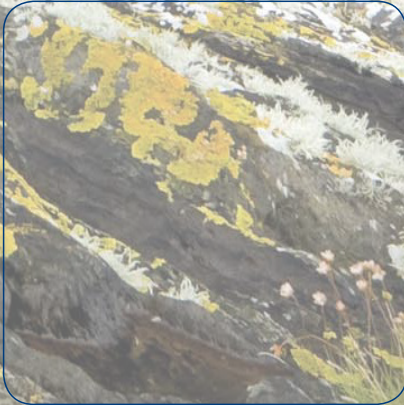
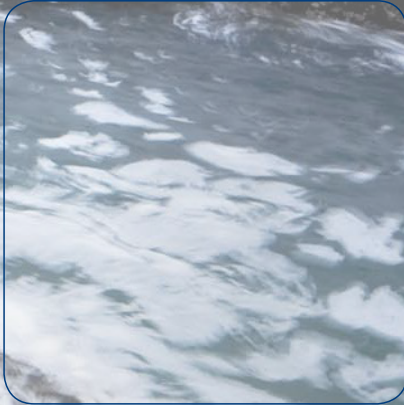




Aquaculture Licences Appeals Board
Dunmanus Bay Mussels Ltd - T05/590A
Appeal Review
Technical Advisor's Report

April 2019



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Aquaculture Licences Appeals Board

Dunmanus Bay Mussels Ltd - T05/590A Appeal Review

Technical Advisor's Report

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1 GENERAL MATTER/ APPEALS DETAILS

1.1 APPEAL DETAILS & OBSERVER COMMENTS/ SUBMISSIONS

Date Appeal Received:

Appeal 1 - AP6/1/2018 received by ALAB on 18th May 2018.

Appeal 2 - AP6/2/2018 received by ALAB on 18th May 2018.

Location of Site Appealed:

Site T05/590A Dunmanus Bay, County Cork (longline suspended rope mussel (*Mytilus edulis*) farm) (see **Figure 1.1**). Coordinates for the site are presented in **Table 1.1**.

Table 1.1: T05/590A site co-ordinates (ING)

Easting	Northing
485662	536503
486781	537062
486875	536874
485756	536315

1.2 NAME OF APPELLANTS

1.2.1 AP6/1/2018

Appellant 1: Angela Putz, Robert Putz, Angela Putz Jr., Anna Putz, Cashelfean Developments Ltd.

Appellant 2: Dunmanus Bay Marine Association. The association comprises the following members:

- Association of Dunmanus Bay Fishermen
- Ahakista Community Association Ltd.
- Fishermens Inshore Saltwater Heritage Ltd.
- Goleen Community Council
- Kikrohane Development Association
- Mizen Head Tourism Co-operative Society Ltd.
- Muintir Bhaire Community Council (LBG)
- The Sheep's Head Way Voluntary Committee (consisting of landowners/farmers and other representatives from the local community).


The agent for Appellants 1 and 2 is Barry Doyle and Company Solicitors (Barry Doyle & Co.), Marshalsea Court, 22/23 Merchant's Quay, Dublin 8, D08 C6XP.

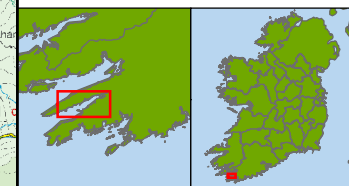
1.2.2 AP6/2/2018

Appellant: Victor Morgan and Lynda Morgan. Address details not available.



Legend

 Proposed farm (site reference: T05-590A)



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Figure
1.1

Title
Location of the proposed mussel farm at Dunmanus Bay (site reference: T05/590A).



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Drawn By: JF	Project No.: MGE0732
Checked By: GMCE	File Ref:
Approved By: GMCE	MGE0719Arc0001F01
Scale: NTS (illustrative purposes only)	Projection:
Date: 20/09/2018	ITM (IRENET95)

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1.3 NAME OF OBSERVER(S)

Barry Doyle & Co. issued a submission¹ to ALAB on behalf of their clients for appeal AP/1/2018 outlining support of appeal AP6/2/2018. The submission from Barry Doyle & Co. was received by ALAB on 20th July 2018.

1.4 GROUNDS FOR APPEAL

1.4.1 AP6/1/2018

1.4.1.1 Background for Appeal

Appellant 1 is a local landowner near the proposed farm and operates a holiday home business in the locality. The Appellant is of the view that if permitted to proceed the proposed farm would damage their holiday home business.

Appellant 2 is a group of organisations and individuals that have an interest in fishing, community and environmental aspects of the area and consider that all of these aspects would be adversely affected by the proposed farm.

Appellant 1 and 2 are collectively referred to hereafter as the Appellant.

The grounds for appeal raised by the Appellant are summarised below according to the following topics:

- a) Environmental Impact Assessment (EIA) Screening
- b) Appropriate Assessment (AA) Screening
- c) by reference to the seven criteria to which licensing authority must consider in determining aquaculture licence applications as set out in Section 61 (S61) of the Fisheries (Amendment) Act 1997.

1.4.1.2 Substantive Issues

a) EIA Screening

The Minister undertook an EIA Screening exercise for the proposed mussel farm and determined that an EIA was not required. The Appellant contends that the EIA Screening is 'redundant' as under the national EIA Regulations the proposed project should be considered a class of project that requires a mandatory EIA (i.e. Schedule 1 Part II Class 1(f) Project - *seawater fish breeding installations with an output which would exceed 100 tonnes per annum*).

The Appellant outlines that the EIA Screening concludes that the 'proposed activity is not likely to have a significant effect on the environment in spite of the production of faeces and protofaeces,

¹ Barry Doyle & Co. submission reference: AD / 2666.

and other detritus such as empty shells and dead mussels'. The Appellant contends that there is no evidence provided by the Applicant to support the conclusion of no significant effect.

The Appellant 1 contends that the 'minimal evidence of tidal conditions in the application' does not support the conclusion that there are sufficient flushing rates in the area. The Appellant outlines that the Applicant's conclusion with regard to sufficient flushing rates contradicts the conclusion reached by ALAB for the previous application for a farm at the proposed location (site reference T05/503).

The Appellant contends that the EIA Screening Report does not adequately assess potential impacts to Habitats Directive protected Annex IV marine mammal species (otter and cetaceans) that have been observed in the vicinity of the proposed farm and the wider bay. Potential impacts to marine mammals highlighted by the Appellant that should have been considered in the EIA Screening include decreases in water quality as a result of bio-deposits and the exclusion of species from foraging areas.

b) AA Screening

The Appellant outlines that there is no evidence in the AA Screening to support the conclusion that there will be no impact of bio-deposition from the farm on the Qualifying Interests of SACs located in the bay.

c) Fisheries Act S61 Requirements

Criterion 1 – S61(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.

The Appellant states that the Minister's determination to grant the aquaculture licence was informed by advice that indicated that 'the waters are a suitable location for the operation of a suspended rope mussel culture facility with adequate flushing rates' and that 'there is no evidence to suggest that flushing rates are an issue at this location'.

The Appellant outlines that the only information made available that relates to flushing rates is included in the EIA Screening and AA Screening documents. The Appellant outlines that the information and the methods used to estimate flushing rate do not accurately represent the typical physical conditions of the area and consequently do not support the conclusion that flushing rates in the area of the farm are adequate. The Appellant indicated that if the Minister's determination was informed by other technical information/ advice that was not disclosed to Appellants, ALAB should ensure that this technical information/ advice is made available to Appellants for review and comment before a final determination to grant/ refuse a licence is undertaken.

Furthermore, the Appellant indicates that a comprehensive study assessing tidal movements should be undertaken to inform the determination of whether to grant/ refuse a licence.

Criterion 2 – S61(b) other beneficial uses, existing or potential, of the place or waters concerned.

The Appellant outlines that the Minister concluded that 'public access to recreational and other activities can be accommodated' and that the proposed farm 'does not conflict with any other

aquaculture, angling or inshore fishing activities' and 'should have a positive effect on the local economy'.

The Appellant contends that in reaching the above conclusions the Minister failed to consider all existing local activities and uses, and outlined that, if permitted to proceed, the development would negatively impact the tourism industry in the area upon which the local economy is heavily reliant. In particular, the Appellant is of the view that the visual impact of the development on the local landscape would have a direct negative impact on the tourist accommodation trade. Furthermore, the Appellant claims that the Minister did not consider potential impact to the local fishing industry which operates within the area of the proposed farm.

The Appellant also outlines that potential negative impacts to fishing, kayaking, and boating activities in the area of the proposed farm which would act to 'devalue the tourist offering in the area'.

The Appellant also outlines that the 'Minister did not invite comment from Fáilte Ireland on this proposal'.

Criterion 3 – S61(c) the particular statutory status, if any, (including the provisions of any development plan, within the meaning of the Local Government (Planning and Development) Act, 1963 as amended) of the place or waters

The Appellant outlines that the Minister made no finding in relation to this criterion.

The Appellant outlines that several aspects of Cork County Council's County Development Plan (2009) are relevant to the current site and application. The Appellant indicates that the licence determination undertaken by the Minister should have taken into account the County Development Plan. The Appellant also states that the Minister should have sought input from Cork County Council.

Criterion 4 – S61(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.

The Appellant comments relating to this Criterion are presented under Criterion 1 above. In summary; the Appellant is of the opinion that the Ministerial determination did not adequately consider potential impacts to local tourism, fishing industries and recreation activities.

Criterion 5 – S61(e) the likely ecological effects of the aquaculture or proposed aquaculture on wild fisheries, natural habitats and flora and fauna

and

Criterion 6 – S61(f) the effect or likely effect on the environment generally in the vicinity of the place or water on or in which that aquaculture is or is proposed to be carried on

The Appellant comments related to Criterion 5 and Criterion 6 are relevant to EIA and AA, and are outlined respectively under items a) and b) above. In summary; the Appellant is of the opinion that potential impacts to Habitats Directive Annex IV marine mammal species were not adequately

addressed while the assessments of potential impacts to Habitats Directive Annex II Qualifying Interests of nearby SACs were not supported.

Criterion 7 – S61(g) the effect or likely effect on the man-made environment of heritage value in the vicinity of the place or waters.

The Appellant outlines that the Minister made no findings in relation to this Criterion.

1.4.1.3 Non-substantive Issues:

No non-substantive issues were raised by the Appellant. All issues identified by the Appellant, as summarised in items a) through c) above, are considered substantive.

1.4.2 AP6/2/2018

1.4.2.1 Background for Appeal

The Appellant is of the view that if allowed to proceed, the proposed development will result in significant local environmental odour impacts and negative impacts to local bathing waters and amenity area.

The grounds for appeal raised by the Appellant are summarised below according to following the topics:

- a) Flushing and Bio-deposition
- b) Local Amenities
- c) AA Requirements
- d) Consultation Duration
- e) Odour Impacts

1.4.2.2 Substantive Issues

a) Flushing and Bio-deposition

The Appellant outlines that the proposed mussel farm is located in a relatively sheltered area of Dunmanus Bay. The Appellant claims flushing in the vicinity of the proposed farm is dependent on tidal currents which are relatively weak and therefore insufficient to prevent the build-up of waste bio-deposits (faeces, pseudofaeces). The claim made by the Appellant that tidal currents in the area are weak is based on observations of sediment deposits in the locality and Admiralty Chart information that indicate 'No perceptible Tidal Stream' in the vicinity of the proposed farm site.

The Appellant is of the view that the current modelling and information used by the Applicant to support the estimation of waste deposits in the vicinity of the farm do not accurately represent the physical conditions of the area.

The Appellant also raises concerns in relation to the bio-deposit settling velocities used to estimate deposition rates, and the waste deposit thresholds used to identify potential benthic impacts.

As a consequence of the above, the Appellant considers that the Applicant's assessment of the deposition of waste from the proposed farm to be flawed and does not support the conclusion of no potential environmental impact.

b) Local Amenities

The Appellant outlines that the proposed farm is located adjacent to a well-known and popular bathing and amenity area at Kilcomane. The Appellant indicates that the bathing and amenity area coincides with an area identified by the Applicant where waste from the farm is likely to be deposited. The Appellant claims that waste from the farm would impact the bathing and amenity area and render the area unsuitable for recreation by negatively impacting site access and increasing the total suspended load in the bathing waters.

The Appellant states that while the bathing area at Kilcomane is not designated a Bathing Waters Area it is recognised as an area of 'leisure usage' in Cork County Council's Marine Leisure Infrastructure for West Cork 2008.

The Appellant considers that allowing the farm to proceed would contravene the objectives of the EU Bathing Water Directive which applies 'to any element of surface water where the competent authority expects a large number of people to bathe and has not imposed a permanent bathing prohibition, or issued permanent advice against bathing'.

c) AA Requirements

The Appellant is of the opinion that potential impacts to habitats and species protected under the Habitats Directive were not adequately assessed in the application, and that the public were not afforded adequate opportunity to input to the AA Screening process. The Appellant outlines that a licence should not be granted until these issues are addressed.

The Appellant outlined that seals are protected under Annex II of the Habitats Directive and that Seal Rescue Ireland² advised that 'there should be a proper assessment before the development is allowed'.

d) Consultation Duration

The Appellant objected to the short period of time (four weeks/ one month) allowed for registering appeals.

e) Odour Impacts

The Appellant claims that the waste material from an existing farm located close to Durrus village is exposed during low tides and results in local odour impacts.

² Seal Rescue Ireland is a registered charity focussed on the rescue, rehabilitation and re-release of sick and injured seals (see <http://www.sealrescueireland.org/>).

The Appellant points out that waste from the proposed farm deposited in shallow water areas close to the coastline will be exposed during low tide and will result in local odour impacts in particular during Low Water Spring Tides (LWST). The Appellant states that the Application does not demonstrate how potential environmental odours during LWST will be managed.

1.4.2.3 Non-substantive Issues

No non-substantive issues were raised by the Appellant. All issues identified by the Appellant, as summarised in items a) through e) above, are considered substantive.

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'*.

The determination submission from the Minister is summarised below.

'The Minister has determined that it is in the public interest to grant the Aquaculture and Foreshore Licences to Dunmanus Bay Mussels Ltd. for the cultivation of mussels on Site T05/590A. In making the determination, the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997 and other relevant legislation, he was required to have regard. Such matters include any submissions and observations received in accordance with statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licences sought:

- 1) Technical advice is to the effect that the waters are a suitable location for the operation of a suspended rope mussel culture facility with adequate flushing rates;
- 2) There is no significant impact anticipated on existing beneficial usages of the local shore area;
- 3) In general, views of the mussel longline site are obscured and limited from the adjacent scenic routes;
- 4) The landscape character will not be dramatically altered as the development will integrate with the existing bay;
- 5) The aquaculture activity should have a positive effect on the economy of the local area;
- 6) The Minister has already determined that the aquaculture activity is not likely to have a significant effect on the environment and that an Environmental Impact Statement is not required for this project. The reasons and considerations for the Minister's determination are available on the Department's website;
- 7) The site is not located in a Natura 2000 area but is adjacent to the Dunbeacon Shingle Special Area of Conservation (SAC) and there are a number of other Natura 2000 sites in the vicinity, namely the Sheeps Head SAC, the Sheeps Head to Toe Head Special Protection Area, Reen Point Shingle SAC and the Farranamanagh Lough SAC. The proposed aquaculture activity does not spatially overlap with the Natura 2000 sites and there will be no significant

effects posed by the culture of shellfish at this current level, on any of the qualifying interests of the Natura 2000 sites (The Screening Matrix for Aquaculture Activities in Dunmanus Bay is available on the Department's website);

- 8) Taking account of recommendations requiring full implementation of the measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland;
- 9) All issues raised during the public and statutory consultation phases;
- 10) The updated and enhanced Aquaculture and Foreshore Licences contain terms and conditions which reflect the environmental protection required under EU and National law.'

The Minister has made no further submissions.

1.6 APPLICANT RESPONSE

The applicant has made no submissions since the submission of appeals AP6/1/2018 and AP/6/2/2018.

2 CONSIDERATIONS OF NON-SUBSTANTIVE ISSUES

All issues identified in appeals AP6/2/2018 and AP6/2/2018 are considered substantive.

3 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 licence appeals. The Appellant (AP6/2/2018) has paid the fee required for an oral hearing and has indicated that they are available to participate if required.

4 MINISTER'S FILE

In line with the particular of Section 43 of the Fisheries Amendment Act 1997 the following documented items were sent to ALAB from the Minister's Department:

- 1) Application for Aquaculture and Foreshore licence for T05/590
- 2) Site coordinates, area and layout
- 3) Supplementary Information and Environmental Report submitted by applicant with their application
- 4) Environmental Impact Assessment (EIA) Screening Document
- 5) Ministerial Determination in relation to requirement for Environmental Impact Statement
- 6) Submission to Minister for Aquaculture and Foreshore licences, including the reasons for the Ministers decision
- 7) Notification to applicant of Minister's decision
- 8) Publication of Ministerial decision in The Southern Star
- 9) Copy of Draft Aquaculture and Foreshore licences for T05/590

5 CONTEXT OF THE AREA

5.1 PHYSICAL DESCRIPTIONS

5.1.1 Site Location

Dunmanus Bay is located between Mizen Head to the south and Bantry Bay to the north (**Figure 1.1**). Dunmanus Bay is approximately 24 km long and ranges in width from approximately 1.3 km at the eastern end to 6.5 km at the mouth of the bay. The largest islands within the bay are Carbery, Furze, Horse and Cold Islands. The small village of Durrus lies at the inner-most part of bay. The north side of the bay is populated with several villages and a gentle shoreline. A general description of Dunmanus Bay is available in the AA Screening³ for Aquaculture activities in Dunmanus Bay prepared by the Department of Agriculture, Food and the Marine (DAFM).

5.1.2 Seabed Characteristics

INFOMAR seabed mapping⁴ indicates that seabed sediments at the proposed site are predominately characterised as sandy mud/ muddy sand (see **Figure 5.1**). A smaller area of the site closest to the shore is characterised as rock.

5.1.3 Bathymetry and Hydrodynamics

INFOMAR bathymetry mapping⁴ indicates that water depths at the proposed site ranges between 15 m to 20 m and 25 m to 30 m (**Figure 5.2**). The bay has no significant river flowing into it apart from the Four Mile Water River which drains into the bay at Durrus in the inner bay.

5.2 RESOURCE USERS

5.2.1 Aquaculture

Based on activity mapping provided to ALAB by the DAFM and INFOMAR aquaculture activity data⁴ there are at present 5 licenced sites located to the east/ north-east of the proposed site in Dunmanus Bay (see **Figure 5.3**). The licenced sites, and species for which they are licensed, are summarised below:

- T05/570A - native oyster (*Ostrea edulis*), sea urchin (*Paracentrotus lividus*)
- T05/473A - Pacific oyster (*Crassostrea gigas*)
- T05/196B - mussel (*M. edulis*), sea urchin (*P. lividus*), native seaweed (*Laminaria saccharina*, *Laminaria digitata*, *Alaria esculenta*, *Palmaria palmata*)
- T05/439A - mussel (*M. edulis*)

³ Appropriate Assessment Screening for Aquaculture activities in Dunmanus Bay, Co. Cork <https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/cork/AAScreeningAquacultureActivitiesDunmanusBay170817.pdf> (dated 17/08/2017)

⁴ INFOMAR GIS available at <http://www.infomar.ie/data/DataAccess.php#WMS>

- T05/466A - mussel (*M. edulis*)

The above licenced aquaculture sites and the current application site (T05/590A) lie within the Dunmanus Bay bivalve mollusc classified production area (**Figure 5.3**). An area in inner Dunmanus Bay near the mouth of the Four Mile Water River and Durrus village is designated as Shellfish Waters⁵. The area of the designated shellfish water is approximately 0.8 km² and encompasses the following licenced sites: T05/473A, T05/196B, T05/439A, and T05/466A.

In the bay mussels are cultured using floating longlines with spat (seed) collected on ropes or strings (droppers) suspended on the line. Seaweed is cultured using floating longlines. *C. gigas* and *O. edulis* oysters are cultured in bags on trestles in the intertidal zone. Urchins are cultured in cage structures in the lower intertidal and subtidal areas or, in the case of suspended culture, are cultured in bins suspended from longlines.

5.2.2 Angling and Inshore Fishing Activity

The Irish Fisheries Investigation No 19/2008⁶ provides detailed descriptions and spatial data of inshore angling and commercial fisheries around the Irish coast. Dunmanus Bay supports a variety of fishing activities including line and hook fishing, digging, hand gathering, tangle netting and trawling. Line and hook fishing targeting finfish species, and pot fishing targeting crustacean (including Nephrops, crab and shrimp) occurs throughout the majority of Dunmanus Bay. Digging for clam occurs in intertidal muddy sand habitats located on the northern edges of Dunmanus Bay while gathering of urchin (*Paracentrotus*) species occurs along both the north and south coasts of the bay (see **Figure 5.4**). Extensive dredge fishing occurs in the middle and outer reaches of Dunmanus Bay while tangle netting for crustacean species occur in the outer Bay. Dunmanus Bay supports extensive midwater trawl fishing for pelagic species and bottom trawl fishing for demersal whitefish and Nephrops (see **Figure 5.5**).

5.2.3 Tourism

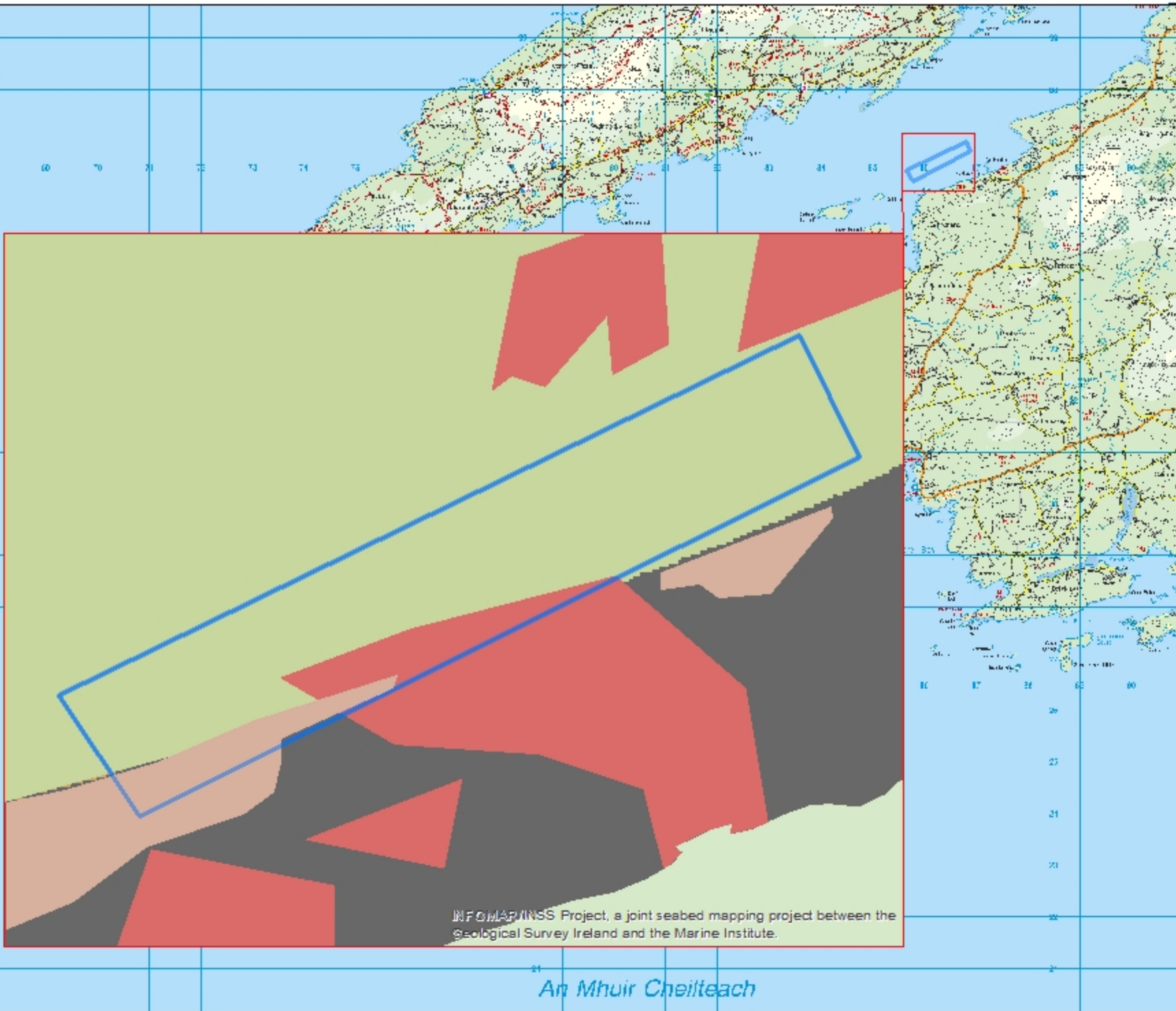
Dunmanus Bay is located on the Wild Atlantic Way and is recognised as a prime tourist spot due to the quality of its landscape/ seascape. Dunmanus Bay and its environs are recognised in the Cork County Development Plan (2009⁷, 2014⁸) as an area that supports significant scenic routes. Significant scenic routes in the vicinity of the proposed farm provide views of rugged peninsulas. The landscape character of the area offers potential for walking and cycling and other a variety of outdoor activities including sailing, kayaking, diving and angling.

⁵ Designated shellfish waters in Cork <https://www.housing.gov.ie/water/water-quality/shellfish-waters/cork>

⁶ Irish Fisheries Investigations: No. 19 / 2008. An atlas of fishing and some related activities in Ireland's territorial sea and internal marine waters with observations concerning their spatial planning. <http://data.marine.ie/Dataset/Details/20963>

⁷ Cork County Development Plan 2009 see <https://corkcocoplans.ie/cork-county-development-plan-2009/>

⁸ Cork County Development Plan 2014 see <http://corkcocodevplan.com/>



Proposed farm
(site reference:
T05-590A)

Substrate

- Rock
- Sand
- Unclassified substrate
- sandy Mud/muddy Sand
- No data



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Figure
5.1

Title
Seabed substrate classifications at Dunmanus Bay relative to the proposed farm (site reference: T05/590A)

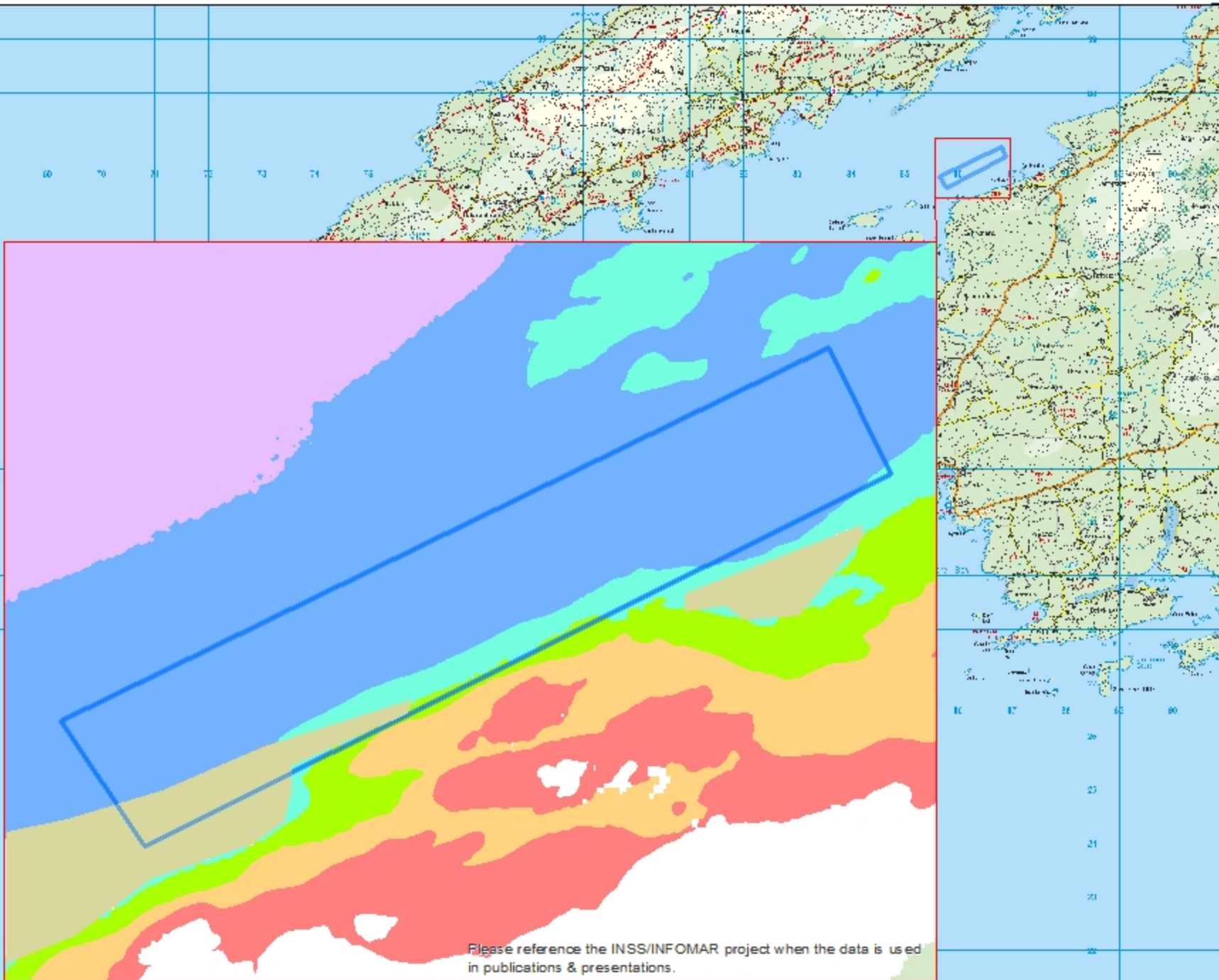
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Drawn By: JP	Project No.: M007133
Checked By: GWC	Rev Ref:
Approved By: GWC	M007133/001/P01
Scale: N/A (Should refer to project info)	Preparation:
Date: 26/06/18	ITU (R000192)

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INFOMAR/INSS Project, a joint seabed mapping project between the Geological Survey Ireland and the Marine Institute.



Proposed farm
(site reference:
T05-590A)

Bathymetry

- 30 to -35m
- 25 to -30m
- 20m to -25m
- 15 to -20m
- 10m to -15m
- 5m to -10m
- 0m to -5m
- No data



Client
**Aquaculture Licence
Appeals Board**

Figure
5.2

Title
**Seabed bathymetry at
Dunmanus Bay relative
to the proposed farm
(site reference: T05/590A)**

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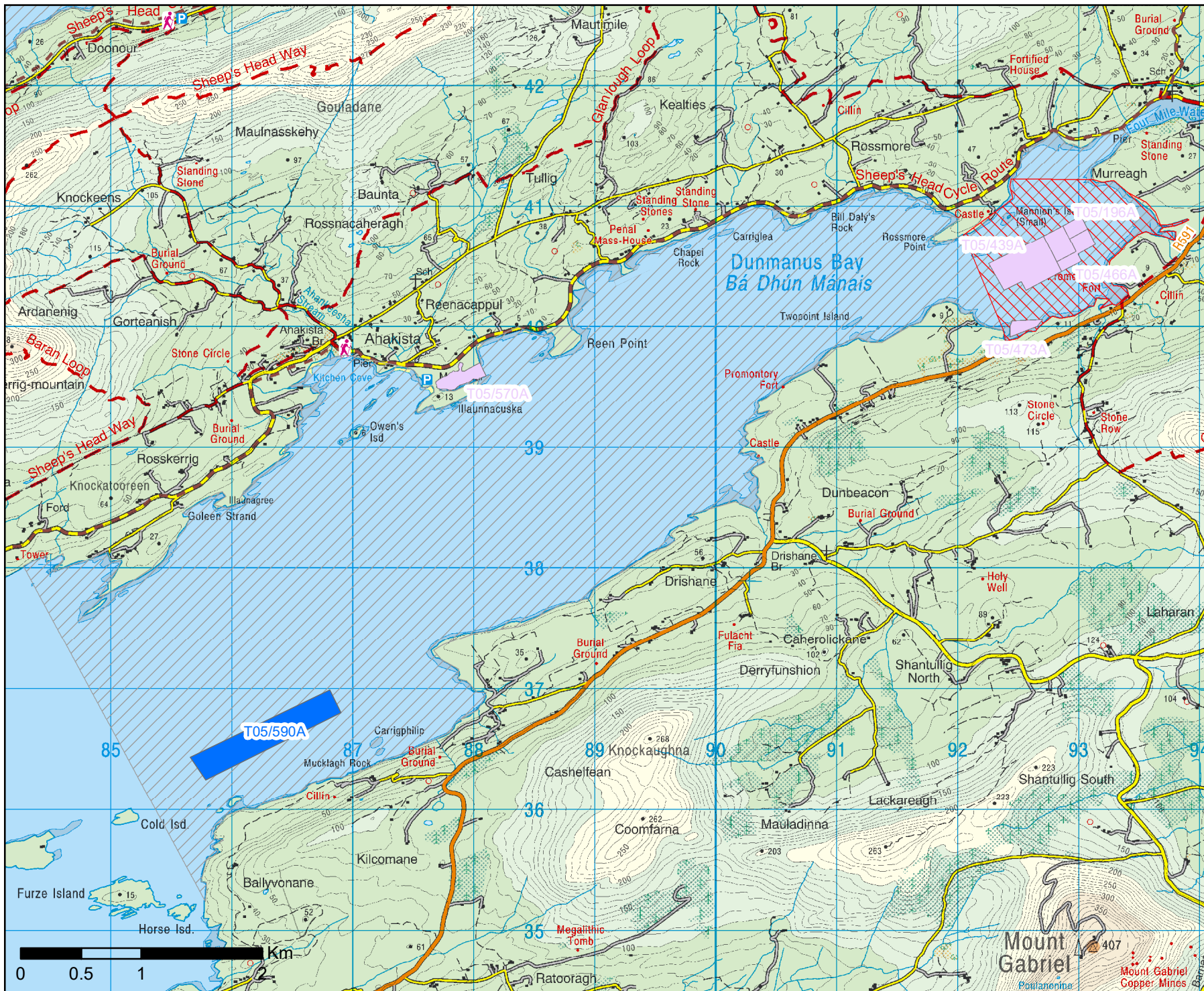
Drawn By: JP	Project No.: M007133
Checked By: GWC	Rev Ref:
Approved By: GWC	M007133/001/P01
Scale: N/A (Should always be 1:1)	Preparation:
Date: 26/03/18	ITU (R000118)

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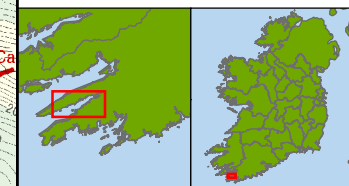
Please reference the INSS/INFOMAR project when the data is used in publications & presentations.





Legend

- Proposed farm (site reference: T05-590A)
- Licenced sites
- Dunmanus Inner Designated Shellfish Waters
- Dunmanus Bay Bivalve Mollusc Production Area



Client **Aquaculture Licence Appeals Board**

Figure **5.3**

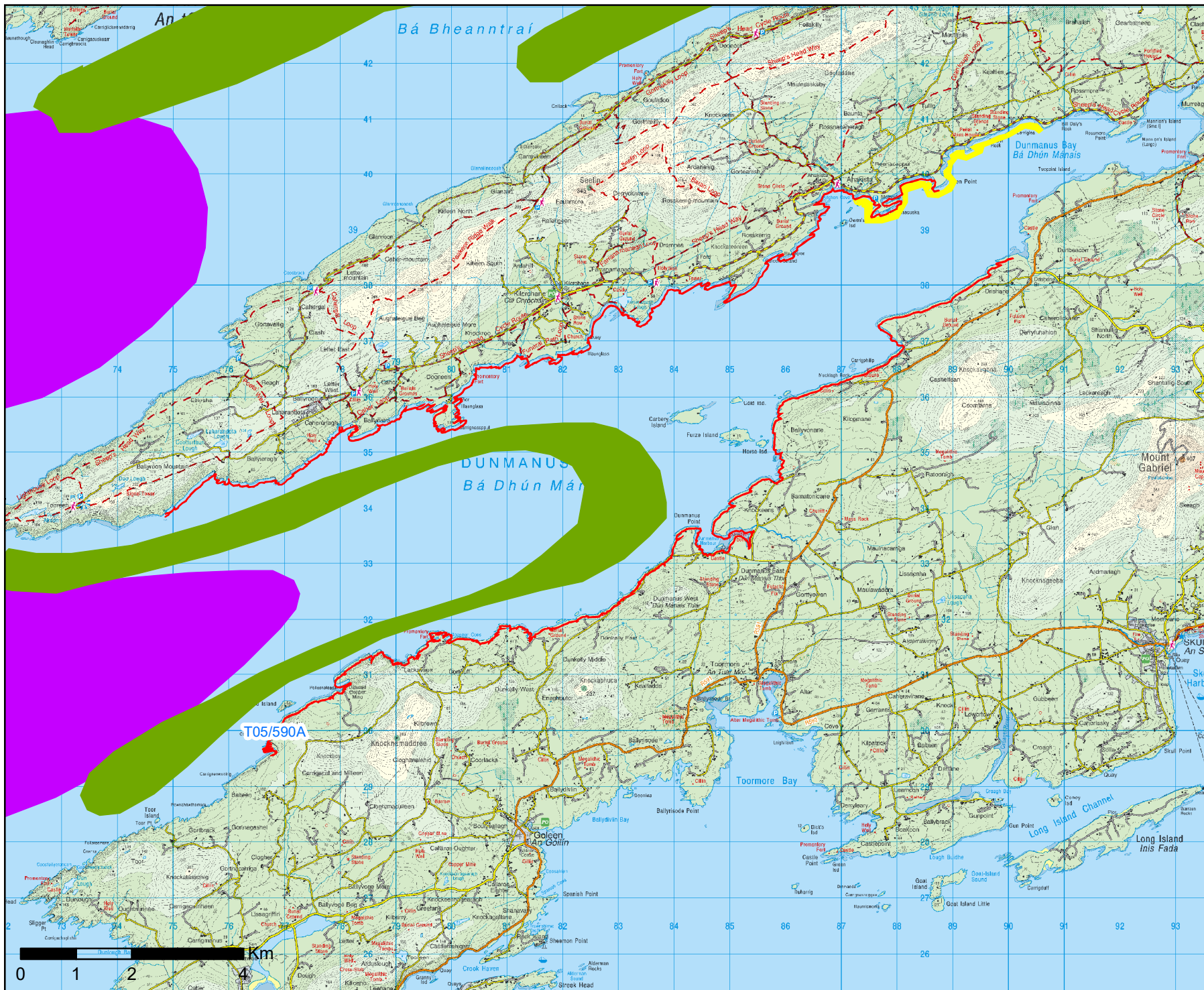
Title **Aquaculture areas at Dunmanus Bay**

RPS Lyrr 2, IDA Business and Technology Park, Mervue, Galway, Ireland.

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 Web Page: www.rpsgroup.com/ireland

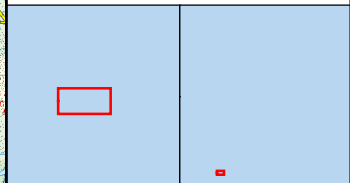
Drawn By: JF	Project No. MGE0732
Checked By: GMCE	File Ref:
Approved By: GMCE	MGE0719Arc0001F01
Scale: NTS (illustrative purposes only)	Projection:
Date: 20/09/2018	ITM (IRENET95)

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Legend

- Digging
- Dredge
- Gathering
- Tangle Netting
- Proposed farm
(site reference: T05-590A)

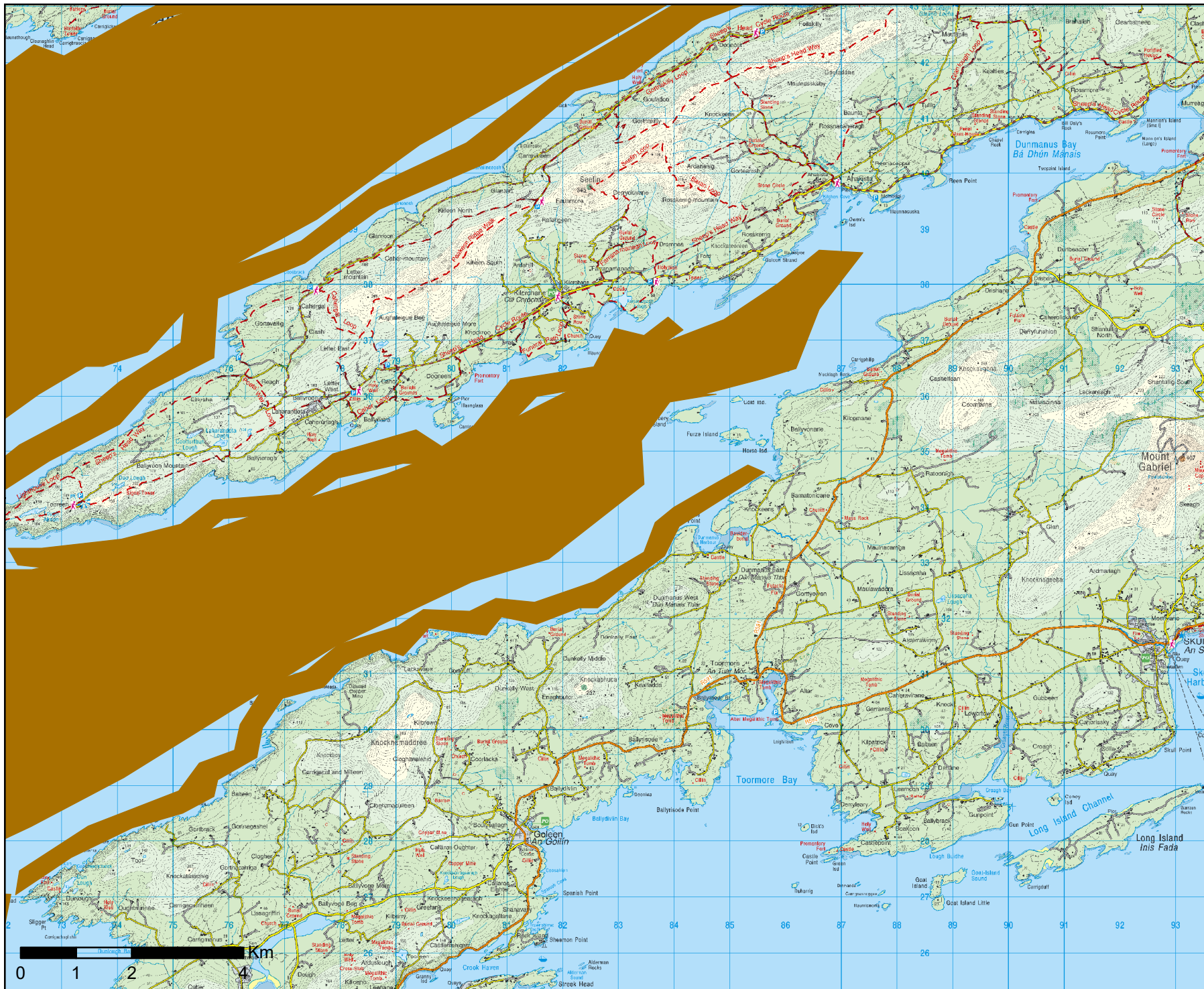


Client	Aquaculture Licence Appeals Board
Figure	5.4
Title	Dredge, tangle net, digging and gathering areas at Dunmanus Bay relative to the proposed farm (site reference: T05/590A)

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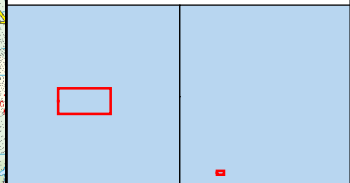
Drawn By: JF	Project No. MGE0732
Checked By: GMCE	File Ref:
Approved By: GMCE	MGE0719ARc0001F01
Scale: NTS (illustrative purposes only)	Projection:
Date: 25/09/2018	ITM (IRENET95)

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Legend

- Proposed farm (site reference: T05-590A)
- Trawl



Client	Aquaculture Licence Appeals Board
Figure	5.5
Title	Trawl areas at Dunmanus Bay relative to the proposed farm (site reference: T05/590A)

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Drawn By: JF	Project No. MGE0732
Checked By: GMCE	File Ref:
Approved By: GMCE	MGE0719Arc0001F01
Scale: NTS (illustrative purposes only)	Projection:
Date: 25/09/2018	ITM (IRENET95)

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5.3 ENVIRONMENTAL DATA

5.3.1 Water Framework Directive - Ecological Status

The Ecological Status of water bodies in the immediate area of Dunmanus Bay have yet to be assigned by the EPA. The closest coastal water bodies to Dunmanus Bay that have been assigned are Roaring Water Bay to the south and Outer Bantry Bay to the north. Ecological Status⁹ at Roaring Water Bay and Outer Bantry Bay are assessed as 'high' and 'good' respectively. In terms of risk to water quality the EPA have reported that Dunmanus Bay, Roaring Water Bay and Outer Bantry Bay are 'not at risk'.

5.3.2 Bathing Water Quality

Waters within Dunmanus Bay have not been designated under the Bathing Water Directive (2006/7/EC) and associated national regulations. The nearest location designated and monitored is Barley Cove which is located approximately 12 km to the south of the proposed site. In September 2018¹⁰ the Bathing Waters at Barley Cove was assigned 'Excellent Water Quality' status.

5.3.3 Shellfish Designated Waters

An area in inner Dunmanus Bay near the mouth of the Four Mile Water River and Durrus village is designated as Shellfish Waters¹¹. The proposed site is located more than 7 km from the designated Shellfish Waters at inner Dunmanus Bay.

5.3.4 Shellfish Production Area

Biotoxin levels have been monitored within Dunmanus Bay on a regular basis by the Marine Institute since November 2011. Monitoring results (accessed on 20/09/2018¹²) indicate that with the exception of two instances in July 2018 the production area at Dunmanus remained open for mussels between late-September 2017 to late-September 2018.

5.4 STATUTORY STATUS

5.4.1 Nature Conservation Designations

Table 5.1 lists the Natura 2000 sites located within Dunmanus Bay and lists the Features of Interest (habitats and species) for which the sites are designated. The proposed and licenced aquaculture sites are not in close proximity to any Natura 2000 Site.

⁹ Water Framework Directive Coastal Waterbody Status 2010 – 2015

<https://gis.epa.ie/geonetwork/srv/eng/catalog.search#/metadata/Oaa63697-525c-4c02-9fdb-9ac09a473822>

¹⁰ Environmental Protection Agency Bathing Water Status 2018

https://www.beaches.ie/find-a-beach/#/beach/IESWBWC150_0000_0200

¹¹ Designated shellfish waters in Cork <https://www.housing.gov.ie/water/water-quality/shellfish-waters/cork>

¹² Shellfish Safety Data

<http://www.marine.ie/Home/site-area/data-services/interactive-maps/latest-shellfish-safety-data>

Table 5.1: Natura 2000 Sites within Dunmanus Bay

Site Name (Site code)	Features of Interest (Code)
Dunbeacon Shingle SAC (002280)	Perennial vegetation of stony banks (1220)
Reen Point Shingle SAC (002281)	Perennial vegetation of stony banks (1220)
Farranamanagh Lough SAC (002189)	Coastal lagoons (1150) Perennial vegetation of stony banks (1220)
Sheep's Head SAC (000102)	Northern Atlantic wet heaths with <i>Erica tetralix</i> (4010) European dry heaths (4030) <i>Geomalacus maculosus</i> (Kerry Slug) (1024)
Three Castle Head to Mizen Head SAC (000109)	Vegetated sea cliffs of the Atlantic and Baltic coasts (1230) European dry heaths (4030)
Sheep's Head to Toe Head SPA (002280)	Peregrine (<i>Falco peregrinus</i>) (A103) Chough (<i>Pyrrhocorax pyrrhocorax</i>) (A346)

5.4.2 Habitats Directive Annex IV Protected Species

Species listed within Annex IV of the Habitats Directive relevant to the current application that have been sighted within Dunmanus Bay include otter and a number of cetacean species (whales, dolphins and porpoises).

5.4.2.1 Otter

Otter is listed under Annex II and Annex IV of the Habitats Directive. The closest SAC sites to Dunmanus Bay designated for otter are Roaringwater Bay and Islands SAC (000101) to the south and Kenmare River SAC (002158) to the north. Otter are reported to use Dunmanus Bay. Long established populations of otter inhabit Cold Island, an area approximately 700 m southwest of the proposed farm. Available National Parks and Wildlife Service (NPWS) otter surveys conducted in 2004/ 2005 and 2010/ 2011 did not include the Dunmanus Bay area¹³.

5.4.2.2 Cetaceans

A variety of cetacean species have been observed in Dunmanus Bay. Observation compiled by the Irish Whale and Dolphin Group (IWDG) for the period 2007-2012¹⁴ are presented in **Table 5.2** below. Habitats Directive Annex IV cetacean species that are also listed under Annex II of the Directive and for which SACs have been designated included Harbour Porpoise (*Phocoena phocoena*) and Bottle-nosed Dolphin (*Tursiops truncatus*). The closest SAC to Dunmanus Bay designated for Harbour Porpoise is Roaringwater Bay and Islands SAC (000101) while the closest SAC to Dunmanus Bay designated for Bottle-nosed Dolphin is the Lower River Shannon SAC.

¹³ NPWS survey spatial data

<https://www.npws.ie/maps-and-data/habitat-and-species-data> (accessed on 21/09/2018)

¹⁴ IWDG sighting data (accessed on 18/06/2012)

Table 5.2: Cetacean species recorded by the Irish Whale and Dolphin Group within Dunmanus Bay

Species	Number of individuals	Date observed
Common Dolphin (<i>Delphinus delphis</i>)	25	June 2012
Unidentified whale species	2	August 2011
Unidentified medium whale species	1	August 2011
Minke whale (<i>Balaenoptera acutorostrata</i>)	2	July 2011
Minke Whale (<i>B. acutorostrata</i>)	1	August 2010
Unidentified whale species	1	June 2010
Minke Whale (<i>B. acutorostrata</i>)	1	May 2010
Unidentified whale species	1	September 2009
Unidentified whale species	1	March 2009

5.4.2.3 Other Protected Species

Harbour seals (*Phoca vitulina*) are regularly observed in Dunmanus Bay. Harbour seal is listed under Annex II of the Habitats Directive and the closest SAC to Dunmanus Bay for which they have been designated is the Kenmare River SAC. Within Dunmanus Bay the principal sites for Harbour seals are located at Carraigphillip and Mucklagh Rocks which are located approximately 300 meters from the proposed farm. NPWS surveys¹⁵ carried out at Carraigphillip and Mucklagh Rocks in September 2011, August 2009 and August 2010 reported 29, 34 and 26 Harbour seals respectively.

5.4.3 Statutory Plans

5.4.3.1 Cork County Development Plan 2014

The Cork County Development Plan 2014⁸ recognises aquaculture as an important economic activity in rural coastal areas and acknowledges the need to support sustainable development in order to maximise aquaculture's 'contribution to employment and the economic well-being of rural coastal communities and the economic well-being of the county'. A key objective of the plan in relation to aquaculture is to continue to 'support and protect designated shellfish areas as an important economic and employment sector'.

5.4.3.2 West Cork Municipal District Local Area

Dunmanus Bay is considered in the West Cork Municipal District Local Area¹⁶ (published in August 2016) within the strategic plans for Durrus. Below are the primary aims for the village of Durrus and environs:

¹⁵ NPWS Harbour Seal Pilot Monitoring Project, 2011 (dated January 2012)

https://www.npws.ie/sites/default/files/publications/pdf/Harbour%20Seal_NPWS%20pilot%20monitoring%20study%202011_Final%20doc.pdf

¹⁶ West Cork Municipal District Local Area Plan

<http://corklocalareaplans.com/wp-content/uploads/2017/08/West-Cork-MD-LAP.pdf>

- Population and housing
- Community facilities
- Infrastructure
- Employment and Economic Activity
- Environment and Heritage

Much of the village and its surroundings are defined Scenic and Coastal Areas. The scenic landscape designation stretches into a substantial portion of the settlement through the estuary and up along the Four Mile Water River and up through Dunmanus Bay. The plan outlines that any proposed development should take into account potential visual impacts.

5.4.4 Water Quality

See Section 5.3.1 to Section 5.3.4 above.

5.5 MAN-MADE HERITAGE

According to the Archaeological Survey of Ireland¹⁷ there are several hundred National monuments, settlements and various heritage features within the Dunmanus Bay area. The more significant features in close proximity to the proposed development are outlined below:

- Burial Ground, Kilcomaine – This is located approximately 500 m southeast of the proposed farm. It is identified as a 'Burial Ground for Children' with grave markers noted. There is also the possibility of church ruins in this burial ground but no there is no visible surface trace.
- Hearth site, Kilcomaine – Located approximately 550 m southeast of the proposed farm. According to local information, a possible hearth site was discovered c. 1980 while lowering the level of a yard of a dwelling house. Fragments of rotary quern and iron slag were also found.
- Ringfort, Cashelfean – Located approximately 1 km southeast of the proposed facility and situated on a pasture on a north facing slope.
- Enclosure, Cashelfean – This feature is in pasture, near the base of a north-facing slope. It is a roughly circular area enclosed by stone and earth bank and surrounded by series of drains with a burial ground in the interior.

6 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) S61(a) - the suitability of the place or waters at or in which the aquaculture is proposed
- 2) S61(b) - other beneficial uses, existing or potential, of the place or waters concerned

¹⁷ Archaeological Survey of Ireland - Sites and Monuments Record (accessed 10/09/2018)
<https://www.archaeology.ie/archaeological-survey-ireland>

- 3) S61(c) - the particular statutory status of the place or waters
- 4) S61(d) - the likely effects of the proposed aquaculture on the economy of the area
- 5) S61(e) - the likely ecological effects of the aquaculture on wild fisheries, natural habitats and flora and fauna
- 6) S61(f) - the effect or likely effect on the environment generally
- 7) S61(g) - the effect or likely effect on the man-made environment of heritage value

Criteria 1) to 7) are considered in turn in **Section 6.1** to **Section 6.7** below.

6.1 SITE SUITABILITY

Technical advisors to the Minister confirmed that 'Site T05-590A was deemed to be suitable for mussel cultivation and there was no evidence to suggest that there would be any degradation to the area arising from benthic impacts or flushing rates at the site'. The technical advisors confirmed that they have 'no objection to the granting of Aquaculture and Foreshore Licences for the site'. Technical advisors to the Minister include technical experts at the Marine Institute.

6.2 OTHER USES

The Appellants are of the opinion that bio-deposit wastes from the proposed farm would accumulate negatively impact the amenity area at Kilcomane, local commercially fished species and may result in significant odour impacts. Technical advisors to the Minister confirmed that 'Site T05-590A was deemed to be suitable for mussel cultivation and there was no evidence to suggest that there would be any degradation to the area arising from benthic impacts or flushing rates at the site'.

The Appellants are of the opinion that the proposed farm would act to restrict access to commercial fishing grounds and impact recreation/ tourism outdoor activities; as the proposed farm only occupies a small area of the wider water body it is concluded that significant access impacts can be discounted.

The Appellants are of the view that the farm would result in visual impacts that would negatively impact the local tourist industry. Potential visual impacts will be managed by a number of measures including limiting the number and length of mussel longlines while the floatation barrels to be deployed will be grey in colour. It is concluded here that potential significant visual impacts can be discounted.

6.3 STATUTORY STATUS

6.3.1 Nature Conservation Designations

The following five designated SACs are located in, or adjacent to, Dunmanus Bay: Dunbeacon Shingle SAC (002280), Reen Point Shingle SAC (002281), Farranamanagh Lough SAC (002189), Sheep's Head SAC (000102), Three Castle Head to Mizen Head SAC (000109). As the proposed farm is not located

in the vicinity of these SACs, the potential for interaction of the proposed farm with Features of Interest for which the sites are designated can be discounted (see **Section 6.5** for further details).

One designated SPA, the Sheep's Head to Toe Head SPA (002280), is located adjacent to Dunmanus Bay. There is no spatial overlap between the SPA and the proposed farm activity and no significant adverse impacts to the species designated for the site are anticipated (see **Section 6.5** for further details).

6.3.2 Habitats Directive Annex IV Protected Species

Due to the nature and scale of the proposed farm and activity, and the typical behaviour of otter and cetacean species significant impacts are discounted (see **Section 6.5** for further details).

6.3.3 Other Protected Species

Due to the nature and scale of the proposed farm and activity, and the typical behaviour of seal species significant impacts can be discounted (see **Section 6.5** for further details).

6.3.4 Statutory Plans

Aquaculture is considered under the Cork County Development Plan⁸. The proposed aquaculture activity is a positive step towards satisfying the Cork County Development Plan objective to support the further development of the aquaculture industry in the county and maximise the sectors' contribution economic growth and employment.

6.3.5 Water Quality

As the proposed farm is not located in the vicinity of Water Framework Directive water bodies or water bodies designated as Bathing Waters or Shellfish Waters, significant impacts to the status of these water bodies can be discounted. The proposed farm will not influence the occurrence and abundance of phytoplankton species that are associated with the production of biotoxins monitored at the Shellfish Production Area.

6.4 ECONOMIC EFFECTS

Aquaculture is a local economic activity that provides small-scale, full-time and part-time employment. The aquaculture sector in Ireland is targeted for expansion under Harnessing Our Ocean Wealth¹⁸ and the Cork County Development Plan⁸. The proposed farm activity would provide a small number of employment opportunities to local people and allow the potential expansion of established export markets. Consequently, if allowed to proceed the proposed farm may have a non-significant positive effect on the local economy/ employment. As described in **Section 6.2** above the proposed farm is unlikely to result in potential significant adverse effects on the tourism industry.

¹⁸ Our Ocean Wealth: <https://www.ouroceanwealth.ie/>

6.5 ECOLOGICAL EFFECTS

Table 6.1 below lists the Natura 2000 sites located within Dunmanus Bay and assesses potential impacts to the Features of Interest (habitats and species) for which the sites are designated. **Table 6.2** considers the source and nature of impacts to species/ functional groups of the marine environment (including Annex IV species).

Table 6.1: Potential impact to Features of Interests of Natura 2000 Sites within Dunmanus Bay

Site Name (Site code)	Features of Interest (Code)	Assessment of Potential Impact
Dunbeacon Shingle SAC (002280)	Perennial vegetation of stony banks (1220)	Likely significant impact to the Features of Interest can be discounted as the proposed farm is remote to the SACs and no pathway for interaction exists No significant impacts are anticipated.
Reen Point Shingle SAC (002281)	Perennial vegetation of stony banks (1220)	
Farranamanagh Lough SAC (002189)	Coastal lagoons (1150)	
	Perennial vegetation of stony banks (1220)	
Sheep's Head SAC (000102)	Northern Atlantic wet heaths with <i>Erica tetralix</i> (4010)	
	European dry heaths [4030]	
	<i>Geomalacus maculosus</i> (Kerry Slug) (1024)	
Three Castle Head to Mizen Head SAC (000109)	Vegetated sea cliffs of the Atlantic and Baltic coasts (1230)	
	European dry heaths (4030)	
Sheep's Head to Toe Head SPA (002280)	Peregrine (<i>Falco peregrinus</i>) (A103)	
	Chough (<i>Pyrhocorax pyrrhocorax</i>) (A346)	

Table 6.2: Potential Likely impact to Biological Receptors*

Source of Impact	Species/ Functional Group:	Assessment of Potential Impact
Deposition/ accumulation of waste bio-deposits	Benthic Invertebrate Communities/ Crustacean Fisheries	Bio-deposition may alter the physical structure of the sediment. Potential loss or reduced diversity through smothering of benthic habitats and through oxygen depletion. Benthic species are relatively sedentary and cannot avoid adverse water/ sediment conditions.

Source of Impact	Species/ Functional Group:	Assessment of Potential Impact
		<p>Technical advisors to the Minister confirmed that 'Site T05-590A was deemed to be suitable for mussel cultivation and there was no evidence to suggest that there would be any degradation to the area arising from benthic impacts or flushing rates at the site'.</p> <p>No significant impacts anticipated.</p>
	Fish/ Birds/ Otters/ Cetaceans/ Seals	<p>Deterioration of habitats and alterations to food chain may result in changes in species/ functional group composition, population distribution and abundance. Significant population level impacts are however not anticipated as the species/ functional group are mobile and can avoid local adverse conditions.</p> <p>No significant impacts anticipated.</p>
Altered water column nutrient and suspended solid concentrations.	Plankton	<p>Potential for local alteration to species composition and abundance. Due to water circulation and rapid generation turnover rate any potential impacts will be temporary in nature.</p> <p>No significant impacts are anticipated.</p>
	Fish	<p>Alteration of local food sources/ reduced food supply. Significant fish population level impacts are not anticipated as the species group is mobile and can avoid local adverse conditions.</p> <p>No significant impacts are anticipated.</p>
	Cetaceans	<p>Alteration of local food sources/ reduced food supply. Significant species group population level impacts are not anticipated as the species group is mobile and can avoid local adverse conditions.</p> <p>No significant population level impacts are anticipated.</p>
Farm structures (mussel lines)	Fish /Birds/ Otters/ Cetaceans/ Seals	<p>Mortality risk due to entanglement of species with deployed farm structures. Given the small spatial scale of the proposed farm relative to the wider water body and the wide distributional range of the species groups, significant population level impacts can be discounted.</p> <p>No significant population level impacts are anticipated.</p>

Source of Impact	Species/ Functional Group:	Assessment of Potential Impact
Use of heavy machinery and boats	Birds/ Otters/ Cetaceans/ Seals	Given the level of activity proposed and the likely avoidance behaviour of the species, significant population level impacts are unlikely to occur. No significant adverse impacts are anticipated.

6.6 GENERAL ENVIRONMENTAL EFFECTS

6.6.1 Use of Natural Resources

The cultivation of mussels will use naturally occurring marine phytoplankton present in the water column. High levels of plankton occur naturally at the location and shellfish cultivation at this scale will not impact plankton growth and/ or abundance.

6.6.2 Pollution

Air emissions will arise from the use of fuel in boat engines and other machinery used in husbandry and harvesting operations.

Rapid dispersion of emissions into the atmosphere will render the emissions undetectable against background levels within a short distance of the source, and will not result in significant environmental effects.

There will be no emission of other hazardous, toxic or noxious pollutants.

6.6.3 Noise

Noise will be generated during husbandry and harvesting operations (e.g. use of boats and other machinery). However, noise levels will not be significant and will not give rise to environmental impacts.

6.7 EFFECT ON MAN-MADE HERITAGE

There are no significant heritage features present in the vicinity of proposed site.

6.8 SECTION 61 ASSESSMENT CONCLUSIONS

A Technical Review was carried out by RPS in relation to appeals against the decision made by the Minister to award an Aquaculture Licence and associated Foreshore Licence to Dunmanus Bay Mussels Ltd. for the development of a 26.25 ha longline suspended rope mussel (*M. edulis*) farm on the foreshore between Carbery Island and Drishane Point at outer Dunmanus Bay, County Cork (site reference: T05-590A).

As part of the Technical Review, the information included in the proposed application, the associated appeals and the Ministerial decision and supporting Minister's file was considered against the criteria defined in Section 61 of the Fisheries Amendment Act 1997; the conclusions of this process are presented below.

Site Suitability

- As outlined in **Section 6.1** technical advisors to the Minister confirmed that 'Site T05-590A was deemed to be suitable for mussel cultivation'.

Other Uses

- As outlined in **Section 6.2** the Appellants are of the opinion that bio-deposit wastes from the proposed farm would negatively impact the amenity area at Kilcomane, local commercially fished species and may result in significant odour impacts. Technical advisors to the Minister confirmed that 'there was no evidence to suggest that there would be any degradation to the area arising from benthic impacts or flushing rates at the site'.
- Given the relatively small scale of the proposed activity significant impacts to users' access to commercial fishing grounds and recreation/ tourism areas are discounted.
- 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.

Statutory Status

- As outlined in **Section 6.3** negative impacts to designated Natura 2000 Sites and species listed under Annex II and IV of the Habitats Directive are not anticipated.
- Significant impacts to the status of designated water bodies (including Shellfish Designated Water, Bathing Waters, Shellfish Production Areas) are not anticipated.

Economic Effects

- Significant negative economic impact to the local aquaculture and tourism industries can be discounted.

Ecological Effects

- As outlined in **Section 6.5** due to the absence of conclusive information regarding local flushing and bio-deposit accumulation rates, potential impact of bio-deposition to benthic habitats and communities, and stocks of commercially fished species cannot be determined.
- Significant negative impact to Natura 2000 sites and protected species are discounted.

General Environmental Effects

- Significant impact from the proposed activities as a result of general environmental effects (including the use of natural resources, pollution and noise) are not anticipated (see **Section 6.6** for further details).

Man-Made Heritage

- The proposed farm is remote to features of man-made heritage. No significant impact to heritage is anticipated.

6.9 CONFIRMATION RE SECTION 50 NOTICES

We confirm that there are no matters which arise in the Section 61 assessment that the Board ought to take into account which have not been raised in the appeal AP/1/2018 and AP/2/2018 and it is not necessary to give notice in writing to any parties in accordance with Section 50 (2) of the 1997 Act.

7 SCREENING FOR ENVIRONMENTAL IMPACT ASSESSMENT

As outlined in S.I 468 of 2012 Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012:

3. (1) The Board shall, as part of its consideration of an appeal, in accordance with paragraph (2), ensure that before a decision is made aquaculture likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location is subject to an environmental impact assessment.

(2) An environmental impact assessment shall be carried out by the Board in respect of an appeal of-

(a) aquaculture of a class specified in Regulation 5(1)(i) and (ii) of the Application Regulations, or

(b) aquaculture of a class specified in Annex II of the Council Directive which the Board determines would be likely to have significant effects on the environment.

An EIA Screening assessment report was carried out by DAFM and is included in the Ministerial file. The EIA Screening assessment report states that the proposed aquaculture project is listed in Annex II of the EIA Directive (85/337/EEC). The assessment report concluded that the proposed aquaculture project will not have significant effects on the environment by virtue of *inter alia*, its nature, size of location. As a result it was concluded by the Department that the proposed development should not be subject to an EIA in accordance with S.I. 468 of 2012.

8 SCREENING FOR APPROPRIATE ASSESSMENT

To meet the obligations of the Article 6 of the EU Habitats Directive and associated national regulations, Dunmanus Bay Mussels Ltd. compiled an AA Screening Report for the proposed mussel farm. The AA Screening Report concluded that significant adverse impact to Natura 2000 Sites can be discounted.

Following a detailed review of the AA Screening Report and available mapping data (including that available on the NPWS website), we concur with the conclusion that significant adverse impacts to Natura 2000 Sites can be discounted. Our assessment showed that the proposed aquaculture site is not located within a Natura 2000 Site and likely significant impacts can be discounted as the proposed farm is remote to the Natura 2000 Sites and no pathway for interaction exists.

9 TECHNICAL ADVISOR'S EVALUATION OF THE SUBSTANTIVE ISSUES IN RESPECT OF APPEAL AND SUBMISSIONS/OBSERVATIONS RECEIVED

An evaluation of the substantive issues included in the appeals and submission/ observation received is presented in **Table 9.1** below.

Table 9.1: Consideration of the substantive issues identified

Appellant Issue	Evaluation of the Issue	Note/ Recommendation
The Appellant contends that the EIA Screening is 'redundant' and the proposed project requires a mandatory EIA.	EU requirements for EIA have been transposed into national aquaculture legislation under a number of Regulations under the European Communities Act. An EIA is required for all finfish farming applications. All other aquaculture applications are subject to EIA Screening to ensure that before a decision is made aquaculture likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location is subject to an environmental impact assessment'.	Under relevant legislation the proposed farm is not subject to mandatory EIA but is subject to EIA Screening.
Evidence provided in the application does not support the conclusion that there are sufficient flushing rates in the area.	Technical advisors to the Minister confirmed that 'Site T05-590A was deemed to be suitable for mussel cultivation and there was no evidence to suggest that there would be any degradation to the area arising from benthic impacts or flushing rates at the site'.	None
Bio-deposit wastes would negatively impact local bathing water and amenity area at Kilcomane, benthic habitats and local fishing grounds.		
The application does not adequately assess potential impacts to Habitats Directive protected Annex IV marine mammal species (otter and cetaceans).	Our assessment of potential impact to Annex IV species concludes that impacts can be discounted. Species/ functional group are mobile and can avoid local adverse conditions.	None
There is no evidence in the AA Screening to support the conclusion that there will be no impact of bio-deposition from the farm on the Qualifying Interests of SACs located in the bay.	Likely significant impacts to Natura 2000 Sites can be discounted as the proposed farm is remote to the SACs and no pathway for interaction exists	None

Appellant Issue	Evaluation of the Issue	Note/ Recommendation
The visual impact of the development on the local landscape would have a direct negative impact on the tourist accommodation trade.	Potential visual impacts will be managed by a number of measures including limiting the number and length of mussel longlines and using floatation barrels that are grey in colour. Significant visual impacts can be discounted.	None
The development would restrict access to local commercial fishing grounds and recreation/ tourism areas.	As the proposed farm only occupies a small area of the wider water body significant impacts it is concluded here that these potential impacts can be discounted.	None
Appellant noted that the 'Minister did not invite comment from Fáilte Ireland on the proposal. Fáilte Ireland is an authority which is required to be consulted in an EIA of the project'.	Under Regulation 10 of the Aquaculture (Licence Application) Regulations 1998 the Minister is required to inform certain bodies of the receipt of an Aquaculture Licence application and their right to make submissions.	Fáilte Ireland is listed under Regulation 10. The Department confirmed that Fáilte Ireland was notified as per the requirements of Regulation 10.
The Appellant objected to the short period of time (one month) allowed for registering appeals.	Under Section 40 of the Fisheries (Amendment) Act 1997 appeals against decisions by Minister on aquaculture licence applications must be lodged with the ALAB within one month of the date of publication of the decision	None

10 RECOMMENDATION OF TECHNICAL ADVISOR WITH REASONS AND CONSIDERATIONS

Having carried out a detailed Technical Review of the information contained in the current application, the associated Ministerial determination and appeals, and relevant literature and environmental data, and in accordance with the requirements Section 59 and 61 of the Fisheries (Amendment) Act 1997 we would advise to grant the licence applications.

The reasons for the above recommendation are as follows:

- Technical advisors to the Minister confirmed that 'Site T05-590A was deemed to be suitable for mussel cultivation and there was no evidence to suggest that there would be any degradation to the area arising from benthic impacts or flushing rates at the site'. The technical advisors confirmed that they have 'no objection to the granting of Aquaculture and Foreshore Licences for the site'.
- There are no significant general environmental effects expected as a result of the shellfish culture farming proposed under the licence application.

- The proposed licences do not adversely impact on the statutory status of the area.
- The proposed licences will have a non-significant positive effect on the economy of the area.
- The proposed licences will have no significant effects on wild fisheries, natural habitat and flora and fauna populations.
- There are no effects anticipated on the man-made heritage of value in the area as a result of the renewal of the licences.

11 DRAFT DETERMINATION REFUSAL/ OR GRANT

It is recommended that the Minister's decision to grant the licences be upheld.

Technical Advisor:

Dr James Forde - RPS

Date:

16/04/2019

12 REFERENCES

Appropriate Assessment Screening for Aquaculture activities in Dunmanus Bay, Co. Cork (dated 17/08/2017)

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/cork/AAScreeningAquacultureActivitiesDunmanusBay170817.pdf>

INSS/ INFOMAR GIS

<http://www.infomar.ie/data/DataAccess.php#WMS>

Designated shellfish waters in Cork

<https://www.housing.gov.ie/water/water-quality/shellfish-waters/cork>

Irish Fisheries Investigations: No. 19 / 2008. An atlas of fishing and some related activities in Ireland's territorial sea and internal marine waters with observations concerning their spatial planning.

<http://data.marine.ie/Dataset/Details/20963>

Cork County Development Plan 2009

<https://corkcocoplans.ie/cork-county-development-plan-2009/>

Cork County Development Plan 2014

<http://corkcocodevplan.com/>

WFD Coastal Waterbody Status 2010 – 2015

<https://gis.epa.ie/geonetwork/srv/eng/catalog.search#/metadata/0aa63697-525c-4c02-9fdb-9ac09a473822>

EPA Bathing Water Status 2018

https://www.beaches.ie/find-a-beach/#/beach/IESWBWC150_0000_0200

Designated shellfish waters in Cork

<https://www.housing.gov.ie/water/water-quality/shellfish-waters/cork>

Shellfish Safety Data

<http://www.marine.ie/Home/site-area/data-services/interactive-maps/latest-shellfish-safety-data>

NPWS survey spatial data

<https://www.npws.ie/maps-and-data/habitat-and-species-data> (accessed on 21/09/2018)

Irish Whale and Dolphin Group sighting data (accessed on 18/06/2012)

NPWS Harbour Seal Pilot Monitoring Project, 2011 (dated January 2012)

https://www.npws.ie/sites/default/files/publications/pdf/Harbour%20Seal_NPWS%20pilot%20monitoring%20study%202011_Final%20doc.pdf

West Cork Municipal District Local Area Plan

<http://corklocalareaplans.com/wp-content/uploads/2017/08/West-Cork-MD-LAP.pdf>

Archaeological Survey of Ireland - Sites and Monuments Record (accessed 10/09/2018)

<https://www.archaeology.ie/archaeological-survey-ireland>

Our Ocean Wealth: <https://www.ouroceanwealth.ie/>