S. 37

File With Section

SECTION 131 FORM

Appeal NO: PL 16.207212 **Defer Re O/H** ☐

TO:SEO

Having considered the contents of the submission ~~dated~~/ received 12/07/04 from Anthony Irwin I recommend that section 131 of the Planning and Development Act, 2000 ~~be~~/not be invoked at this stage for the following reason(s):. No new issues.

E.O.: Kieran Somers **Date:** 12/07/04.

To EO: _____

Section 131 not to be invoked at this stage. ☑

Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: M. Doolan **Date:** 12/7/04

S.A.O: _____ **Date:** _____

M _____

Please prepare BP _____ **- Section 131 notice enclosing a copy of the attached submission**

to: _____

Allow 2/4weeks – BP_____

EO: _____ **Date:** _____

AA: _____ **Date:** _____

File with Section

OBSERVER FORM

Appeal No: PL 16.207212 **S.37**

Received: 12/07/04.	**Date Appeal Lodged:** 19/05/04
	Date Last Appeal Lodged: 27/05/04
	Date of E.I.S. Publication: 14/06/04

Name: Anthony Irwin

Address/Agent: Elly,
Clogher, Belmullet, Co. Mayo.

Status: Invalid – (insert reason):

VALID	INVALID
M: r Fagan	1. RETURN TO SENDER with BP _____
1. Acknowledge with BP 40.	2. Keep envelope ☐
2. Keep copy of Board's letter ☐	3. Keep copy of Board's letter ☐
3. Prepare refund form ☐	4. Prepare refund form ☐

Attach to file

(a) R/S ☐ (d) Screening ☐

(b) Mapping ☐ (e) Inspectorate ☐

(c) Processing ☐ _____

RETURN TO EO ☑

EO: Kieron Somers	**AA:** James Fagan
Date: 12/07/04.	**Date:** 12/7/04
Comments:	

J:\abp\Forms\200ActForms(s37)\observer.dot

Elly,
Clogher,
Belmullet,
Co. Mayo.
9 July 2004

The Secretary,
An Bórd Pleanála,
64 Marlborough Street,
Dublin 1.

REF. 16.207212

Dear Sir/Madam,

I am making the following observations on the EIS submitted by Shell E&P Ireland Ltd. in its application for a gas terminal facility at Bellagelly South.

These are based upon the Seveso II Directive [96/82/EC] and its amendment: Brussels 10.12.2001 COM(2001) 624 Final, 2001/0257 (COD), which states that all areas within an "establishment" should be taken into consideration by the necessary planning authorities. The definition contained in Article 3 No. 1 states that:

"establishment" shall mean the whole area under the control of an operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities.

It is my view that all pipelines under the control of Shell E&P Ireland Ltd. ~~and~~ are related to activity of the terminal facility constitute part of the application's "establishment" under this Directive and should have been addressed in the EIS.

I believe the following points should thus be considered by the relevant authorities:

1. The failure by Shell E&P Ireland Ltd. to address recent, critical environmental issues associated with the facility and pipeline structures under the control of the applicant.
2. The choice of Broadhaven Bay for both landfall and discharge pipelines to/from the proposed terminal facility;
3. The location of the terminal's discharge outfall.

Please read overleaf for further expansion of these points.

Yours sincerely,

Anthony Irwin

1. Environmental issues associated with the facility.

Since its original application for planning permission at the site, Shell E&P Ireland Ltd. commissioned an independent scientific assessment of the status of protected marine species in Broadhaven Bay and surrounding waters. The results of this study:

Marine mammal monitoring in the waters of Broadhaven Bay & northwest Mayo: 2001-2002.
Report to Enterprise Energy Ireland, Ltd. by the Coastal & Marine Resources Centre, University College Cork.

which was completed in early 2003, were "accepted" by the applicant. Yet the company has failed to acknowledge this highly relevant and recent information in the current EIS.

In view of the status of numerous protected marine species now found to exist in the vicinity of the proposed terminal and its pipeline structures, I feel it is a matter of grave concern that the applicant has overlooked such a serious environmental issue in its EIS.

Please find attached a brief overview of the study and its results.

2. The choice of Broadhaven Bay for pipeline routes

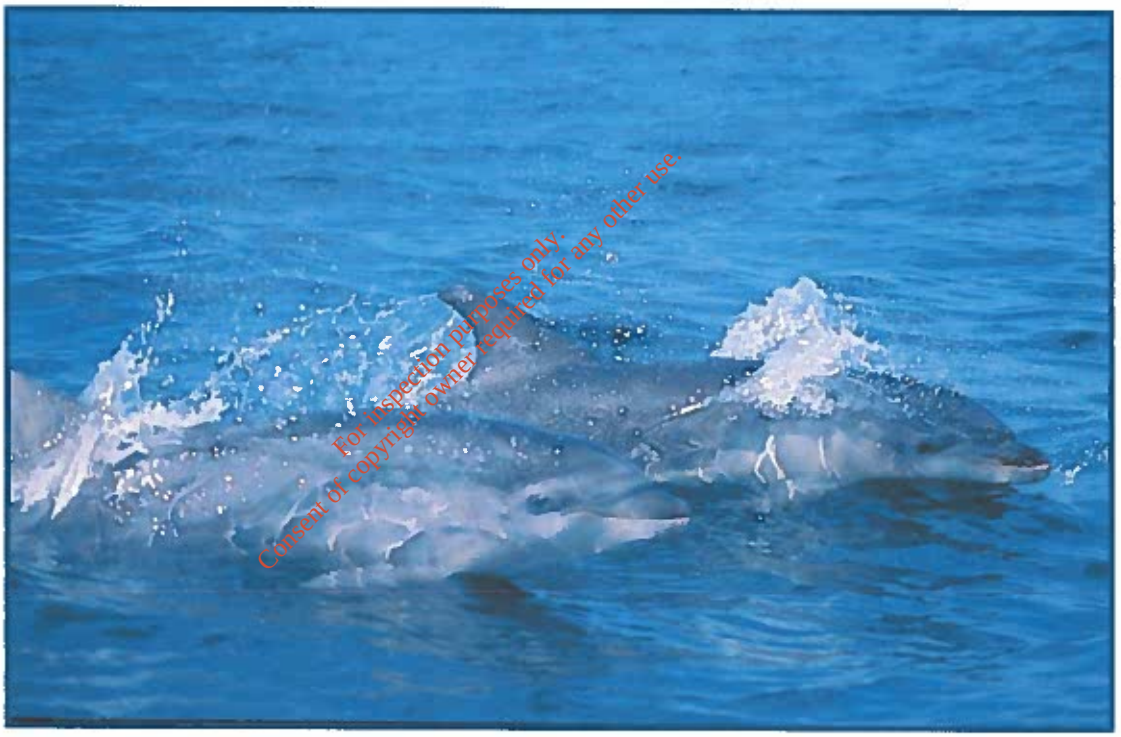
The scientific conclusions of the UCC study, which was completed prior to submission of the EIS, indicate the significance of Broadhaven Bay and its surrounding waters for several protected marine species. Shell E&P Ireland Ltd., in spite of possessing this recent and highly relevant information, has chosen not to regard it as an important environmental issue in omitting it from the EIS. It has also failed to demonstrate how Broadhaven Bay can now constitute the best choice for landfall and discharge pipelines under the control of the terminal facility.

3. The location of the terminal's discharge outfall.

The location of the outfall from the proposed terminal is a critical matter and was determined by the DOMNR's Marine Licence Vetting Committee prior to the release of University College Cork's study. This issue, too, has been ignored in the current EIS. There is now considerable scientific evidence available to suggest that a review of the marine licence is urgently required, to place all new applications in the relevant context. Observational information alone (*see* Figure 3 in attached document) indicates the presence of protected marine species throughout the bay and in the immediate vicinity of the discharge pipeline and its outfall. Yet no reference has been made to this new information and it has clearly been given no consideration in the current application. This must surely constitute a potentially grave breach of the Wildlife Act and EU Habitats Directive.

Marine mammal monitoring in the waters of Broadhaven Bay & northwest Mayo:

2001-2002



Final project report to Enterprise Energy Ireland Ltd.

March 2003

COASTAL & MARINE RESOURCES CENTRE
ENVIRONMENTAL RESEARCH INSTITUTE
UNIVERSITY COLLEGE
CORK

Marine mammal monitoring in the waters of Broadhaven Bay & northwest Mayo:

2001-2002

Oliver Ó Cadhla
Anneli Englund
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Mick Mackey
Simon Ingram

COASTAL & MARINE RESOURCES CENTRE,
Environmental Research Institute,
University College, Old Presentation Building,
Western Road, Cork.
IRELAND

Citation:
Ó Cadhla, O., Englund, A., Philpott, E., Mackey, M. & Ingram, S. (2003). Marine mammal monitoring in the waters of Broadhaven Bay & northwest Mayo: 2001-2002. Report to Enterprise Energy Ireland, Ltd. Coastal & Marine Resources Centre, University College, Cork. 74pp.

CONTENTS

SUMMARY

Under a development plan for the CORRIB gas field off western Ireland, Enterprise Energy Ireland Ltd. commissioned the Coastal & Marine Resources Centre (CMRC), University College Cork to conduct an independent cetacean (i.e. whale & dolphin) monitoring programme in northwest Ireland in 2001-02. Due to the findings of preliminary field surveys in 2001 the study's remit was expanded to include other marine mammal species recorded in the study area. Research was undertaken in Broadhaven Bay (Special Area of Conservation - SAC), County Mayo and its adjoining coastal waters and the results of marine mammal monitoring conducted between October 2001 and October 2002 are presented in this report.

The primary objectives of the research project were:

1. To independently investigate the occurrence and habitat use of marine mammals in Broadhaven Bay and adjoining coastal waters of northwest Mayo;
2. To conduct a marine mammal monitoring programme before, during and after pipeline development in the study area;
3. Through consultation between EEI, CMRC and DÚCHAS – The Heritage Service, to develop an optimal method for minimising disturbance to the animals in the event of significant potential anthropogenic disturbance (e.g. underwater blasting).

Due to changes in marine construction work schedules in the area, the pipeline was not laid in 2002 and research undertaken became an effective baseline study for the area. Key results obtained by the CMRC research team are presented under the headings described below:

1 – *Visual monitoring for marine mammals*

- Marine mammal sighting data obtained from cliff- and boat-based surveys within Broadhaven Bay SAC and its neighbouring waters between Aug. 2001 and Oct. 2002;
- A total of 223 distinct sightings of marine mammals were recorded over a 12-month field-survey period;
- Seven cetacean species, two seal species and otters were observed in the study area;
- Additional sighting information of interest included Basking sharks (21 sightings), Sunfish (five sightings), and a single sighting of a sea turtle.

2 – *Acoustic monitoring for small cetaceans*

- Methods and results from dedicated acoustic monitoring for harbour porpoises and other toothed cetaceans;
- A total of 45 distinct detections of harbour porpoises and 14 dolphin detections were obtained within a focal study area (Rossport Bay) during the summer of 2002;
- Acoustic detections occurred during day and night-time and in all tidal states;
- The data were critical to the investigation of cetacean occurrence and habitat use in 2001-02.

3 – *Photo-identification of bottlenose dolphins*

- Methods and results from boat-based photo-identification of bottlenose dolphins in the study area;
- A minimum of 25 recognisable dolphins (max. = 39) were encountered during the summer of 2002 and the data suggested a level of residency by individual dolphins in these months.

4 - *Scientific conclusions* are presented on the basis of the data collected in 2001-02.

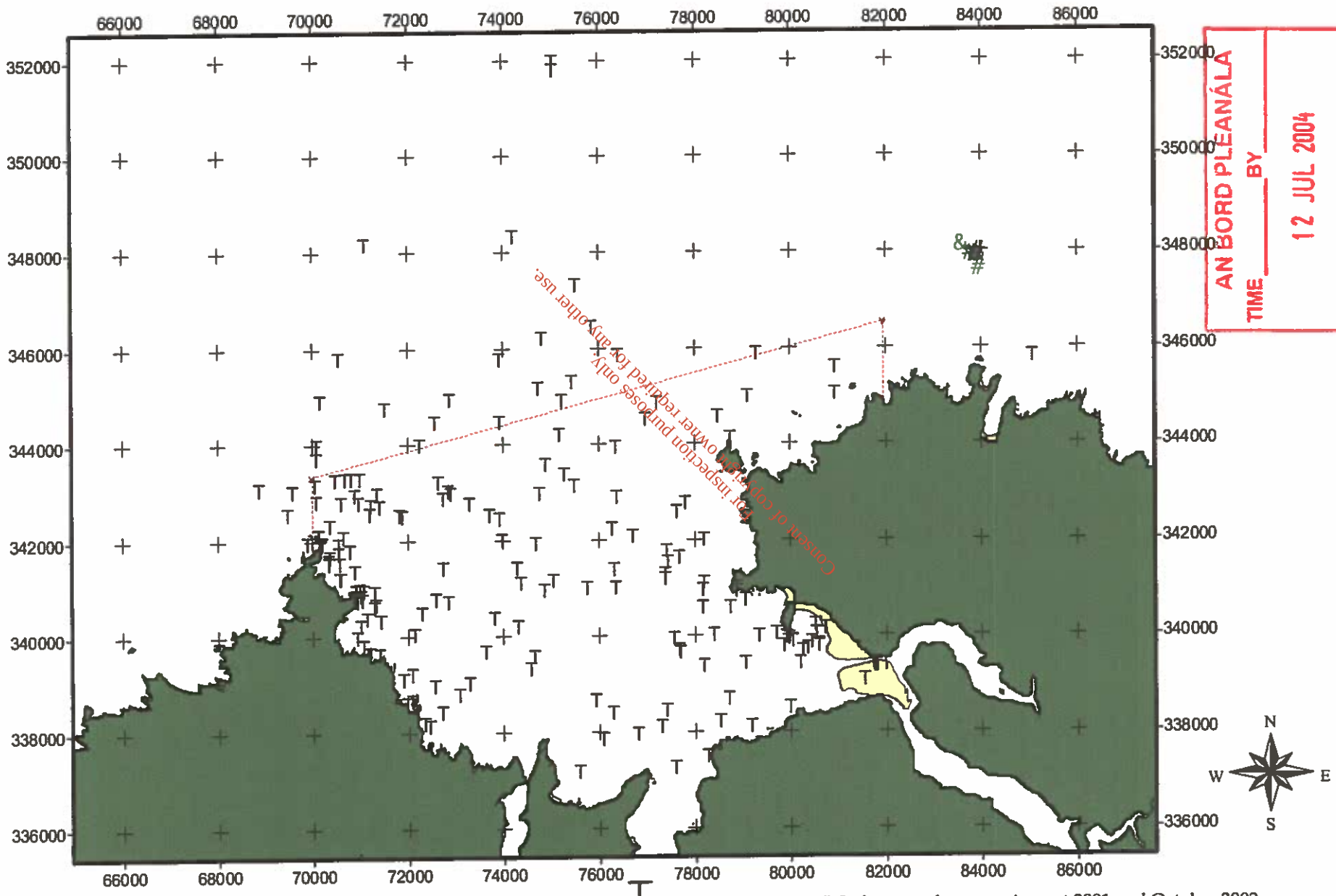

Figure 3. Distribution map (Irish grid) for all marine mammal sightings (~~triangles~~) recorded by CMRC observers between August 2001 and October 2002.

SCIENTIFIC CONCLUSIONS

1. Implementation of the research programme

Research was conducted quite successfully, although weather conditions in the region made field surveys difficult in some months. Schedule changes related to the development allowed for greater pre-construction monitoring than expected in 2002 and construction activities in Broadhaven Bay were comparatively limited within the summer season. Thus the present research project may constitute an effective minimum baseline study for the area.

2. The importance of Broadhaven Bay for marine mammals and other biota

Broadhaven Bay SAC and its neighbouring coastal waters undoubtedly represent an important area for marine mammals and other species. There are few, if any, comparable examples of a relatively small, discrete bay in Ireland containing all five Annex II marine mammal species with such frequency. It was also clear in 2001-02 that the area contained important foraging habitats for numerous marine mammal species, plankton-feeding basking sharks and seabirds. Recurrent encounters with photo-identifiable bottlenose dolphins during 2002 and sightings of newborn common and white-sided dolphin calves also underlined the area's potential as a breeding/rearing habitat for several cetacean species. Thus it is considered that the biological significance of the area, both described and potential, should not be overlooked at this stage.

3. Mitigation measures to protect marine mammals from significant impacts

During the course of the project, it became clear that several protected marine mammal species occurring in the study area could be affected by construction noise and other impacts associated with CORRIB's marine development phase. Since one of the research objectives of the study was to devise effective measures to mitigate all significant construction impacts on marine mammals, considerable effort was spent by EEI, CMRC and DÚCHAS devising measures that could allow the works to proceed under a customised protocol of agreed operational conditions. Such measures were eventually unnecessary for drilling & blasting construction phases in the study area, since these marine works were suspended in August-September 2002.

4. Proposed drilling & blasting works within the waters of Broadhaven Bay SAC

In the context of construction-related drilling & blasting cycles, planned to occur in selected nearshore and foreshore bedrock areas, and for which impact mitigation measures were developed during 2002 through consultation between by CMRC, EEI and DÚCHAS, it is considered that such measures would be difficult to implement effectively due to strict weather constraints necessary for effective visual monitoring and the frequency with which protected marine mammal species were recorded in the inner part of Broadhaven Bay in 2002.

5. Continued monitoring in the waters of Broadhaven Bay SAC & northwest Mayo

It is considered on the basis of data gathered in 2001-02 that these specific waters represent a significant habitat for marine mammals and other biota. Therefore, all precautionary steps should be put in place to safeguard these animals and habitats from potential environmental degradation both in the short and long-term. It is further recommended that a marine mammal monitoring programme is continued in the study area prior to, in parallel with and following construction and pipe-laying activity in the region. The use of marine mammals as bio-indicators may itself provide an appropriate means of monitoring longer-term impacts on environmental quality of the CORRIB development.

TOOTHED WHALES & DOLPHINS (*Odontoceti*)

Six species of toothed whale/dolphin were positively identified in the study area by CMRC researchers between August 2001 and October 2002:

Risso's dolphin *Grampus griseus*

Ten distinct sightings of Risso's dolphins (Plate 4) were recorded during the study. All were records of between one and three adult dolphins (Table 1). Sightings occurred solely in the months of July and August 2002 with a distinct peak in sightings per unit effort recorded in July (Fig. 6). All sightings in July consisted of two animals and average (i.e. mean) group size recorded during the entire study was 1.9 animals (± standard deviation [*s*] = 0.57). Attempts at conducting photo-identification were not successful in 2002 due to difficulties in approaching animals to within photographic range.

Sightings of Risso's dolphins were mostly distributed in the western half of the study area (Fig. 8) with a significant proportion (60%) occurring within a 2km radius of Erris Head. Although foraging behaviour was clearly identified on just one occasion, several cliff-based and boat-based records noted the apparent association between Risso's dolphins and distinctive strong tidal eddies along southern and northern margins of the east ← → west tidal stream. Sixty percent of sightings occurred on ebbing tides.

Plate 4. An adult Risso's dolphin off Erris Head. Note the extensive white scarring, which is characteristic of this species and can be used to recognise individual animals.

Risso's dolphins are relatively inconspicuous, vessel-shy species thought to prey exclusively on squid (Leatherwood & Reeves, 1983). They tend to be observed in coastal Atlantic waters and may be comparatively uncommon throughout Irish waters as a whole (Ó Cadhla *et al.*, *in press*). However, sites of concentration for the species are well-documented in the UK (e.g. Outer Hebrides; Pollock *et al.*, 2000) and 'local' groups may show a level of residency within such areas (Atkinson *et al.*, 1997). In Ireland, sightings of groups of Risso's dolphins have previously been documented in Broadhaven Bay (e.g. Lang, 1972; Nairn & Curry, 1979; Berrow *et al.*, 2002) and it may be that records in the present study represent the recurrence of specific groups within the study area. Although Pollock *et al.* (1997) recorded a higher proportion of sightings in waters overlying the continental shelf edge between May and July, the present study and other sightings (e.g. Nairn & Curry, 1979; Hammond *et al.*, 1995; Berrow *et al.*, 2002) indicate the coastal occurrence of Risso's dolphins in summer with clusters of sightings also recorded off eastern, southeastern and southwestern coasts (Hammond *et al.*, 1995; Berrow *et al.*, 2002).

sighting occurred ca. 8km outside the waters of Broadhaven Bay SAC, while the remaining sightings were either recorded within the SAC or within 1.5km from its outer limits (Fig. 11). Individual records were distributed across many tidal states and thus no suggested pattern was displayed by the data gathered in 2001-02.

Behaviours indicative of foraging activity were recorded within the study area on four out of seven (approx. 57%) sighting occasions in 2001-02. On one particular occasion on 26th August 2002, an estimated 49 adult and juvenile common dolphins raced into the central reaches of Broadhaven Bay and began milling intensively in tight circles within a small inlet close to the western side of the bay (Fig. 11). The dolphins occasionally broke into fast surface-rush activity (Plate 6), forming two sub-groups after a period of 25-35 minutes' foraging. These subsequently appeared to forage in separate areas (approx. 100-150m apart) for a further period of 10-12 minutes, before sub-groups split further apart, one returning seaward at high speed, the other moving slowly towards the inner bay off Ballyglass lighthouse. Similar foraging activity was also noted during the sighting of an estimated 39 animals (including newborn calves) on the same day further offshore. On this occasion, several hundred gannets and several other seabird species including Great skua (*Stercorarius maximus*), Manx shearwater (*Puffinus puffinus*), Sooty shearwater (*Puffinus griseus*) and European storm-petrel (*Hydrobates pelagicus*) were present overhead or diving/dipping in the immediate area in which dolphins were foraging.

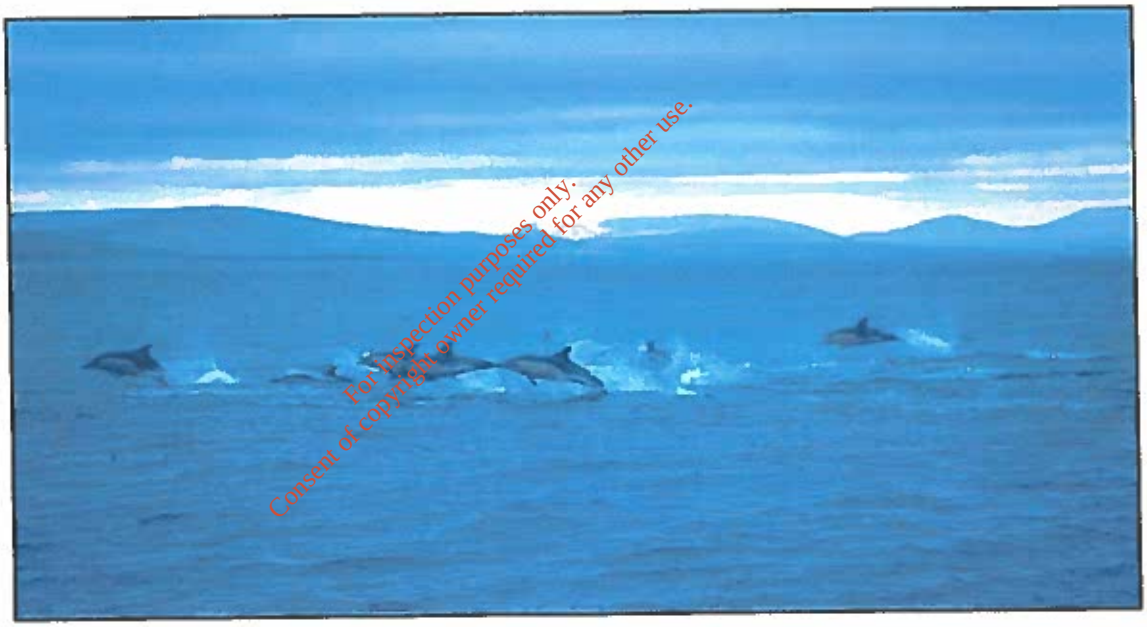

Plate 6. Part of a large group of 49 adult and juvenile common dolphins that was observed foraging intensively within the inner part of Broadhaven Bay on the evening of 26th August 2002.

Common dolphins are frequently recorded in Irish waters via land- or boat-based sightings (e.g. Berrow *et al.*, 2002; Ó Cadhla *et al., in press*) and strandings (Berrow & Rogan, 1997). Dedicated cetacean surveys have recorded this species with relatively high frequency (e.g. Evans, 1981; Evans, 1990; Pollock *et al.*, 1997; Gordon *et al.*, 1999; Ó Cadhla *et al.*, 2001), suggesting that it may be Ireland's most numerous species year-round. Summer abundance estimates have been derived (a) for the Celtic Sea from 1994 SCANS survey data (75,450 animals, Coefficient of Variation [CV] = 0.67; Hammond *et al.*, 2002), and (b) for an area approx. 120,000 km² in size off western Ireland, from data collected during the 2000 SIAR survey (4,496 animals, CV = 0.39; Ó Cadhla *et al.*, 2001).