

**ALAB**An Bord Achmhairc Uim  
(Beathúnair Dobharshaothraithe) is  
A Bord Achmhairc Uim

## Notice of Appeal Under Section 40(1) of Fisheries (Amendment) Act 1997 (No.23)

## APPEAL FORM

Please note that in accordance with Section 40(2) of the 1997 Act this form will only be accepted if delivered by **REGISTERED POST** or by hand to the ALAB offices at the following address: **Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois, R32 DTW5**

Name of Appellant (Block Letters)

MATTHIAS HELLSTERN

Address of Appellant

Eircode

Phone No.

Email address (enter below)

Mobile No.

Please note if there is any change to the details given above, the onus is on the appellant to ensure that ALAB is notified accordingly.

## FEES

Fees must be received by the closing date for receipt of appeals	Amount	Tick
An appeal by an applicant for a licence against a decision by the Minister in respect of that application	€380	
An appeal by the holder of a licence against the revocation or amendment of that licence by the Minister	€380	
An appeal by any other individual or organisation	€150	<input checked="" type="checkbox"/>
Request for an Oral Hearing* (fee payable in addition to appeal fee) *In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded	€75	

Fees can be paid by way of Cheque or Electronic Funds Transfer

Cheques are payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 2021 (S.I. No. 771 of 2021)

## Electronic Funds Transfer Details

IBAN:  
IE89AIBK93104704051067

BIC: AIBKIE2D

Please note the following:

1. Failure to submit the appropriate fee with your appeal will result in your appeal being deemed invalid.
2. Payment of the correct fees **must be received on or before** the closing date for receipt of appeals, otherwise the appeal will not be accepted.
3. The appropriate fee (or a request for an oral hearing) must be submitted against each determination being appealed.

An Bord Achmhairc Uim Cheadunais Dobharshaothraithe | Aquaculture Licences Appeals Board  
Cúirt Chóir Mhíne | Bóthar Bhaile Átha Cliath, Port Laoise, Contae Laois, R32 DTW5  
Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5

**AQUACULTURE LICENCES  
APPEALS BOARD**

11 JUN 2025

Phone: 353 (0) 51 433 1111  
Email: info@alab.ie**RECEIVED**



**ALAB**

An Bord Achomhairc Um  
Cheadunais Dobharaithreachaíocht  
Aquaculture Licences Appeals Board

The Legislation governing the appeals is set out at Appendix 1 below.

SUBJECT MATTER OF THE APPEAL	
Appeal of Aquaculture Licence Decision (TOS - 472A) Kinsale Harbour by Woodstown Bay Shellfish Ltd.	
Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)	
APPELLANT'S PARTICULAR INTEREST	
Briefly outline your particular interest in the outcome of the appeal:	
Kinsale Resident and active harbour user	
GROUNDS OF APPEAL	
State in full the grounds of appeal and the reasons, considerations, and arguments on which they are based (if necessary, on additional page(s)):	
See enclosed letter Appeal.	



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An Bord Achomhairc Um  
Cheadúnais Doblharshaothraithe  
Aquaculture Licences Appeals Board

**CONFIRMATION NOTICE ON EIA PORTAL (If required)**

In accordance with Section 41(1) f of the Fisheries (Amendment) Act 1997, where an Environmental Impact Assessment (EIA) is required for the project in question, please provide a copy of the confirmation notice, or other evidence (such as the Portal ID Number) that the proposed aquaculture the subject of this appeal is included on the portal established under Section 172A of the Planning and Development Act 2000. (See Explanatory Note at Appendix 2 below for further information).

Please tick the relevant box below:

EIA Portal Confirmation Notice is enclosed with this Notice of Appeal		
Other evidence of Project's inclusion on EIA Portal is enclosed or set out below (such as the Portal ID Number)		
An EIA was not completed in the Application stage/the Project does not appear on the EIA Portal		
Details of other evidence		
Signed by the Appellant		Date 10/06/25
<b>Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices</b>		
<b>Payment of fees must be received on or before the closing date for receipt of appeals, otherwise the appeal will be deemed invalid.</b>		

This Notice of Appeal should be completed under each heading, including all the documents, particulars, or information as specified in the notice and duly signed by the appellant, and may include such additional documents, particulars, or information relating to the appeal as the appellant considers necessary or appropriate."

**DATA PROTECTION** – the data collected for this purpose will be held by ALAB only as long as there is a business need to do so and may include publication on the ALAB website



### Appendix 1.

#### Extract from the Fisheries (Amendment) Act 1997 (No.23)

40. (1) A person aggrieved by a decision of the Minister on an application for an aquaculture licence or by the revocation or amendment of an aquaculture licence may, before the expiration of a period of one month beginning on the date of publication in accordance with this Act of that decision, or the notification to the person of the revocation or amendment, appeal to the Board against the decision, revocation or amendment, by serving on the Board a notice of appeal.
- (2) A notice of appeal shall be served—
- (a) by sending it by **registered post** to the Board,
  - (b) by **leaving it at the office of the Board**, during normal office hours, with a person who is apparently an employee of the Board, or
  - (c) by such other means as may be prescribed.
- (3) The Board shall not consider an appeal notice of which is received by it later than the expiration of the period referred to in subsection (1)
41. (1) For an appeal under section 40 to be valid, the notice of appeal shall—
- (a) be in writing,
  - (b) state the name and address of the appellant,
  - (c) state the subject matter of the appeal,
  - (d) state the appellant's particular interest in the outcome of the appeal,
  - (e) state in full the grounds of the appeal and the reasons, considerations and arguments on which they are based, and
  - (f) where an environmental impact assessment is required under Regulation 3 of the Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012 (SI No 468 of 2012), include evidence of compliance with paragraph (3A) of the said Regulation 3, and
  - (g) **be accompanied by such fee**, if any, as may be payable in respect of such an appeal in accordance with regulations under *section 63*, and
- shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

**\*\*Please contact the ALAB offices in advance to confirm office opening hours.**







**ALAB**

An Bord Acheoinnle Um  
Cheadúnais Dobharshaothraithe  
Aquaculture Licences Appeals Board

## Appendix 2.

### Explanatory Note: EIA Portal Confirmation Notice/Portal ID number

The EIA Portal is provided by the Department of Housing, Local Government and Heritage as an electronic notification to the public of requests for development consent that are accompanied by an Environmental Impact Assessment Report (EIA Applications). The purpose of the portal is to provide information necessary for facilitating early and effective opportunities to participate in environmental decision-making procedures.

The portal contains information on EIA applications made since 16 May 2017, including the competent authority(ies) to which they are submitted, the name of the applicant, a description of the project, as well as the location on a GIS map, as well as the Portal ID number. The portal is searchable by these metrics and can be accessed at:

<https://housing.gov.ie/maps-arcgis.com/apps/webappviewer/index.html?id=d7d5a3d48f104ecbb206c7e5f84b71f1>

Section 41(1)(f) of the Fisheries (Amendment) Act 1997 requires that “where an environmental impact assessment is required” the notice of appeal shall show compliance with Regulation 3A of the Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012 (S.I. 468/2012), as amended by the Aquaculture Appeals (Environmental Impact Assessment) (Amendment) Regulations 2019 (S.I. 279/2019) (The EIA Regulations)

Regulation 3A of the EIA Regulations requires that, in cases where an EIA is required because (i) the proposed aquaculture is of a class specified in Regulation 5(1)(a)(b)(c) or (d) of the Aquaculture (Licence Application) Regulations 1998 as amended – listed below, or (ii) the Minister has determined that an EIA was required as part of their consideration of an application for intensive fish farming, an appellant (that is, the party submitting the appeal to ALAB, including a third party appellant as the case may be) must provide evidence that the proposed aquaculture project that is the subject of the appeal is included on the EIA portal.

If you are a third-party appellant (that is, not the original applicant) and you are unsure if an EIA was carried out, or if you cannot find the relevant Portal ID number on the EIA portal at the link provided, please contact the Department of Housing, Local Government and Heritage for assistance before submitting your appeal form.

The Classes of aquaculture that are required to undergo an EIA specified in Regulation 5(1)(a)(b)(c) and (d) of the Aquaculture (Licence Application) Regulations 1998 S.I. 236 of 1998 as amended are:

- a) Marine based intensive fish farm (other than for trial or research purposes where the output would not exceed 50 tonnes);
- b) All fish breeding installations consisting of cage rearing in lakes;
- c) All fish breeding installations upstream of drinking water intakes;
- d) Other fresh-water fish breeding installations which would exceed 1 million smolts and with less than 1 cubic metre per second per 1 million smolts low flow diluting waters.

In addition, under Regulation 5(1) (e) of the 1998 Regulations, the Minister may, as part of his or her consideration of an application for intensive fish farming, make a determination under Regulation 4A that an EIA is required.



Aquaculture Licence Appeals Board,  
Kilminchy Court,  
Dublin Road,  
Portlaoise,  
Co Laois,  
R32 DTW5



10.06.2025

**RE: Appeal of Aquaculture Licence Decision (T05-472A), Kinsale Harbour, Co. Cork – Woodstown Bay Shellfish Ltd**

Dear Members of the Appeals Board,

I wish to appeal the decision to grant an aquaculture licence to Woodstown Bay Shellfish Limited for bottom-culture mussel farming on a 23.1626-hectare site (T05-472A) in Kinsale Harbour, Kinsale, Co. Cork.

I enclose a cheque for €150.00

## **Grounds for Appeal**

### **1. Insufficient Environmental Analysis**

The determination states that the project “will have no significant impact on the marine environment” yet cites no independent study. Robust, peer-reviewed work is required to evaluate biodiversity loss, water-quality change and sediment disturbance, as well as the cumulative effects of existing and proposed farms.

### **2. Public Access and Recreation**

Large-scale aquaculture developments obstruct navigation, displace traditional fishing routes and reduce the harbour’s recreational value. The decision papers do not explain how these conflicts will be managed, nor do they show meaningful consultation with sailors, water-sports users or tourism operators.

### **3. Economic Risk to Local Businesses**

While the applicant anticipates local employment, no account has been taken of potential losses to tourism, charter fishing and small-scale fisheries that rely on an unspoilt harbour. A truly independent cost-benefit analysis is needed

### **4. Risks to Adjacent Natura 2000 Sites**

Dredging displaces sediment, destroys benthic fauna, and threatens biodiversity. The site is known locally to support a particularly rich crab population. The failure to conduct a baseline ecological survey is a serious omission that contravenes the precautionary principle set out in EU environmental laws.



### **5. Navigational and Operational Safety Overlooked**

Section 61 of the Fisheries (Amendment) Act 1997 obliges the Minister to protect navigation. No study has considered how drifting mussel seed may foul raw-water intakes, a recognised hazard in tidal harbours. The Harbour Master, local Kinsale RNLI and the three marina operators (Castle Park Marina, Kinsale Yacht Club Marina and Trident Hotel Marina) have not been consulted; no buffer zones or monitoring regime is proposed.

### **6. Fouling of Raw Water Intakes – A Known Hazard**

Mussel veligers readily colonise cooling-water lines on vessels. Resulting blockages can cause engine failure and affect all boat users in the harbour.

### **7. Unreasonable Delay in Determination**

The original application was submitted in December 2018. A decision was not issued until May 2025—more than six years later. Such an extended delay is at odds with the intent of the Fisheries (Amendment) Act 1997, which mandates that decisions be made as soon as reasonably practicable. This delay risks relying on outdated environmental data and fails to reflect current stakeholder conditions. It raises legitimate concerns regarding the procedural fairness and validity of the decision.

### **8. Failure to Assess Impact on National Monument and Submerged Archaeological Heritage**

The proposed mussel farm site lies directly off James Fort, a protected National Monument (NIAH Ref: 20911215), and adjacent to the remains of the blockhouse guarding the estuary. This area is of significant historical and military importance, with likely submerged archaeological material including maritime infrastructure and possibly shipwrecks. The application fails to include any underwater archaeological assessment or consultation with the National Monuments Service or Underwater Archaeology Unit (UAU) of the Department of Housing, Local Government and Heritage. Recent dredging works at Kinsale yacht club marina discovered such a historical vessel resulting in this area of the harbour to be an exclusion zone for dredging. This proposed area needs to be surveyed to ensure further vessels of significant historic value are not discovered given the long history of Kinsale harbour. This represents a serious procedural omission. Dredging associated with bottom-culture mussel farming carries a high risk of disturbing or destroying archaeological material in situ. The failure to survey or evaluate these risks contradicts national heritage legislation and violates the precautionary approach enshrined in European environmental directives. We respectfully request that the licence be suspended until a full archaeological impact assessment is carried out, including seabed survey and review by qualified maritime archaeologists in consultation with the UAU.

### **9. Absence of Site-Specific Environmental Impact Assessment (EIA) and Discovery of Protected Seagrass Habitat**

No Environmental Impact Assessment (EIA) appears to have been carried out for the proposed aquaculture site, despite its sensitive ecological characteristics and proximity to protected areas. Under national and EU law, the Department of Agriculture, Food and the Marine (DAFM) is obliged to screen aquaculture applications for significant environmental effects. Where such risks exist—particularly in or near Natura 2000 sites or protected habitats—a full EIA may be legally required.



Since the initial licence application in 2018, new environmental data has come to light. Research led by Dr Robert Wilkes (University College Cork) national seagrass mapping work—which includes all major Irish coastal zones—strongly suggests that Kinsale Harbour may host these priority habitats, highlighting the need for a site-specific ecological survey. Seagrass is a priority habitat protected under the EU Habitats Directive due to its high biodiversity value, role in carbon sequestration, and function as a critical nursery habitat for fish and invertebrates. The mere presence of seagrass requires formal ecological assessment under EU law before any disruptive marine activity—particularly dredging—can be licensed. The current licence determination fails to acknowledge this discovery or to conduct any updated ecological survey. It instead relies on environmental data now over six years old. This is procedurally and scientifically unacceptable. An up-to-date, site-specific environmental impact assessment is necessary to ensure compliance with legal requirements and to safeguard a now-confirmed protected habitat.

We urge the Department to reconsider this determination in the interests of environmental stewardship, public access, and the sustainable economic development of the region.

I trust this appeal will be taken seriously and the writer kept updated on this appeal.

Yours sincerely,

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Matthias Hellstern

