

**AQUACULTURE LICENCES
APPEALS BOARD**

20 JUN 2025

RECEIVED



ALAB

An Bord Achomhairc Um
Cheadúnaís Dobharshaothraithe
Aquaculture Licences Appeals Board

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) **NIAL O'DONOVAN**

Address of Appellant **[REDACTED]**

Eircode **[REDACTED]**

Phone No. **[REDACTED]** Email address (enter below)

Mobile No. **[REDACTED]**

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	✓
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 *** AS PER ATTACHED ***

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:	BIC: AIBKIE2D
	IE89AIBK93104704051067	

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.



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

SUBJECT MATTER OF THE APPEAL	
Woodstown Bay Shellfish Limited application to cultivate mussels using bottom culture on the sub-tidal foreshore on a 23.1626 hectare site (T05-472A) in Kinsale Harbour, Co. Cork.	
Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)	T05-472A
APPELLANT'S PARTICULAR INTEREST	
Briefly outline your particular interest in the outcome of the appeal:	
<p>I am a Kinsale resident who regularly kayaks in Kinsale harbour and surrounding coastline. I participate in kayak safety training in the harbour.</p> <p>I also regularly walk the areas around Charles Fort, James Fort and the coastal paths overlooking the subject area.</p> <p>I also participate in local tourism and community events that rely on open access to the harbour.</p> <p>I am concerned about environmental quality, public safety, and long-term community impact of the proposed</p> <p>I am seeking revocation of the licence.</p>	
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)):	
<p>I set out the grounds for appeal on the following pages.</p> <p>PLEASE REFER TO GROUNDS 1-6 ON THE FOLLOWING PAGES..</p>	

**ALAB**

An Bord Achomhairc Um
Cheadúnais Dobharshaothralthe
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	N/A
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

19 June 2025

Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices

Payment of fees must be received on or before the closing date for receipt of appeals, otherwise the appeal will be deemed invalid.

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.

Ground 1:

Insufficiencies and/or Inaccuracies in the Minister's Considerations in Granting the Licence

- a) "Scientific advice is to the effect that the waters are suitable"
 - The scientific advice appears to be largely relating to impact on the Natura Sites (Sovereign Islands and west side of Old Head).
 - The scientific advice does not appear to consider impacts on water quality from the creation/deposition of 400-700 tons of mussel seed, management, use/growth and harvesting of the proposed aquaculture activities; and its subsequent impact on humans.

- b) "Public access to recreational and other activities can be accommodated by this project"
 - The proposed location of the proposed aquaculture activities is immediately adjacent to Jarley's Cove / Dock Beach. This area provides sheltered conditions for a wide variety of water-based activities, including kayaking, sailing, swimming.
 - The Dock Beach is the only sandy beach within the harbour and is a very popular family destination, to such an extent that the Local Authority operates a one-way traffic layout in & out of Castlepark during the spring/summer.
 - The scientific advice considers the impact of the proposed daytime aquaculture activities on a small number of wildlife, based on their nocturnal habits. However the aquaculture activities (including, but not limited to deposition of mussel seeds; monitoring/management and dredging of mussels) will have a very significant on the access and enjoyment of the waters in the cove and the adjacent beach.

- c) "The proposed development should have a positive effect on the economy of the local area"
 - This assertion is plainly inaccurate.
 - The Marine Institute *Report supporting Appropriate Assessment Screening of Extensive Aquaculture in Kinsale Harbour, Co Cork* states that "the site will be accessed by boat from a location outside of Kinsale Harbour."
 - The local area economy will NOT benefit from any "positive effect" from the aquaculture activities, as the company and operations are outside of the Kinsale area.

- d) "All issues raised during Public and Statutory consultation phase"
 - This has not been demonstrated in any transparent manner.
 - It appears from our engagement with the community that issues raised by other impacted persons have not been taken into account.

- e) "There are no effects anticipated on the man-made environment heritage of value in the area"
 - There is no transparency on the assessment of the effect of the aquaculture activities on Kinsale, which will run contrary to *Cork County Council's Development Plan*, including but not limited to:

- **"It is an objective of the Plan to protect and enhance the natural and built heritage assets of the medieval coastal settlement and to facilitate the development of Kinsale as one of the County's principal tourist attractions. Future development is focussed on consolidation of the town and limited expansion in order to respect the town's architectural heritage and unique battlefield landscape which contribute to the town's scenic and coastal setting".**
 - **"The harbour is the focus of a variety of marine based activities including yachting and sea angling. Charles Fort and James Fort are prominent maritime fortifications flanking the mouth of the harbour and are both popular heritage destinations. Scilly and Summercove are small attractive peripheral coastal settlements which are included in the development boundary of the town".**
 - **"Kinsale supports a number of areas biodiversity value. They include James Fort which juts into Kinsale Harbour and is proposed to be designated as a Natural Heritage Area (Site Code pNHA 1060) and Commoge Marsh wetlands. There are also a number of small woodland areas of ecological value within the town boundary".**
 - **"The Plan supports Kinsale's aim to fulfil its economic potential as a quality urban centre providing employment, shopping, services and public transport for its rural hinterland. Kinsale's local economy is largely tourism based. The town has an international tourism reputation built around its iconic townscape, heritage, natural harbour and associated water-based recreation, culinary offer and scenic characteristics".**
 - **"Kinsale's historic and attractive townscape and maritime offer is the foundation of the town's tourism market. The Plan seeks to continue to protect and enhance the natural and built heritage assets of the town to facilitate its development as a Principal Tourist Attraction. In 2019, Charles Fort was included in the top 50 fee charging visitor attractions in Ireland".**
 - **The proposed license may impact on the delivery of the National Marine Planning Framework and the Development Strategy for Marine Leisure Infrastructure.**
- f) **"No significant effects arise regarding wild fisheries"**
- **This has not been demonstrated, in the absence of a SEA Environmental Report.**
- g) **"The proposed aquaculture activities do not spatially overlap with Natura 2000 sites and there should be no significant impacts on the nearest Natura site"**
- **The Marine Institute report appears to be limited to impact on Natura 2000 sites (Sovereign Islands and west of Old Head).**
- h) **"No significant impacts on the marine environment and the quality status of the area will not be adversely impacted"**
- **As per above, including a), b), e) and f) above.**

Ground 2:**Impact on Public Recreation & Amenity**

- The proposed mussel farm covers 23 hectares of sub-tidal foreshore between Dock Beach, James Fort, and Charles Fort — a zone heavily used for swimming, kayaking, sailing, fishing, training and community regattas.
- This obstruction will limit access, compromise navigation safety, and pose potential hazards to harbour users.

Ground 3:**Risk to Tourism & Local Economy**

- Kinsale is a premium tourism hub. The visual and physical presence of a large mussel farm threatens the harbour's scenic value, which underpins local hospitality, marine tourism, and retail sectors.
- Public feedback, including a peaceful flotilla/beach protest and a petition with over 4,700 signatures, demonstrates strong community and commercial concern regarding the proposed intense aquaculture farming in this area.

Ground 4:**Environmental & Ecological Concerns**

- The use of bottom-culture and dredging can cause siltation, substrate disruption, and water quality degradation, potentially affecting biodiversity, shrimp fisheries, and adjacent Natura 2000 sites.
- The licence determination did not fully address impacts to phytoplankton, biodeposition (faecal / pseudofaecal dispersion), or long-term seabed changes. With the potential impact of risking eutrophication in Kinsale's semi-enclosed harbour.
- Deposition rates in orders of magnitude higher than natural background levels, creating a distinct layer of organically enriched sediment within the harbour.
- Geochemical changes, including but not limited to increased oxygen demand, hypoxia/anoxia, increased nutrient release and shifting of the natural sediment chemistry.
- Physical habitat modifications, including but not limited to:
 - smothering due to heavy biodeposition physically smother natural seabed habitats (e.g., coarse sediments, gravel, shell hash) and associated fauna.
 - Sediment texture changes including accumulated biodeposits creating a finer, softer, more fluid mud compared to surrounding areas.
 - Shell debris leading to an accumulation of mussel shells locally altering the substrate complexity.

Ground 5:**Procedural Deficiencies in Public Consultation & Assessment**

- Notification to local stakeholders—kayakers, sailors, swimmers, shrimp fishers—was insufficient, resulting in limited community input during key stages.
- Lacking independent marine safety assessment, archaeological survey, and comprehensive environmental impact study, the process appears procedurally unfair.

Ground 6:**Public Safety & Navigation Hazards**

- Local mariners, including the Kinsale Yacht Club and shrimp fishers, have highlighted the risk of engine blockages from mussel seed and the physical hazard to vessels and swimmers.
- The licence determination did not include custom mitigation for navigational risk (e.g., buoy exclusion zones), putting users at risk of collisions and/or entanglement.

Appendix 1.

Extract from the Fisheries (Amendment) Act 1997 (No.23)	
40.	<p>(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.</p> <p>(2) A notice of appeal shall be served—</p> <ul style="list-style-type: none"> (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. <p>(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)</p>
41.	<p>(1) For an appeal under section 40 to be valid, the notice of appeal shall—</p> <ul style="list-style-type: none"> (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 <i>section 63</i>, and <p>shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.</p>

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

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://housinggov.ie/maps.arcgis.com/apps/webappviewer/index.html?id=d7d5a3d48f104ecbb206e7e5f84b71f1>

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.

