

**AQUACULTURE LICENCES
APPEALS BOARD**

20 JUN 2025



ALAB

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board

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

RECEIVED

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)

Philip + Joss Horgan (Josephine)

Address of Appellant

[Redacted Address]

Eircode

[Redacted Eircode]

Phone No.

[Redacted Phone Number]

[Redacted Phone Number]

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.



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

SUBJECT MATTER OF THE APPEAL	
Appeal of Aquaculture Licence Decision (T05-472A), Kinsale Harbour, Co. Cork — Woodstown Bay Shellfish Ltd.	
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:	
I am impacted by this development because I have a restaurant here for the past 48 years in Kinsale & depend on tourism & local trade. In recent years especially there has been a big increase during high season in the no. of yachts & cruiser boats in this area. The mussel farm will create havoc & have a huge negative impact on these boats coming to the harbour. Also Kinsale is the start or end point of the Wild Atlantic Way. This farm will effect the huge amount of visitors who enjoy the water sports etc.	
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 attached letter. — appeals document. because we have found significant grounds too long to be included in this field.	

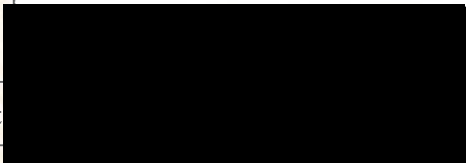
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CONFIRMATION NOTICE ON EIA PORTAL (if required)

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	N/A	
Signed by the Appellant		Date 19/6/25
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.

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.**

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.

Given the clear risk to sensitive marine ecosystems, underwater heritage, and sustainable local economies, this licence must be revoked. A proper, science-based and consultative assessment must precede any aquaculture development in Kinsale Harbour.

SUPPORTING DOCUMENTS

- Licence determination file
- Seagrass habitat mapping (Dr. R. Wilkes, UCC)
- Navigation charts and vessel movement data
- Archaeological site inventories (NIAH)
- EU invasive species records
- Climate vulnerability projections

Fee Enclosed: €225 (€150 appeal + €75 oral hearing request)

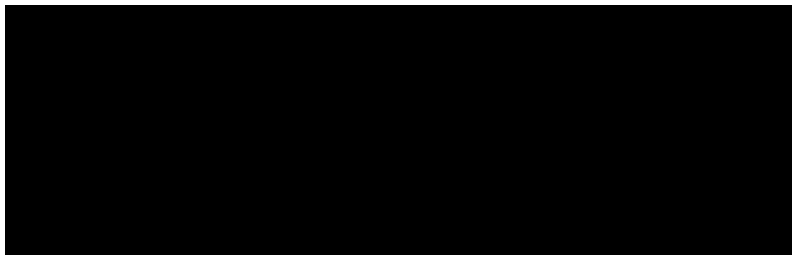
Delivery Method: Registered Post

Respectfully submitted,

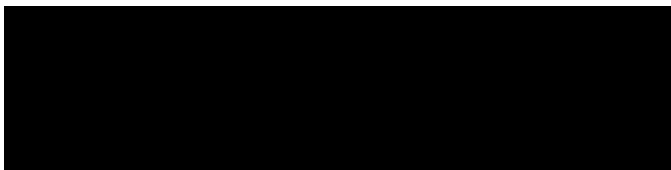
Name

Signature

Date



19 June 2025



APPEAL OF AQUACULTURE LICENCE DECISION

TO:

Aquaculture Licences Appeals Board (ALAB)
Kilminchy Court
Dublin Road
Portlaoise
Co. Laois
R32 DTW5

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

DATE: 19 June 2025

FROM: [REDACTED]

EXECUTIVE SUMMARY

This appeal challenges the decision to grant Aquaculture Licence T05-472A to Woodstown Bay Shellfish Ltd for bottom-culture mussel farming on a 23.1626-hectare site in Kinsale Harbour, Co. Cork. The appeal is founded on significant scientific, legal, and procedural failings that undermine environmental protections, contravene EU legislation, and threaten sustainable local economic activity.

GROUNDINGS FOR APPEAL

1. Inadequate Assessment of Invasive Alien Species (IAS) Risks

Ecological Risk: The licence approval lacks any evaluation of IAS risks, violating EU Regulation 1143/2014 and the Marine Strategy Framework Directive. Aquaculture is a recognized vector for biological invasions, with bottom-culture mussel farming posing elevated risk via:

- Seed mussel transfers from external sites
- Fouling on equipment and vessels
- Ballast water discharge

High-Risk Species of Concern:



- *Crepidula fornicata* (Slipper Limpet)
- *Didemnum vexillum* (Carpet Sea Squirt)
- *Styela clava* (Leathery Sea Squirt)
- *Codium fragile* (Invasive seaweed)

Legal Breach: Article 13 of EU Regulation 1143/2014 mandates Member States to monitor and prevent IAS introduction. The absence of biosecurity measures constitutes a breach of this obligation.

2. Destruction of Priority Seagrass Habitats

New Scientific Findings: Recent mapping by Dr. Robert Wilkes (UCC, 2023–2024) indicates the presence of *Zostera* seagrass beds in Kinsale Harbour. These are:

- Protected under Annex I of the EU Habitats Directive
- Blue carbon ecosystems
- Nursery grounds for fish
- Habitats for endangered species

Environmental Impact: Bottom-culture mussel farming involves dredging that:

- Destroys root systems
- Resuspends sediment, blocking photosynthesis
- Releases stored carbon
- Eliminates dependent fauna

Recovery Prospects: Global restoration success rates are low (<35%), with recovery unlikely in the dynamic Kinsale tidal system.

3. Non-Compliance with Natura 2000 Obligations

Lack of Appropriate Assessment (AA): Despite proximity to designated Natura 2000 sites, no AA has been carried out.

- **Old Head of Kinsale SAC (<2 km):** Potential impacts on sea cliffs and associated habitats

- **Sovereign Islands SPA:** Risk to cormorant feeding grounds

Cumulative Impacts Ignored: The decision fails to address cumulative environmental stressors, violating the precautionary principle.

4. Risk to Underwater Cultural Heritage

Cultural Significance: The site lies within a nationally significant maritime archaeological landscape, including:

- **James Fort (NIAH 20911215):** 17th-century fort
- Likely associated submerged heritage: moorings, shipwrecks, blockhouses

Legal Breach: No underwater archaeological assessment was conducted, contravening the National Monuments Act 2004 and international heritage protections.

5. Marine Navigation and Safety Risks

Mussel Larvae Hazards: *Mytilus edulis* releases larvae that can obstruct:

- Engine cooling systems
- Desalination and fire suppression systems
- Generators and auxiliary equipment

Vessels at Risk:

- Recreational fleet
- RNLI rescue boats
- Naval and commercial vessels
- Superyachts

Emergency Response Concerns: Equipment failure increases maritime emergency risk. No engagement with emergency services is documented.

6. Negative Economic Impacts

Tourism Sector Threat: Kinsale's €45 million/year marine tourism economy—driven by sailing, fishing, ecotourism, and diving—is jeopardized. No seascape/landscape visual impact assessment was undertaken.

Fisheries Displacement: The site interferes with:

- Traditional pot fisheries
 - Seine netting areas
 - Recreational angling access
-

7. Procedural Irregularities and Statutory Failures

Excessive Delay: The 7.5-year processing period (2018–2025) introduces:

- Unfairness to stakeholders
- Use of outdated environmental data
- Shifting ecological baselines

Lack of Consultation: Key stakeholders were not consulted, including:

- Marine recreation users
 - Tourism and conservation bodies
 - Archaeologists
 - Emergency services
-

8. Failure to Address Climate Vulnerability

Ocean Acidification: Future viability of shellfish is uncertain due to:

- Lower calcification rates
- Shell dissolution
- Market reliability under climate scenarios

Temperature Stress: No assessment of heatwave resilience or adaptation strategies is included.

RELIEF SOUGHT

The Appellant respectfully requests the Aquaculture Licences Appeals Board to:

1. **Revoke** Licence T05-472A pending full environmental review.
2. **Order** a comprehensive Environmental Impact Assessment including:
 - IAS risk assessment and biosecurity measures
 - Updated seagrass surveys
 - Standardised benthic community assessments
 - Scenario-based water quality modelling
3. **Require** Appropriate Assessment under Article 6(3) of the Habitats Directive.
4. **Mandate** a full underwater archaeological survey in consultation with the Underwater Archaeology Unit.
5. **Commission** a Marine Navigation Impact Assessment involving all maritime stakeholders.
6. **Conduct** a robust economic impact study covering tourism, recreation, and fisheries.
7. **Establish** biosecurity protocols including:
 - Seed source certification
 - Equipment disinfection
 - IAS monitoring
 - Rapid response planning

CONCLUSION

The decision to approve Licence T05-472A is fatally flawed, breaching EU and national environmental laws, neglecting critical scientific evidence, and bypassing essential stakeholder engagement. The precautionary principle—central to EU environmental policy—compels action where environmental harm is possible but uncertain.