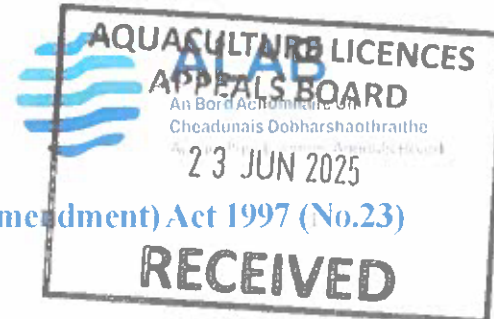


APPEALS BOARD

23 JUN 2025

RECEIVED



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)	The Bulman Dippers c/o Agnes McLaverty		
Address of Appellant	[REDACTED]		
Eircode	[REDACTED]		
Phone No.		Email address (enter below)	
Mobile No.	[REDACTED]	[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

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
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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 Achomhairc Um Cheadunais Dobharshaothraithe | Aquaculture Licences Appeals Board

Cúirt Choill Mhinsi, Bothar Bhaile Átha Cliath, Port Laoise, Contae Laoise, R32 DTW5

Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5

Phone: +353 (0) 57 8631912

R-phost/Email: [info@alab.ie](mailto:info@alab.ie)


[www.alab.ie](http://www.alab.ie)



RL 0156 0309 51E

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

SUBJECT MATTER OF THE APPEAL	
<p>We, the Bulman Dippers, respectfully file this appeal against the grant by the Minister for Agriculture, Food and the Marine, published 31st May 2025, of an Aquaculture Licence to Woodstown Bay Shellfish (application stamped 21 December 2018).</p>	
<p>Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)</p>	<p>T05/472A</p>
APPELLANT'S PARTICULAR INTEREST	
<p>Briefly outline your particular interest in the outcome of the appeal.</p>	
<p>We represent a group of local swimmers who use Kinsale Harbour where this licence has been granted, on a daily basis for open water swimming. Our interest in the outcome of the appeal is to maintain the current status in relation to the nature of Kinsale Harbour, to secure our full and free access to the water at all states of the tide and at all times, to prevent any deterioration due to the deposition of mussel seed and associated sediment on to the sand in the intertidal zone at Jarley's Cove, to maintain the sea water quality, and the safety and the general wellbeing for all who wish to swim in this area.</p>	
GROUNDS OF APPEAL	
<p>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>	
<p>Please find attached on additional pages a document setting out our full grounds of appeal and the reasons, considerations, and arguments on which they are based.</p>	

<b>CONFIRMATION NOTICE ON EIA PORTAL (if required)</b>			
<p>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).</p> <p>Please tick the relevant box below:</p>			
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 20/06/2025
<p><b>Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices</b></p> <p><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></p>			

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.	<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"> <li>(a) by sending it by <b>registered post</b> to the Board,</li> <li>(b) by <b>leaving it at the office of the Board</b>, during normal office hours, with a person who is apparently an employee of the Board, or</li> <li>(c) by such other means as may be prescribed.</li> </ul> <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"> <li>(a) be in writing,</li> <li>(b) state the name and address of the appellant,</li> <li>(c) state the subject matter of the appeal,</li> <li>(d) state the appellant's particular interest in the outcome of the appeal,</li> <li>(e) state in full the grounds of the appeal and the reasons, considerations and arguments on which they are based, and</li> <li>(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</li> <li>(g) <b>be accompanied by such fee</b>, if any, as may be payable in respect of such an appeal in accordance with regulations under <i>section 63</i>, and</li> </ul> <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.





## Appeal to the Aquaculture Licences Appeals Board of Licence T05/472A.

We respectfully file this appeal pursuant to Section 40(1) of the Fisheries (Amendment) Act 1997 (the **1997 Act**).

The Board is required to reconsider the entire licence application afresh, without deference to the Minister's decision.

Pursuant to Section 40(4)(b) of the 1997 Act, "*the Board shall ... determine the appeal by ... determining the application for the licence as if the application had been made to the Board in the first instance.*"

Sections 40(4)(b) and 40(5) of the 1997 Act require a full *de novo* review where appeals are filed against the granting of a licence, unless any of the circumstances in Sections 48, 51 or 52 apply. Here, none of those circumstances applies, because the appeal is not vexatious and it challenges the grant of the licence as a whole (not merely certain conditions attaching to the licence).

Consequently, Section 40(4)(b) defines the standard of review: the Board is required to consider the application afresh, in light of all relevant evidence and circumstances, without being bound by or deferring to the decision of the Minister under appeal.<sup>1</sup> This is the clear consequence of the statutory language in that Section: "*as if the application had been made to the Board in the first instance.*"

The Board's task therefore includes being guided by the cornerstone principle of the public interest in Section 7 of the 1997 Act, as explained below.

The *de novo* review which the Board is required to conduct also means that where – as in this case – up to date environmental impact and other assessments are lacking, the Board cannot, as a matter of law, decide to uphold the licence without first being provided with those assessments. This is especially important in a case such as this one, where the licence application was filed in 2019 and the underlying materials are now hopelessly out of date. For example, critical evidence of protected species (such as seagrass) in the proposed licence area has become available since then.

The aquacultural licence is contrary to the public interest

Section 7 of the 1997 Act prescribes one overarching principle for the grant (or refusal) of an aquacultural licence: the public interest. This is clear from the text of Section 7(1),

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<sup>1</sup> Furthermore, we note that the Minister's decision to grant the licence fails to state any substantive reasons for its conclusions, contrary to the most basic requirements of administrative law. Consequently, the decision would be of little value or assistance to the Board, even if Section 40(4)(b) did not already exclude the decision from having any role in the Board's assessment as a matter of law.

which states: “... *the licensing authority may, if it is satisfied that it is in the public interest to do so, license a person...*”

The burden of establishing the public interest lies with the applicant, as the party seeking the grant of a licence, along with satisfying the other criteria set out in the 1997 Act.

In this case, however, the overwhelming evidence demonstrates *the very opposite*: upholding the licence would be contrary to the public interest, as well as contrary to EU law and other requirements in the 1997 Act.

As a threshold matter, the fact that the granting of the licence has triggered such widespread and uniform condemnation from the townspeople of Kinsale clearly demonstrates that the licence is not considered to be in the public interest by the very members of the public who will have to live with the consequences of the licence, if it is upheld. Indeed, we are not aware of any other appeal before this Board where there has been an equivalent level of public opposition to the granting of an aquaculture licence.

In this case, objective proof of this public opposition exists in many forms. These include the petition signed by more than 4,980 people (as of 20<sup>th</sup> June) opposing the licence (over 50% of the population of Kinsale, based on the last (2022) census);<sup>2</sup> the numerous appeals lodged with this Board; the extensive concerns voiced on social media; as well public demonstrations within Kinsale, such as that held in Kinsale Harbour of 13 June 2025 and documented by RTE News (available at this link: [Kinsale locals to submit petition against mussel farm](#)).

By contrast – to our knowledge – Woodstown Bay Shellfish Ltd has provided no equivalent evidence of *any* public support within Kinsale for its bottom-culture mussel farming proposal.

Against this backdrop, it would be perverse for the Board to find that upholding the licence would be “*in the public interest*” under Section 7(1) of the 1997 Act. The members of the public in the affected area have made their views known and they are unanimous in their opposition to the licence.

As well as being contrary to the public interest and lacking public support, the aquaculture licence is both procedurally and substantively flawed. We set out below some of the grounds of appeal which require the licence to be set aside.

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<sup>2</sup> The petition is available online at this link: [Petition : Stop Kinsale Mussel Farm - Kinsale, Ireland - Change.org](#)



## Additional Grounds for Appeal.

### Introduction and Background

We, The Bulman Dippers are a group of local residents who swim daily, all year around, in the area of the referenced licence application / grant. Our group has approximately 50 members (our WhatsApp group in which we note who is swimming and at what time) and includes men and women spanning all ages and from all walks of life; - some of us have always lived in Kinsale, and some have come from further afield. What we have in common is our sense of place, our interest in sea swimming, and now also the deep concern that the operations associated with this licence will have a significant and detrimental impact on our ability to enjoy our daily swim. We are aware that there are many more swimmers and other swimming groups, formal and informal, who also regularly meet to swim in the Kinsale area, including at Jarley's Cove and at the Bulman Beach and Slipway.

We contacted the Department (Aquaculture Licensing) in Clonakilty on the 10<sup>th</sup> June to ask if there was any documentation available, in particular any environmental information e.g. Environmental Impact Assessment (EIA) screening, that we could access to better understand the rationale for the decision summarised on the Department's website (See appendix A). We were told that no such document would be made available and if we wanted anything other than what was on the public file we should make ourselves familiar with the Freedom of Information (FOI) regulations and request documentation through FOI.

Due to the time constraint associated with lodging the appeal, we cannot therefore in any way ascertain the extent of the assessment carried out in respect of this licence grant, or whether the Minister has considered the need for a full environmental, social and health impact assessment to be conducted. We are interested in understanding whether the data considered for this licence is up to date, or if it dates back to the time of the licence application; in the latter case, the data may well be out of date and no longer representative. We also want to understand exactly how, and to what extent the operations associated with this licence will affect us and the environment we live in, and if that has been taken into account, hence this appeal.

### **Where we swim**

The members of our group mainly swim from The Bulman Pier and from Jarley's Cove (aka The Dock Beach or Castlepark Beach), both within what is locally known as The Outer Harbour. Jarley's Cove is located at walking and cycling distance from the town, and is well sheltered and calm throughout the year. Rocks at either end give swimmers and beach users added shelter during blustery winter days. The local authorities are

well aware of the importance of this safe swimming area as it is delineated by buoys to prevent motorised vessels encroaching on the swimming area. There is also a raft installed offshore for people to swim out to.



*Fig 1. Jarley's Cove, safe and sandy beach*



*Fig 2. Jarley's Cove (Bulman in the background)*

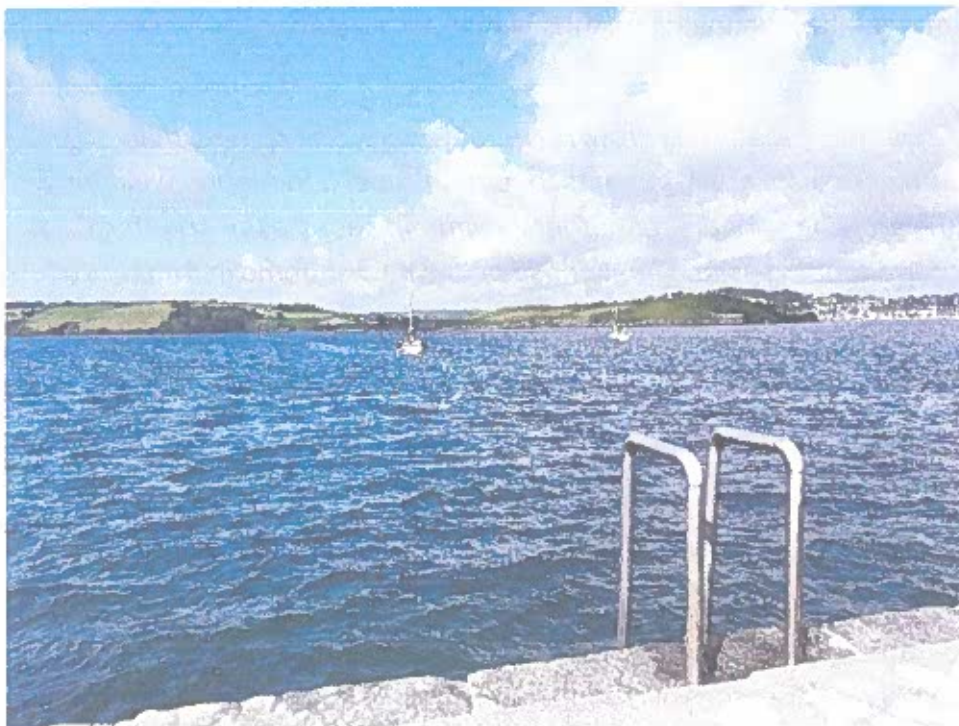


*Fig 3. Jarley's Cove*

The Bulman Pier, also walking distance from the centre of town, is a very safe spot to swim from as it is well protected by the land on both sides. Being quite recently fitted with a new stainless steel handrail on the slip and a good vertical ladder, it is possible to get safely in and out of the water at the Bulman during most weather conditions.



*Fig.4 The Bulman Pier Christmas Day 2024*



*Fig 5. Photo (June 2025) taken from the ladder at the Bulman Pier, looking across to Jarley's cove  
the area in between is now occupied by the northern part of licence T05/472A.*

The northern end of the rectangle which is now licensed is lying in between these two very important swimming areas, with a distance of only a couple of hundred metres from each at low tide.

## Why we swim

In the Strategy for Swimming 2024-2027<sup>33</sup> the Government recognises swimming as Ireland's second-most popular participation sport. Swimming is prioritised in the Programme for Government in recognition of its role in promoting improved general health and wellbeing. The Strategy document states its vision of 'providing everyone in Ireland with an opportunity to swim'. Further it states:

*'The National Outdoor Recreation Strategy 2023-2027 (Embracing Ireland's Outdoors) highlights an objective to increase participation in outdoor or 'wild swimming'. The public consultation informing this Strategy found that over 60% of respondents participated in open water swimming on a regular basis i.e. more than once a month. Safety was a key concern raised by open water swimmers in the public consultation, with 51% of respondents identifying it as a barrier to participation.'*

*The weekly participation rates for swimming, as outlined by Swim Ireland's Participation Strategy (2022-2026) (340,000 people 'swam once a week' in 2019) further emphasise the importance of this type of physical activity to a significant population segment. This Swimming Strategy is considered a timely response to the development of an activity that has acknowledged physical, emotional and health benefits. The Action Plan which forms part of the Strategy seeks to enhance the provision of opportunities to swim, maximising supports and reinforcing safety in and about water. Particular attention is focused on swimming's ability to enhance mental wellbeing and physical activity.'*

On April 4<sup>th</sup>, 2024, Minister for Public Health, Wellbeing and the National Drugs Strategy Hildegard Naughton stated<sup>44</sup> that:

*"The popularity of outdoor swimming really has grown in recent years, and as a regular swimmer myself, I'm keenly aware of its many benefits for our physical and mental wellbeing. With a view to embracing the growing appetite for outdoor swimming across the country, I was delighted to secure €500,000 in funding as an initial phase of this new scheme in Budget 2024".*

*"This funding will support improvements that will make Ireland's rich network of outdoor bathing spots more accessible to more people. Our ambition is to boost opportunities for people of all ages to come together to enjoy physical activity".*

*"Swimming along our wonderful beaches and beautiful lakes is not only good for body and mind, it also enhances the social fabric of our communities around the country".*

As daily swimmers, we appreciate the access to water that we have and the fact that in Kinsale we have several places literally on our doorstep where we can swim safely. The slip at the Bulman Pier is regularly maintained by the Council to prevent excessive deposition of algae, and individual members

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<sup>33</sup> <https://gov.ie/en/department-of-culture-communications-and-sport/publications/national-swimming-strategy-2024-2027/>

<sup>44</sup> <https://www.gov.ie/en/department-of-health/press-releases/minister-naughton-announces-500000-funding-for-outdoor-swimming-projects/>



of the community clean The Dock Beach virtually every day, so that it is free of litter and debris and safe for users.

We all have different reasons for our interest in swimming, and some of us are stronger swimmers than others. What we have in common is our enjoyment of sea swimming at our own levels of ability, but with the added benefit of swimming with others. For many of us this daily ritual contributes very significantly to our mental health and wellbeing.

### **Observations and comments**

Kinsale is a continuously growing town. According to the 2022 census, there were 5,755 residents in the town. It must be assumed that this has now been exceeded due to ongoing residential developments in the town. The water quality, although sometimes questionable after very high rainfall events, is generally good due to the fairly recent development of effluent treatment at Commogue. It should however be noted that the mussel farm will be located downstream of the town and therefore downstream of the sewage effluent discharge point(s).

In this regard we wish to refer to the Waste Water Discharge Licence (EPA) in respect of Kinsale Wastewater treatment plant. In accordance with the annual report for 2023 (as submitted by Uisce Éireann and in compliance with Waste Water Discharge Licence WWDL D0132), the compliance status for 2023 was non-compliant (Ammonia-total, ortho-Phosphate). In addition, the annual mean hydraulic loading of the plant is less than the peak Treatment Plant Capacity of 12,500, but the annual maximum hydraulic loading exceeds the peak Treatment Plant Capacity. This indicates that ELVs are exceeded in high rainfall events. Our own observations indicate that there are releases at the Stormwater outfall (165478E 049761N) at The Bulman at high rainfall events. The aquaculture licence documents do not mention this, nor any potential stormwater outfall releases at Castlepark (affecting Jarley's Cove). There is no assessment of any potential impact of these, separately or together, with the mussel farm.

We understand that the licence has been granted in accordance with the provision of the Fisheries (Amendment) Act, 1997 and Foreshore Act, 1933. In this regard we also understand that the licensing authority, in considering an application for an aquaculture licence shall take account of—

(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, and

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

In our appeal we wish to emphasise that there is no evidence of any consideration of other beneficial uses, existing or potential, of the place or waters concerned. The grant states that: *Public access to recreational and other activities can be accommodated by this project*, but what does that mean? Yes, we can cycle or walk to the beach but how can people be rowing, kayaking, paddleboarding or sailing when dredging is ongoing? In addition, would it be safe to swim when dredging is happening? Will there be sediment plumes extending outside of the licensed area? Will seed mussel be washed up on the beach after bad weather, after dredging, with the tide? Will there be dredging for predators outside of the licence boundaries? The area of the licence covers a very significant part of the outer harbour, which is used for commercial fishing, recreational fishing, swimming, snorkelling, rowing, sailing, motorboating, kayaking, paddleboarding, sightseeing, etc. Large ships, including naval and customs

vessels, frequently go through the harbour, sometimes anchoring in the outer harbour. Grain ships regularly load and unload in Kinsale; fishing boats load and unload in Kinsale; recently cruise ships stay in the outer harbour and bring people into town via launches. In addition, several local organisations hold water sports courses in the area, teaching young and old sailing, rowing, kayaking etc. Apart from being used for club racing up to several days per week virtually all year round, national and international sailing regattas for a range of boats from small dinghies to larger sailing boats also use the Other Harbour, and the area is particularly suitable for smaller boats sailed by children. Indeed, the shallower parts are often used for anchoring up of motor or sailing boats, for angling, swimming or picnics. The harbour is used by local people, but also by people living further inland as Kinsale offers safe and practical access to the sea.

Questions which arise are:

- Where will dredging take place?
- What equipment will be used?
- What size of ships? How many?
- When will dredging take place; how often? night or day? for how long at a time?
- Will there be an exclusion zone around the dredged area during dredging?
- Will there be an exclusion zone around the dredged area after dredging?
- Can safety of swimming and boating be guaranteed during and after dredging?

Maybe dredging is not so frequent, but we have no information which tells us otherwise?

We further note that there is no evidence that the Aquaculture licensing process has taken into account any element of Government policy in relation to the National Swimming Strategy 2024-2027, in particular the potential impact on Open Water Swimming in Kinsale Harbour.

Further, Cork County Development Plan 2022 – 2027 with reference to the 'Cork Harbour Study' states that:

*7.6.11 The balance between development and agricultural/forestry/amenity uses is one of the attractions of Cork Harbour, but realistically, it will only be maintained if the public supports it because they benefit from its recreational amenities. The Study proposes a number of ways of increasing public access to amenities such as coastal fortifications, shoreline cycle and pedestrian routes, marinas and other forms of access to water. There has been significant progress in all these areas in the last few years, but much remains to be done.*

Although this refers to Cork Harbour, the same arguments can be put forward for Kinsale Harbour.

Cork County Council plans to implement Integrated Coastal Zone Management, which would indicate that the national and local authorities have an integrated approach to managing the coastal zone. Has this in any way been taken into account in the licensing of a 23 hectares plus area of the seabed for mussel farming in the Other Harbour?

County Development Plan Objective MCI 7-3: 'Integrated Coastal Zone Management

- (a) Support the development of an integrated approach to coastal zone management in Ireland generally and in particular to foster the application of this concept in appropriate coastal zones throughout the County including Cork Harbour.

- (b) Where the sensible identification of coastal zone units involves crossing local administration boundaries, to co-operate with adjoining local / planning authorities in promoting integrated coastal zone management in a particular area.
- (c) Continue to work with the relevant Government Departments and other relevant stakeholders in the promotion of integrated coastal zone management and following the adoption of the NMPF to identify those coastal areas that may have particular coastal zone management requirements and, where appropriate set out any requirement that may exist for special coastal management plans.'

Further on bathing waters;

#### County Development Plan Objective MCI 7-7: Designated Bathing Areas

'Support and protect Designated Bathing Areas as valuable local amenities and as an important tourism and local recreation resource and continue to work with local communities to identify appropriate new Bathing Areas for monitoring. Encourage the provision of the water services infrastructure required to maintain and improve water quality in these areas having regard to water quality, access, environmental and other sensitives when identifying / developing new recreational bathing areas.'

It appears to us that the licensing process for T05/472A has had no regard whatsoever to the clearly stated objectives of Government and the County Council in supporting, improving and increasing the level of access for people to swim safely and in clean waters.

We note that the Licensing Authority should take account of:

- (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.

We wish to note that there is no evidence on the file of any socioeconomic or other benefits to the area in which the aquaculture is or is proposed to be carried on. The application document refers to the potential benefit of additional employment in the Applicant Company. The company is based in Dunmore East, Waterford and Company officials have not communicated potential for any socioeconomic benefits in the area of Kinsale Town or Cork County. The local tourism industry in Kinsale including the hospitality sector, the leisure industry and the fishing industry have all publicly stated that this licence will have negative socioeconomic impacts on their particular industries.

We also note that the Licensing Authority should take account of:

- (e) the likely ecological effects of the aquaculture or proposed aquaculture on wild fisheries, natural habitats and flora and fauna.

We wish to note that other than the Appropriate Assessment screening documents which deal with conservation objectives in Designated Sites outside of the harbour, there is no evidence or data available to us in relation to an assessment of impact on wild fisheries, natural habitats and flora and fauna.

As evident on older charts, the area selected for the licence is marked shellfish grounds. Has there been any assessment of the impact of this mussel farm on local fishers who currently use this area for their pots? Can their activities continue undisturbed? There is also recreational fishing in the harbour.

Information that we would have liked to see include the following:

- Seabed habitat map for Kinsale Outer Harbour including the licensed area. With the potential for presence of seagrass set out by Beco-Carretero et al <sup>5</sup> in The Marine Pollution Bulletin 209 (2024) 117082, would it not be necessary to rule out the presence of species protected under the Habitats Directive before importing and placing significant tonnage of seed mussel on the seabed.
- Nature of seabed in the licensed area including biological, physical and chemical properties of the sediment. Has the composition of the seabed sediment been established?
- Nature, extent, intensity and impact of dredging:
  - What will be the size, composition and fate of sediment plumes generated during dredging?
  - Will toxins, heavy metals etc potentially present in the seabed sediments be remobilised during dredging? This harbour has been subject to commercial shipping with associated discharges for generations.
  - Is there potential for sediment buildup associated with the mussel settlements?
    - Can sediment associated with the mussel settlements be transported outside of the licensed area by tide, current etc?
  - Can the placement of seed mussels brought in from elsewhere contain non-native species, and what is the impact/risk of same? Is, or how is, the potential for this mitigated? With reported decline in the availability of seed mussel and potential climate change impacts, is there a probability that the licence holder will source seed mussels elsewhere, and what controls if any would be put on this?
  - Is there potential for deterioration or smothering of seagrass habitat as a result of mussel accumulations and of dredging or as a result of sediment transport by natural processes?
  - What will be dredged? Will there be frequent dredging for predators as well as mussels for export? How are predators (crab, sea star) dealt with?
- What will happen to lobster and crab normally living within the licensed area (and will local fishers still be able to fish?)
- How will the produced mussels be transported to market from the dredgers?

There is no ecological assessment available of impacts of the mussel farm and of the extensive dredging activities on the licensed area, or the harbour in general. In particular there is no assessment of impacts on marine mammals including cetaceans and seals. There is a high-level discussion relating to Otter in the Annex IV Risk Assessment, but the potential for impact of dredging including sediment plumes is not assessed. The risk assessment conducted in respect of cetaceans is also very high level, and it suggests that the habitat is unsuitable due to shallow water. When it comes to

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<sup>5</sup> An integrated mapping approach highlights extended distribution and high environmental status of Irish seagrass meadows; Pedro Beco-Carretero et al, 2024.



the various documents documenting the AA screening, there is reference to the Source-Pathway-Receptor model, but apart from in the Annex IV species risk assessment, sensitive receptors within or in the vicinity of the dredging such as seagrass and marine mammals appear not to have been considered anywhere in the documentation we have seen. The potential impact of the actual dredging, such as (displacement and the impacts of sediment plumes have not been identified. In this regard there is no baseline data or scientific data in relation to the presence of seagrass, or to the use and importance for cetaceans and seals of Kinsale Harbour. There is no data or appraisal of the distribution and abundance of marine mammals in this area. It would appear to us, having no sight of terms and conditions of the licence, that these species which are afforded special protection under the Habitats Directive have little or no such protection in this Aquaculture licence. Anyone who uses the harbour even on an occasional basis will be aware of the significant presence here (including haul out sites) of grey seal and harbour seal, both in the river and in the inner and outer harbour. We see them while swimming and the kids enjoy spotting them when they are out in their dinghies. Harbour porpoise and individuals or schools of common dolphin are seen regularly, particularly during the spring, summer and autumn in the area of the licence, and minke whale and basking shark occur and are observed just outside the harbour.

The Licensing Authority shall take account of:

- (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—

There is no evidence on the file of any assessment of noise impact, visual / landscape impact, air quality impact, water quality impact, traffic impact (marine and otherwise). There is no EIA report or screening document available within the files made available to the public.

There is further no evidence available to us in relation to the potential impact on heritage. This is of concern to us, as the licence stretches between James Fort and Charles Fort, and the general awareness of underwater archaeology in the area.

The Minister's justification for the grant of the licence states that they have taken account of issues raised in Public and Statutory consultation. In this regard, we wish to note that to our knowledge there has been no attempts to consult with or engage with local harbour users, neither in 2019 or recently, nor, contrary to good practice, has this developer attempted to obtain, or in any other way obtained, a Social Licence to Operate.

We followed the debate when the licence was applied for in 2019 and many of us actively supported the objections that were lodged. At the time we were astonished by the complete lack of local consultation, and we trusted that the Minister and the relevant authority would seek to correct this in the licensing process that followed. Unfortunately, due to the very limited information made available to the public, we now have no confidence that the Licensing Authority has placed any weight whatsoever on local impact, local benefits or local consultation in respect of this activity. We feel strongly that the making of documents available on the Department's website in 2019, and again in 2021 with a licence grant in 2025 does not constitute local consultation in any meaningful way.

We cannot ascertain whether the Minister has considered the need for an environmental, social and health impact assessment to be conducted for this development, which covers a very significant

proportion of Kinsale Outer Harbour. Nor can we ascertain if there has been adequate assessment in relation to the protection of marine mammals and of seagrass and other protected species as required under the Habitats Directive.



# APPENDIX A

## *"Determination of file this appeal against*

Woodstown Bay Shellfish Limited has applied for authorisation to cultivate mussels using bottom culture on the sub-tidal foreshore on a 23.1626 hectare site (T05-472A) in Kinsale Harbour, Co. Cork.

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant the licence sought. In making his 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 the statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licence sought: -

- a. Scientific advice is to the effect that the waters are suitable;
- b. *Public access to recreational and other activities can be accommodated by this project;*
- c. *The proposed development should have a positive effect on the economy of the local area;*
- d. *All issues raised during Public and Statutory consultation phase;*
- e. *There are no effects anticipated on the man-made environment heritage of value in the area;*
- f. *No significant effects arise regarding wild fisheries;*
- 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.*
- h. *No significant impacts on the marine environment and the quality status of the area will not be adversely impacted;*
- i. *The Aquaculture licence contains terms and conditions which reflect the environmental protection required under EU and National law."*