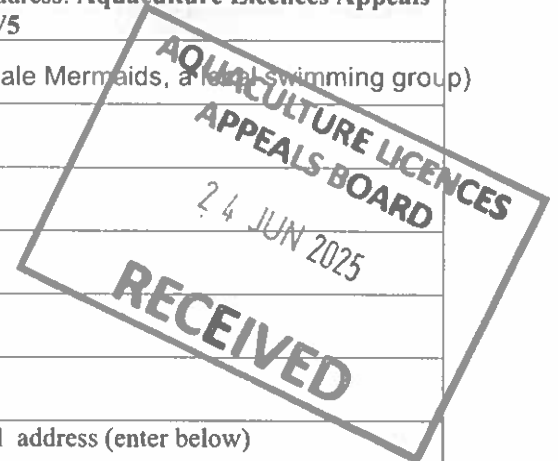




Notice of Appeal Under Section 40(1) of Fisheries (Amendment) Act 1997 (No.23)

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)	Deirdre Gibson (on behalf of Kinsale Mermaids, a local swimming group)	
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	X
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.		



Send Mail / Sig Bg RL 0156 0360 31E

**ALAB**

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board

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

SUBJECT MATTER OF THE APPEAL	
The application for the mussel farm in Kinsale Harbour submitted by Woodstown Bay Shellfish Ltd (December 2018)	
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>We are a group of 10 Kinsale resident's (going by the name of Kinsale Mermaids) who swim all year round from the Dock Beach (Jarleys Cove) in Kinsale.</p> <p>We also kayak, sail and use motor boats in the harbour. All of us have children who also swim from the dock beach and enjoy sailing and other water based activities in Kinsale Harbour.</p> <p>The proposed Mussel Farm application submitted by Woodstown Bay Shellfish Ltd will have a significant negative impact on our daily swimming activities, among many other impacts.</p> <p>We are appealing this decision on the grounds listed below and seek a reversal on the approval of the mussel farm: site reference number T05-472A</p>	
GROUND(S) 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>Ground 1: Impact on Public Recreation and amenity - see attached for further details</p> <p>Ground 2: Risk to Tourism & Local Economy - see attached for further details</p> <p>Ground 3: Environmental & Ecological Concerns - see attached for further details</p> <p>Ground 4: Procedural Deficiencies in Public Consultation & Assessment - see attached for further details</p> <p>Ground 5: Public Safety & Navigation Hazards - see attached for further details</p>	


**ALAB**

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board

CONFIRMATION NOTICE ON EIA PORTAL (if required)

In accordance with Section 41(1) 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)		N/A
An EIA was not completed in the Application stage/the Project does not appear on the EIA Portal		N/A
Details of other evidence	Fee to support appeal application paid by electronic transfer on 23rd June 2025 Transfer message: GIBSON APPEAL Payment reference: IE25062346099851	
Signed by the Appellant		Date <u>23 Jun 2025</u>
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.

Ground 1: Impact on Public Recreation & Amenity

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

Ground 2: 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 (flotilla, beach protest, over 4,800 petition signatures) evidences strong community and commercial concern of which we strongly support.
- While the application anticipates economic benefit, the determination does not consider the potential negative impact on established sectors such as tourism and traditional fisheries. A revised, independent cost-benefit analysis should be undertaken, accounting for the potential loss of revenue to local businesses reliant on the harbour's current use and environmental integrity.

Ground 3: Environmental & Ecological Concerns

- Although the determination claims "no significant impacts on the marine environment", no independent environmental study is cited to support this assertion, nor have the long-term impacts of mussel aquaculture been widely studied in other recreational harbours. The potential for biodiversity disruption, water quality deterioration, disease spread, and seabed sediment alteration requires rigorous scientific investigation. Furthermore, cumulative impacts from existing and future aquaculture operations in the harbour have not been

sufficiently assessed, undermining the sustainability of the marine environment. Specific points to be addressed:

- 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, faecal/pseudofaecal dispersion, or long-term seabed changes
- Although the site does not spatially overlap with designated Natura 2000 areas, indirect impacts such as water pollution, organic enrichment, or habitat degradation remain plausible. Notably, the proposal involves bottom-culture mussel farming with dredging—a method that is highly disruptive to benthic ecosystems. 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 legislation.
- The potential risk of hybridisation of farmed mussels with existing local populations of mussels may result in reduced populations of wild species (Bradbury et al., 2020). Farmed fish are known to have lower survival rates than their wild counterparts and hybrids may genetically weaken wild fisheries (Weir and Grant, 2005). The potential impact of this has not been assessed in the Kinsale Harbour.
- Aquaculture poses a known and potentially severe risk of disease transmission to local indigenous marine species (Bouwmeester et al., 2021). The impacts of this can have fatal and long-lasting consequences for local wildlife (Bouwmeester et al., 2021). Although the risk of disease in mussel aquaculture has not been well studied, it should not be assumed that it does not exist. Rather this calls for a comprehensive assessment including biosecurity protocols to be carried out, which has not been done. Rising sea temperature, pollution and ocean acidification together with habitat destruction can converge to cause the rapid spread of deadly marine disease (e.g. white band disease, stony coral tissue loss, sea star wasting disease) (Behringer et al., 2020). None of this has been assessed or studied in the Kinsale harbour, making the impacts of the proposed mussel farm and disease

ecology wholly unknown. This may endanger wildlife as well as people consuming seafood from the Kinsale harbour through disease spillover events (Murray, 2013).

References

Behringer, D. C., Silliman, B. R., & Lafferty, K. D. (Eds.). (2020). *Marine disease ecology*. Oxford University Press.

Bouwmeester, M. M., Goedknecht, M. A., Poulin, R., & Thieltges, D. W. (2021). Collateral diseases: aquaculture impacts on wildlife infections. *Journal of Applied Ecology*, 58(3), 453-464.

Bradbury, I. R., Burgetz, I., Coulson, M. W., Verspoor, E., Gilbey, J., Lehnert, S. J., ... & McGinnity, P. (2020). Beyond hybridization: the genetic impacts of nonreproductive ecological interactions of salmon aquaculture on wild populations. *Aquaculture environment interactions*, 12, 429-445.

Murray, A. G. (2013). Epidemiology of the spread of viral diseases under aquaculture. *Current opinion in Virology*, 3(1), 74-78.

Weir, Laura K., and James WA Grant. "Effects of aquaculture on wild fish populations: a synthesis of data." *Environmental Reviews* 13, no. 4 (2005): 145-168.

Ground 4: Procedural Deficiencies in Public Consultation & Assessment

- Notification of local stakeholders—kayakers, sailors, swimmers such as our group was insufficient, resulting in limited community input during key stages.
- Through the lack of independent marine safety assessment, archaeological survey, and comprehensive environmental impact study, the process appears procedurally unfair. 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. 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

- 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.

Ground 5: Public Safety & Navigation Hazards

- We are highlighting the risk of engine blockages from mussel seed and the physical hazard to vessels and in turn to swimmers. Under the Fisheries (Amendment) Act 1997, the Minister must consider the implications of aquaculture operations on navigation and the rights of other marine users. The determination lacks any assessment of how mussel seed dispersal may interfere with nearby vessels, particularly through fouling of raw water intake systems—a serious operational hazard. This is a particular hazard in this tidal area. The licence determination did not include custom mitigation for navigational risk (e.g., buoy exclusion zones), putting users at risk of collisions or entanglement. The consequences may extend to increased RNLI call-outs, raising public safety and resourcing concerns. No evidence is provided that the Harbour Master, RNLI, boat owners or marina operators were consulted, nor are any mitigation measures (e.g. buffer zones or monitoring protocols) described. This constitutes a serious procedural deficiency. A Marine Navigation Impact Assessment is required to address this omission.