

API-6-25

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe  
Aquaculture Licences Appeals Board**



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

**APPEAL FORM**

Please note that this form will only be accepted by REGISTERED POST or if handed in to the ALAB offices		
Name of Appellant (Block Letters)	NICHOLAS CONDON	
Address of Appellant		
Elrcode		
Phone		Email
Mobile		
<b>FEES</b>		
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
<b>SUBJECT MATTER OF THE APPEAL</b>		
<p>PLEASE SEE ATTACHED</p> <div style="border: 2px solid black; padding: 10px; transform: rotate(-5deg); display: inline-block;"> <p><b>AQUACULTURE LICENCES APPEALS BOARD</b></p> <p>17 JUN 2025</p> <p><b>RECEIVED</b></p> </div>		
Site Reference Number: -	TOS-472A	





(as allocated by the Department of Agriculture, Food, and the Marine)	
Appellant's particular interest in the outcome of the appeal:	
PLEASE SEE ATTACHED	
Outline the grounds of appeal (and if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations, and arguments on which they are based):	
PLEASE SEE ATTACHED	
Signed by the Appellant	Date 16 MAY 2025
Please note that this form will only be accepted by REGISTERED POST of handed in to the ALAB offices	
Fees must be received by the closing date for receipt of appeals	

This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.



## **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:** 16<sup>th</sup> May 2025

**FROM:** Nicholas Condon,

## **EXECUTIVE SUMMARY**

I am writing to formally appeal the decision to grant aquaculture licence T05-472A to Woodstown Bay Shellfish Limited for bottom-culture mussel farming on a 23.1626-hectare site in Kinsale Harbour, Co. Cork. This appeal is based on serious scientific, legal, and procedural deficiencies in the decision-making process that fail to protect Ireland's marine environment adequately, comply with EU environmental legislation, and safeguard the sustainable economic development of the region.

## **DETAILED GROUNDS FOR APPEAL**

### **1. CATASTROPHIC FAILURE TO ASSESS INVASIVE ALIEN SPECIES RISKS**

#### **Critical Marine Ecological Concern**

The licence determination contains no assessment of the risks associated with the introduction of invasive alien species (IAS), representing a fundamental breach of both the EU Regulation on Invasive Alien Species (1143/2014) and the Marine Strategy Framework Directive. Aquaculture operations are globally recognised as primary vectors for marine biological invasions, with bottom-culture mussel farming presenting particularly high risks through:

#### **Primary Introduction Pathways:**

- **Seed mussel transportation** from external sources carrying hitchhiker species
- **Equipment fouling** during deployment and maintenance operations
- **Vessel hull fouling** from support boats operating across different water bodies
- **Ballast water discharge** from transport vessels



### High-Risk Species of Immediate Concern:

- *Crepidula fornicata* (American Slipper Limpet) - already established in nearby Cork Harbour
- *Didemnum vexillum* (Carpet Sea Squirt) - rapid coloniser of aquaculture infrastructure
- *Styela clava* (Leathery Sea Squirt) - forms dense colonies on mussel lines
- *Codium fragile* (Dead Man's Fingers seaweed) - smothers native benthic communities

**Ecological Impact Amplification:** The proposed site's location in a semi-enclosed harbour creates ideal conditions for IAS establishment and secondary spread. Kinsale Harbour's unique position as both a recreational marina hub and a connection point to the open Atlantic waters makes it a critical gateway for invasion. Once established, invasive species spread rapidly through natural dispersal mechanisms, potentially reaching the nearby Old Head of Kinsale SAC and Sovereign Islands SPA.

**Legal Non-Compliance:** Article 13 of EU Regulation 1143/2014 requires Member States to establish surveillance systems and take immediate action to prevent IAS introduction. The complete absence of any biosecurity assessment or mitigation measures in this licence represents a serious breach of EU law.

## 2. DESTRUCTION OF PRIORITY SEAGRASS HABITATS

**Recent Scientific Discovery** Dr Robert Wilkes' comprehensive national seagrass mapping programme (University College Cork, 2023-2024) has identified potential *Zostera* beds within Kinsale Harbour. This discovery fundamentally alters the environmental assessment baseline, as seagrass habitats are:

- **Priority habitats** under Annex I of the EU Habitats Directive
- **Blue carbon ecosystems** storing up to 35% more carbon per unit area than tropical rainforests
- **Critical nursery areas** supporting juvenile fish populations essential for regional fisheries
- **Biodiversity hotspots** supporting endangered species including seahorses (*Hippocampus*)

**Dredging Impact Severity:** Bottom-culture mussel farming requires intensive dredging for both establishment and harvesting. Scientific literature demonstrates that dredging causes:

- Complete destruction of seagrass root systems
- Chronic sediment resuspension preventing photosynthesis
- Elimination of associated fauna communities
- Carbon release equivalent to forest clearing

**Recovery Impossibility:** Seagrass restoration success rates remain below 35% globally, with most attempts failing within five years. The dynamic tidal conditions 2/6





and sediment mobility in Kinsale Harbour make natural or assisted recovery extremely unlikely.

### **3. BREACH OF NATURA 2000 INTEGRITY OBLIGATIONS**

**Article 6(3) Assessment Failure** Despite the site's proximity to multiple Natura 2000 sites, no Appropriate Assessment has been conducted. The designated sites at risk include:

#### **Old Head of Kinsale SAC (IE0000532):**

- Distance: <2km from proposed site
- Qualifying habitats: Sea cliffs, vegetated sea cliffs
- Connectivity: Direct water column and benthic connections
- Impact pathway: Water quality degradation, organic enrichment

#### **Sovereign Islands SPA (IE0004124):**

- Qualifying species: Cormorant populations dependent on fish from Kinsale Harbour
- Impact pathway: Prey depletion through habitat modification

**Cumulative Effects Ignored:** The determination fails to consider cumulative impacts from existing port activities, climate change effects, and potential future aquaculture developments. This represents a fundamental breach of the precautionary principle.

### **4. ARCHAEOLOGICAL HERITAGE DESTRUCTION RISK**

**Submerged Cultural Landscape** The proposed site lies within one of Ireland's most significant maritime archaeological zones:

#### **James Fort National Monument (NIAH 20911215):**

- 17th-century star fort with direct sightlines to proposed site
- Associated maritime infrastructure likely extends offshore
- Cannon positions oriented toward licence area

#### **Potential Archaeological Material:**

- Civil War-era blockhouse remains (1920s)
- Historic anchorage features and mooring stones
- Shipwreck material from centuries of maritime activity
- Military infrastructure related to fort operations

**Legal Breach:** No underwater archaeological assessment has been conducted, violating the National Monuments Act 2004 and UNESCO Convention on Underwater Cultural Heritage principles.

### **5. MARINE NAVIGATION SAFETY HAZARDS**

**Mussel Larvae Fouling Risk** *Mytilus edulis* produces up to 1 million planktonic larvae per spawning female. These microscopic veligers present serious operational hazards:



**Raw Water System Colonisation:**

- Engine cooling system blockages leading to catastrophic overheating
- Generator cooling failure in auxiliary systems
- Desalination plant membrane fouling
- Fire suppression system compromise

**Vessel Categories at Risk:**

- Recreational sailing fleet (200+ vessels regularly using Kinsale)
- Commercial fishing vessels
- RNLI rescue boats
- Naval service patrol vessels
- Superyacht traffic (significant economic sector)

**Emergency Response Implications:** System failures increase maritime emergency callouts, straining RNLI resources and endangering lives. No consultation with emergency services is documented.

## 6. ECONOMIC IMPACT ON ESTABLISHED INDUSTRIES

**Tourism Sector Damage:** Kinsale's marine tourism generates approximately €45 million annually through:

- International sailing events and regattas
- Recreational angling (wreck and reef fishing)
- Whale and dolphin watching
- Marine photography and diving tourism

**Visual Impact Assessment Absent:** Industrial aquaculture infrastructure fundamentally alters the seascape character that underpins Kinsale's tourism brand. No landscape/seascape impact assessment has been conducted.

**Traditional Fisheries Displacement:** The area supports important:

- Crab and lobster pot fisheries
- Recreational angling access
- Traditional seine netting areas

## 7. PROCEDURAL FAILURES AND STATUTORY BREACHES

**Excessive Delay (7.5 Years):** The application timeline (December 2018 - May 2025) represents:

- Fundamental procedural unfairness to objectors
- Reliance on obsolete environmental data
- Changed baseline conditions (climate, species distributions)
- Breach of legitimate expectation for timely decisions

**Consultation Deficiencies:** No evidence of meaningful consultation with:

- Marine recreational users
- Tourism industry representatives
- Archaeological specialists
- Marine conservation organisations
- Emergency services



## 8. CLIMATE CHANGE VULNERABILITY IGNORED

**Ocean Acidification Impacts:** Rising CO<sub>2</sub> levels are already affecting shell formation in bivalves. The licence fails to consider:

- Reduced calcification rates under future pH conditions
- Increased susceptibility to shell dissolution
- Economic viability under climate scenarios

**Temperature Stress:** Marine heatwaves are increasing in frequency and intensity in Irish waters. No assessment of temperature tolerance limits or adaptation strategies is provided.

## SPECIFIC RELIEF SOUGHT

The Appellant respectfully requests that the Aquaculture Licences Appeals Board:

1. **REVOKE** the aquaculture licence T05-472A pending comprehensive environmental assessment
2. **ORDER** a full Environmental Impact Assessment including:
  - Invasive alien species risk assessment and biosecurity protocol
  - Updated seagrass habitat survey by qualified marine botanists
  - Benthic community assessment using standardised sampling protocols
  - Water quality impact modelling under multiple scenarios
3. **REQUIRE** Appropriate Assessment under Article 6(3) of the Habitats Directive for all Natura 2000 sites within 15km
4. **MANDATE** underwater archaeological survey by qualified maritime archaeologists in consultation with the Underwater Archaeology Unit
5. **COMMISSION** Marine Navigation Impact Assessment involving all relevant maritime authorities
6. **CONDUCT** comprehensive economic impact assessment including tourism, recreational, and traditional fishing sectors
7. **ESTABLISH** mandatory biosecurity protocols including:
  - Seed mussel source certification
  - Equipment disinfection procedures
  - IAS monitoring programme
  - Rapid response protocols

## CONCLUSION

The decision to grant this licence represents multiple serious breaches of environmental law, inadequate scientific assessment, and procedural failures that collectively render it legally unsound. The potential for irreversible damage to priority marine habitats, archaeological heritage, and established economic sectors demands immediate intervention.

The precautionary principle, enshrined in EU environmental law, requires that where scientific uncertainty exists about potential serious or irreversible harm, protective measures must be taken. The numerous knowledge gaps and risk factors identified in this appeal clearly trigger this principle.



Ireland's marine environment is a shared heritage requiring protection for current and future generations. The hasty approval of this inadequately assessed development would set a dangerous precedent for coastal zone management nationwide. I respectfully urge the Appeals Board to revoke this licence and require comprehensive assessment before any aquaculture development proceeds in this environmentally sensitive location.

**SUPPORTING DOCUMENTATION:**

- Original licence determination
- Seagrass habitat mapping data (Dr R. Wilkes, UCC)
- Navigation charts showing vessel traffic patterns
- Archaeological site records (NIAH)
- EU species distribution databases
- Climate change impact projections for Irish waters

**FEE ENCLOSED:** €225 (€150 appeal + €75 oral hearing)

**DELIVERY METHOD:** Registered post

**Respectfully submitted,**

Nicholas Condon

