

**An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licence Appeals Board**

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**

Eircode		
Phone No.		Email address (enter below)
Mobile No.		

FEES

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)

**AQUACULTURE LICENCES
APPEALS BOARD**

17 JUN 2025

Water Resources Licences Appeals Board

DTW5

RECEIVED

Phone: +353 (0) 57 8631912
R-phost/Email: info@alab.ie
www.alab.ie



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.

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

SUBJECT MATTER OF THE APPEAL

Objection to the granting of aquaculture licence for a 23-hectare commercial bottom-culture mussel farm in Kinsale Harbour, Co. Cork, Site Reference Number: T05-472A

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:

We are local residents who actively use the proposed aquaculture site and its surrounding waters for recreational purposes. We are year round sea swimmers at the Dock Beach, Kinsale. This area is not only central to our physical and mental wellbeing but also supports local tourism and youth development through water-based education and training. The proposed mussel farm is determined by the minister as being in the public's interest but we, as locals, argue that it is solely in the applicant's interest and it would significantly impact our safe access, enjoyment, and use of this shared public space. We argue that there are environmental and public safety concerns associated with the proposed mussel farm and that the potential for this mussel farm to impact submerged national heritage needs to be fully determined. Finally, we assert that the licensing process suffered from procedural flaws and also that the lengthy delay in determination contravenes the Fisheries (Amendment) Act 1997, which requires timely decisions, requiring this licence to be revoked.

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GROUND 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)):

1. Impact on Public Recreation, Amenity, and Navigation

The proposed mussel farm occupies a heavily used area of sub-tidal foreshore between Dock Beach, James Fort, and Charles Fort—an area central to local recreation, including swimming, kayaking, sailing, fishing, and community regattas. The development poses the following risks:

- Obstruction of traditional navigation routes and public access.
- Increased hazards for swimmers and small craft users.
- Lack of mitigation measures such as exclusion zones or navigational markers.
- No evidence of consultation with local marine users, including the Kinsale Yacht Club, Harbour Master, or RNLI.

These omissions contravene the Fisheries (Amendment) Act 1997, which mandates consideration of navigation and public use.

2. Environmental and Ecological Concerns

The licence permits bottom-culture mussel farming with dredging, a method known to cause:

- Siltation and substrate disruption.
- Degradation of water quality and phytoplankton populations.
- Dispersion of faecal and pseudofaecal matter.
- Long-term alteration of seabed ecology.

These impacts pose risks to biodiversity, shrimp fisheries, and nearby Natura 2000 sites. The absence of a baseline ecological survey and cumulative impact assessment violates the precautionary principle under EU environmental law.

3. Public Safety and Fouling of Raw Water Intakes

Mussel larvae (veligers) are known to colonise raw water intake systems in vessels, leading to:

- Engine overheating and failure.
- Increased RNLI call-outs and safety risks.
- Operational hazards for both leisure and commercial vessels.

The licence determination does not acknowledge this risk or propose mitigation measures. A Marine Navigation Impact Assessment is required.

4. Procedural Deficiencies and Lack of Stakeholder Engagement

The licensing process suffers from serious procedural flaws:

- Inadequate notification and consultation with key stakeholders, including kayakers, swimmers, shrimp fishers, and tourism operators.
- Scope of the Marine Institute's report is too narrow as it is concerned with the Natura 2000 sites rather than the overall impact of the proposed mussel farm. Some of the data in the Marine Institute's report refers to three oyster farm renewal licences and is only relevant to these.
- Failure to address concerns raised by local organisations such as the Kinsale Chamber of Tourism and Business.
- lack of quantifiable detail on the economic benefit for the local economy.

These deficiencies undermine the relevance, transparency and fairness of the process.

5. Impact on National Monument and Submerged Archaeological Heritage

The site lies adjacent to James Fort (NIAH Ref: 20911215 and near the remains of a historic blockhouse. The area is of significant archaeological interest, yet:

- No underwater archaeological assessment was conducted.
- No consultation occurred with the National Monuments Service or Underwater Archaeology Unit (UAU).
- Dredging activities risk disturbing or destroying submerged heritage

This omission breaches national heritage legislation and EU directives on cultural protection.

6. Excessive Delay in Determination

The original application was submitted in December 2018, with a decision issued only in May 2025 —over six years later.

This delay:

- Contravenes the Fisheries (Amendment) Act 1997, which requires timely decisions.
- Risks reliance on outdated environmental data.
- Fails to reflect current stakeholder conditions and concerns.

Conclusion

Given the significant environmental, economic, navigational, heritage, and procedural concerns outlined above, we respectfully request that the licence be revoked or suspended pending:

- A full Environmental Impact Assessment (EIA).
- A Marine Navigation Impact Assessment.
- An Archaeological Impact Assessment.
- Comprehensive stakeholder consultation.

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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

Signed by the Appellant

Date

16 June 2025

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

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

This Notice of Appeal should be completed under each heading, including all the documents, particulars, or information as specified in the notice and duly signed by the appellant, and may include such additional documents, particulars, or information relating to the appeal as the appellant considers necessary or appropriate."

DATA PROTECTION – the data collected for this purpose will be held by ALAB only as long as there is a business need to do so and may include publication on the ALAB website.

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.

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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.