

**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)**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)	JUNE MATTHEWS	
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	<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
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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.



A. On a personal note.

As a family we have frequented Kinsale Harbour for well over fifty years.

We live near Cork Airport + have lived in Summercove, Kinsale for a number of years.

We come to Kinsale most weekends + often during the week. We have always had a boat in Kinsale for the past fifty years. We have had a fishing boat, sailing boat, sailing yacht and numerous motor boats.

At all times the area marked out for the proposed mussel farm has been our most used area for swimming, fishing, tutoring children on small sailing boats, paddle boarding + canoeing.

This area between Dock Beach + Money Point has been named "Matthews Cove" because of the extended use of the Matthews family.

5 The danger of planting mussel seed in the protected area. -

The mussel seed does not all stay in the protected area. A certain amount spreads around the harbour.

All boats with engines take in sea water for cooling. This water is sucked in through a grating & then through a pipe to the engine. The baby mussels get sucked in. Because the water gets warmer as it comes through the engine to a similar outlet. The warm water encourages the rapid growth of mussels thus interfering with the cooling of the engine and damaging it. This would endanger the livelihood of fishermen.

This is a big safety issue here.

Boats brake down at sea with engine problems due to cooling. Lifeboats will need to be called out more often. If lifeboats have the same problem we are in real trouble.

2
1
How the general interest of Kinsale.

We understand sea grass has been found in the area. Seagrass is so important as a breeding ground for small fish (shrimps etc.)

It is also a breeding ground for small flat fish (So small we returned them to the sea)

This area is used all the year around by local fishermen for shrimping. This mussel farm will destroy the fishing for small fish thus taking away the livelihood of these people.

D. Drainage —

Not many years ago Kinsale Harbour was polluted by an anti-quainted sewage scheme.

A new sewage and drainage scheme was planned for Kinsale. This went ahead and caused great upheaval and expense to the town.

If the mussels found their way into any of the outlet pipelines having a mixture of fresh water and sewage would very quickly block these pipelines & upset the whole system.

This we have on good authority from an engineer who was involved in the drainage scheme.

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

SUBJECT MATTER OF THE APPEAL	
<p>A Personal Appeal</p>	
Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)	T05/472 A
APPELLANT'S PARTICULAR INTEREST	
Briefly outline your particular interest in the outcome of the appeal:	
<p>B The danger of planting mussel seed in the proposed area</p>	
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)):	
<p>C In the general interest of Kinsale</p>	

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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

D

Drainage

Signed by the Appellant

^
v

Date

24-6-2025

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

CONCLUSIONS & RECOMMENDATIONS

- Alien species will continue to arrive in marine and coastal environments and impact our natural environment and seafood activities.
- A strong baseline on marine alien species has been established and it is important to build upon this into the future both for the protection of the environment and of the aquaculture sector.
- Risk assessments support decision making and should continue to be used in relation to aquaculture activities.
- As a result of this work programme the Irish aquaculture sector is better informed and educated on the risks from and to their business activities and are able acting accordingly through the implementation of appropriate biosecurity measures.
- Data collection jointly funded by the Government of Ireland and the EU under EMFF and EMFAF, presented in this report has wider applications, for example, MSFD, and can be used to support management and decision making in relation to other marine issues.
- BIM have acquired a lot of knowledge and experience in the area and are able to contribute more widely to national work programmes such as the implementation of the National Biodiversity Action Plan and MSFD Programmes of Measures. Collaboration and partnership with other government departments and agencies, as well as with industry, should continue, as it will work to avoid duplication and maximise the effective use of available resources.



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.**

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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=d7d5a3d48f104ccbb206c7e5f84b71f1>

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.

[No. 23.] *Fisheries (Amendment) Act, 1997.* [1997.]

P1.III
Reference of
certain questions of
law to High Court

58.—Where a question of law arises on any appeal to the Board, the question may be referred by the Board to the High Court for decision.

Reports of
inspections, etc.

59.—Where in connection with the performance by the Board of its functions an inspection is carried out, or an oral hearing is conducted, on behalf of the Board by a person appointed for the purpose by the Board, the person so appointed shall make to the Board a written report on the inspection or hearing, and shall include in the report a recommendation relating to the appeal with which the inspection or hearing was concerned, and the Board shall, before determining the appeal, consider the report and any recommendation contained in the report.

Appeal regulations.

60.—(1) The Minister may make regulations providing for such additional, incidental, consequential or supplemental procedural matters in respect of appeals as appear to the Minister to be necessary or expedient.

(2) Without limiting the generality of *subsection (1)*, regulations under this section may in particular make provision for—

- (a) the procedures of the Board in relation to appeals and the notification of the results of an appeal,
- (b) the persons who may be heard at an oral hearing of an appeal,
- (c) matters related to the implementation of Directive 85/337/EEC⁽³⁾ on Environmental Impact Assessment, or any provision amending or replacing that Directive, and
- (d) the availability for inspection of documents or extracts from documents relating to appeals, the period of such availability, and the purchase of copies of or extracts from such documents.

PART IV

MISCELLANEOUS

Matters to which
licensing authority
shall have regard in
determining
aquaculture licence
applications and
appeals.

61.—The licensing authority, in considering an application for an aquaculture licence or an appeal against a decision on an application for a licence or a revocation or amendment of a licence, shall take account, as may be appropriate in the circumstances of the particular case, 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,
- (b) other beneficial uses, existing or potential, of the place or waters concerned,
- (c) the particular statutory status, if any, (including the provisions of any development plan, within the meaning of the Local Government (Planning and Development) Act, 1963 as amended) of the place or waters,
- (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.

⁽³⁾O.J. No. L175, 5.7.1985.

Grounds of Appeal: Licence T05/472A

Appellant:

1. Failure to Adequately Assess Environmental Risks under the Habitats Directive and National Biodiversity Obligations

The proposed aquaculture site (T05/472A) lies within a sensitive and semi-enclosed estuarine zone that serves as an essential nursery and foraging habitat for a range of marine species. While the site does not directly overlap any mapped Special Area of Conservation (SAC), the surrounding harbour, as evidenced by multiple NPWS and academic sources, contains predicted and potentially unrecorded *Zostera marina* (eelgrass) beds, as well as ecologically significant seafloor habitats.

The Beca-Carretero et al. (2024) seagrass habitat model, as well as the Kinsale Harbour Characterisation Report, clearly identify the broader area as suitable for seagrass colonisation. No adequate habitat survey, benthic baseline or appropriate assessment under Article 6(3) of the Habitats Directive has been carried out to determine whether the proposed activity could cause deterioration or disturbance to these habitats.

Bottom mussel culture involves the deployment and eventual dredging of mussels from the seabed, typically on a 2- to 3-year cycle. This dredging poses a documented risk to fragile benthic habitats such as seagrass and maerl, which can take years or decades to recover if impacted. The EPA has recently cautioned against approving any new activity likely to contribute to sediment resuspension or benthic stress in semi-enclosed inlets (EPA, 2023).

The precautionary principle must apply. In the absence of robust ecological baseline data and a complete, appropriate assessment, the licence should be refused.

2. Unquantified and Unregulated Risk of Invasive Alien Species (IAS)

The application fails to specify the origin of mussel seed stock, a critical omission given the well-documented risk of introducing invasive alien species (IAS) through aquaculture activities. According to BIM's **Invasive Alien Species in Irish Aquaculture** (2024), the movement of mussel seed is a primary vector for the introduction of non-native and harmful marine organisms.

Given the near-total collapse of Irish Sea seed mussel beds in recent years and the lack of a discernible domestic source, the likely reliance on imported seed carries significant and unquantifiable risk. Furthermore, the dredging process involved in bottom mussel culture adds an additional IAS vector: dredging gear moved between harbours can transfer larval or

sessile stages of harmful non-native species if not rigorously cleaned and managed. These vectors are well known to marine regulators and are recognised by both BIM and international IAS control protocols.

This scenario directly contravenes the obligations set out under Regulation (EU) 1143/2014 on the prevention and management of the introduction and spread of IAS. No evidence is presented in the application of screening, quarantine, or monitoring protocols. The precautionary and legal basis for refusing the application on this ground is clear.
