

## 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)	BRIAN ROBERTS T/A KINALEE WELLNESS ON WATER LIMITED	
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 license against a decision by the Minister in respect of that application	€380	
An appeal by the holder of a license against the revocation or amendment of that license 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)

<b>Electronic Funds Transfer Details</b>	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.





• **Environmental Concerns (Indirect Impact on Tourism):**

- **Impact on Water Quality:** While mussel farms are filter feeders, large-scale operations can produce pseudofaeces and organic waste. Argue if this could impact water clarity, smell, or perceived cleanliness, which are important for tourist appeal and the enjoyment of the harbour.
- **Impact on Marine Life & Ecosystems:** My tours involve wildlife viewing (e.g., birds, seals, dolphins), argue how the farm might displace or negatively affect these species, thereby diminishing the value of your tours. I am concerned about potential impacts on seagrass beds or other sensitive habitats that contribute to the harbour's biodiversity and appeal.
- **Loss of Recreational Value:** Kinsale Harbour is used for various recreational activities (swimming, sailing, kayaking). The mussel farm will detract from the overall recreational appeal of the harbour, impacting the broader tourism ecosystem that my business is part of.

• **Economic Impact on Your Business:**

- **Loss of Revenue:** There is potential loss of revenue due to reduced bookings, inability to access prime tour areas, or negative customer feedback.
- **Operational Constraints:** I will incur significant additional costs the boat will have to be lifted, and mussels removed regularly to avoid potential damage to the engines and hull
- **Devaluation of Investment:** I have invested significantly in your tour boat business, and the mussel farm devalues the investment in the harbour.

• **Lack of Proper Consultation/Assessment (if applicable):**

- I believe there was inadequate consultation with key stakeholders like yourself (as a tour operator) or insufficient assessment of the impact on commercial navigation and tourism, state this clearly.

• **Public Interest Argument:**

- Granting this license is not in the broader public interest, as it negatively impacts a thriving tourism sector, public enjoyment of the harbour, and the natural environment. It offers a business opportunity to one business at the expenses of all the local businesses who rely on tourism. Kinsale is a huge tourist attraction, that provides significant employment in the tourism sector. This is all to be sacrificed

**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)):







The EC clarifies in their published guidance document (see link above) that there is no legal definition set down as to what constitutes “Intensive Farming” in Aquaculture. In the absence of such definition the EC provides guidance around the received wisdom based on the experience/common practices of other Member States in this area.

It states that there are various threshold measurements used by individual member states in determining whether an aquaculture enterprise should be considered “intensive”. These have been found to be based:-

- on area (>5 hectares)
- on total fish output (>100 tonnes/annum)
- on output per hectare and/or
- on feed consumption

Based on these guidelines the application meets the definition of an intensive fish farm for the following reasons;

- The Application purports to cover 25 hectares of Kinsale Harbour - 5 times the 5 hectare limit used by other member states in terms of determining whether an EIA is required
- The Application purports to have an annual output of 200 tonnes - double the 100 tonne minimum limit implemented by other member states in terms of determining whether an EIA is required.
- The Application indicates an annual output of 8 metric tonnes per hectare. However, the application is silent on whether the Applicant itself considers the enterprise to be intensive or otherwise. In the absence of such clarification (despite the Application process requiring such information (per Section 2.2 Question (ix) of the Application form) it is not unreasonable (extrapolating from the declared harvest tonnage/hectare) to interpret the anticipated level of farming as being “intensive”, and therefore requiring an EIA submission.

#### 10. Legal Protection of Marine Life in Undesignated Sites under the Habitats Directive

The presence of sensitive and protected marine life—such as *Zostera marina*, Otters and cetacean species—in or near the proposed license site invokes strict legal protections under EU law, even if the site itself is not formally designated as a Natura 2000 area. *Zostera marina* is listed as a protected habitat under Annex I of the Habitats Directive, and all cetaceans (including dolphins and porpoises) and Otters are protected under Annex IV.

Article 12 of the Habitats Directive prohibits any deliberate disturbance or habitat degradation of these species across their entire natural range. The bottom-culture mussel farming method proposed—including dredging and vessel activity—presents a clear risk of disturbing these habitats and species. EU law requires that any plan or project likely to have a significant effect on a protected species or habitat must undergo prior ecological assessment. No such assessment appears to have been undertaken in this case.

This failure breaches the precautionary principle and undermines Ireland’s obligations under the Habitats Directive and related environmental directives. A full reassessment of the license decision is required to avoid legal non-compliance and ecological harm.

#### 11. Public Health Concerns.

The proximity of the mussel farm to wastewater treatment plants both at The Bulman, Summer Cove Kinsale, and at Castle Park, Kinsale raises serious concerns under EU water quality directives. The risk



- Orders a full Marine Navigation Impact Study, in consultation with the RNLI, marina authorities, and the Harbour Master;
- Reviews the potential for indirect impacts on nearby protected sites under Natura 2000.
- Carries out an Archaeological Impact Assessment, including seabed survey and review by qualified maritime archaeologists in consultation with the UAU.

We urge the Department to reconsider this determination in the interests of environmental stewardship, public access, tourism, heritage and the sustainable economic development of the region.







