

**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 handed in to the ALAB offices		
Name of Appellant (Block Letters)	EAMONN ROSS	
Address of Appellant	[REDACTED]	
Eircode	[REDACTED]	
Phone	[REDACTED]	
Mobile	[REDACTED]	
<b>FEES</b>		
<b>Fees must be received by the closing date for receipt of appeals</b>	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
<b>SUBJECT MATTER OF THE APPEAL</b>		
Project Application by the Marine Institute for Renewal and Review of Aquaculture Licence Number A12176		
Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)		<div style="border: 2px solid black; padding: 5px; width: fit-content; margin: auto;"> <p><b>AQUACULTURE LICENCES APPEALS BOARD</b></p> <p>7 FEB 2023</p> <p><b>RECEIVED</b></p> </div>

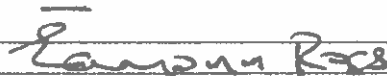
Appellant's particular interest in the outcome of the appeal:

I AM SECRETARY of NATIONAL  
Anglers Representative Association  
(NARRA). NARRA have concerns regarding  
the appeal outlined in attached  
documents.

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):

outlined in attached document.  
Appropriate Assessment  
Environmental Impact Assessment  
Requirement for EIR  
Public Consultation

Signed by the Appellant



Date

6/2/2023

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.

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

**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.

## National Anglers Representative Association

6<sup>th</sup> February 2023

The National Anglers Representative Association (Nara) is a representative body for Game Angling Clubs in Ireland. We have over 10,000 members and are, inter alia, committed to ensuring that habitat and ecosystems are maintained in order to preserve our marine and freshwater habitats for wild trout and salmon.

NARA are concerned at the proposal of the Minister for Agriculture, Food and the Marine to grant a renewal and review of an Aquaculture Licence to the Marine Institute, Rinville, Oranmore, Co Galway, to cultivate multi species to include finfish and seaweeds for research purposes at a site in Lehannah pool, Bertaghboy, Co Galway. (*Project Application by the Marine Institute for the renewal and review of Aquaculture Licence number AQ176. The application is for the continued use of Site T09/093A for the cultivation of multi-species for research purposes.*)

Nara would like to appeal this ministerial decision in line with the appropriate regulations on the following basis. Nara make this appeal in conjunction with our colleagues in the Save Ballinakill Bay Group.

### Appropriate Assessment Screening

This Project should not be screened out for Appropriate Assessment on the following basis

#### 1. Project description and cumulative impact.

There is insufficient detail in relation to the project proposed. The project is substantial at up to 100 tonnes and with 24 structures. The site is to be utilised as a multi-species site using: Finfish: such as fish of the Families Gadidae e.g. Atlantic cod *Gadus morhua*; Salmonidae e.g. Atlantic salmon *Salmo salar*; Mugilidae e.g. grey mullet *Mugil cephalus*; Labridae e.g. Ballan wrasse *Labrus bergylta*; and Cyclopteridae e.g. lumpfish *Cyclopterus lumpus*, Molluscan shellfish of the Class Bivalvia such as e.g. blue mussel *Mytilus edulis*, King scallop *Pecten maximus*, Variegated scallop *Chlamys varia*, European flat oyster *Ostrea edulis*; Echinoderm animals such as e.g. Purple sea urchin *Paracentrotus lividus*,

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Black sea cucumber *Holothuria forskali*; Crustaceans such as e.g. European lobster *Homarus gammarus*; Seaweed macro-algae species in the Phylum Chlorophyta (green algae), Rhodophyta (red algae) and Phaeophyta (brown algae).

There is no detail on where the source of these species are, specific husbandry or chemicals normally used in their farming, risks to the environment or any novel methods, materials or chemicals to be used at this site. Map 1 Natura 2000 network with application site outlined in yellow (NPWS.ie). Map 2: Rivers (Orange) and lakes (Blue) in proximity to application site. Application site area (approx.) highlighted in yellow (**Appendix 1**)

### **2. Otter**

Otter are part of the qualifying interest for the nearby Connemara Bog Complex SAC. The rivers marked around are listed by NPWS as Otter commuting zones these connect to the coast which is utilised by otters. They are the same population. The proposed facility is within 100m of the coastline and Otter territory. The Otters are protected as part of Connemara Bog Complex SAC. A full assessment of the impact in terms of disturbance and foraging impacts must be carried out. There is potential for a significant impact and therefore an NIS is required

### **3. Salmon**

Salmon are a qualifying interest for the nearby Connemara Bog Complex SAC. There are 3 substantial river system within 2.5km of the proposed site (Map 2). According to the NPWS site synopsis, Atlantic Salmon, a species listed under Annex II of the E.U. Habitats Directive, occurs in many of the rivers within the site. This is a tiny distance for salmon. These salmon are potentially at risk from sea lice infestation which has been shown by Inland fisheries Ireland to impact on their survival rates (Sheppard and Gargan, 2020). A full assessment of the impact in terms of potential for lice must be carried out. There is potential for a significant impact and therefore an NIS is required

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### **4. Birds**

The screening indicated that the aquaculture site is within the foraging range of birds from several of the Special Protection Areas. Connemara Bog Complex SPA (004181 Slyne head to Ardmore Point Islands SPA(004159), Inishmore Island SPA(004152). The application site is well within the foraging range of kitiwakes, terns and cormorants for which these sites are internationally protected. This is acknowledged but dismissed as not significant without adequate assessment. A full such assessment of such impacts is requested as was carried out in relation to the Shot Head fish farm application in Kerry. Government bodies should be required to meet the same stringent standards as corporations. A significant impact is possible and this can only be eliminated by presentation of site specific data in respect of these species.

### **5. Benthos**

It can be seen clearly that this bay is an enclosed bay with the application site surrounded by Islands. No flushing data has been provided. It would be expected that in such an enclosed bay that a 100 tonne facility would have a significant impact on the benthic environment. This has the potential to impact on all the species which rely on this pristine environment.

### **Requirement for Appropriate assessment**

It is our opinion that an Appropriate Assessment should have been carried out. Insufficient evidence in respect of impacts on the Natura 2000 network has been presented to screen it out.

### **Environmental Impact Assessment**

Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment August 2018,  
(<https://www.gov.ie/en/publication/53aee9-guidelines-for-planning-authorities-and-an-bord-pleanala-on-carrying/>).

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According to this document,

*screening must consider the whole development. This includes likely significant effects arising from any demolition works which must be carried out in order to facilitate the proposed development. In the case of transboundary developments, screening must consider the likely significant effects arising from the whole project both sides of the boundary. A screening determination that EIA is not required must not undermine the objective of the Directive that no project likely to have significant effects on the environment, within the meaning of the Directive, should be exempt from assessment.*

As per above there is potential for significant effect due to the lack of full description of the project, (see 1 above) and the potential impact on the Natura 2000 network and on the benthic environment.

This is potentially an Annex II project as it licences up to 100 tonnes and thus may be considered intensive

*“Annex II PROJECTS REFERRED TO IN ARTICLE 4(2) 1. AGRICULTURE, SILVICULTURE AND AQUACULTURE (a) Projects for the restructuring of rural land holdings; (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural (c) Water management projects for agriculture, including irrigation and land drainage projects; (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use; (e) Intensive livestock installations (projects not included in Annex I); (d) Intensive fish farming; (g) Reclamation of land from the sea”*

According to the Directive and guidelines above (CRITERIA TO DETERMINE WHETHER THE PROJECTS LISTED IN ANNEX II SHOULD BE SUBJECT TO AN ENVIRONMENTAL IMPACT ASSESSMENT)

### **1. Characteristics of projects**

*The characteristics of projects must be considered, with particular regard to: (a) the size and design of the whole project; (b) the*

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*cumulation with other existing and/or approved projects; (c) the use of natural resources, in particular land, soil, water and biodiversity; (d) the production of waste; (e) pollution and nuisances; (f) the risk of major accidents having regard in particular to substances or technologies used and/ or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge; (g) the risks to human health (for example due to water contamination or air pollution).*

### **2. Location of projects**

*The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard in, with particular regard to: (a) the existing and approved land use; ( b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground; ( c) the absorption capacity of the natural environment, paying particular attention to the following areas: (i) wetlands, riparian areas, river mouths; (ii) coastal zones and the marine environment; (iii) mountain and forest areas; (iv) nature reserves and parks; (v) areas classified or protected under Member States' national legislation; special protection Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC; (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation have already been exceeded and relevant to the project, or in which it is considered that there is such a failure; (vii) densely populated areas; (viii) landscapes and sites of historical, cultural or archaeological significance.*

### **3. Type and characteristics of the potential impact**

*The potential likely significant effects of projects on the environment must be considered in relation to criteria set out in points 1 and 2 of this Annex, and having with regard in particular to the impact of the project on the factors specified in Article 3(1), taking into account: (a) the magnitude and spatial extent of the impact (for example geographical area and size of the affected population likely to be affected); (b) the nature of the impact; (b)(c) the transfrontier transboundary nature of the impact; (c)(d) the magnitude intensity*



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*and complexity of the impact; (d)(e) the probability of the impact; (f) the expected onset, duration, frequency and reversibility of the impact; (g) the cumulation of the impact with the impact of other existing and/or approved projects; (h) the possibility of effectively reducing the impact.*

### **Requirement for EIAR**

So in conclusion given the potential size of the project (100tonnes), the lack of full description of the whole project and any impacts associated with it, the cumulative impact in a semi enclosed bay with probable low flushing rates and existing other aquaculture, the proximity to Natura 2000 sites in a coastal zone wetland applying the guidelines it required that an EIAR is produced.

### **Public Consultation**

We also note the lack of Public Consultation to date. The Aarhus Convention, of which Ireland is a signatory, establishes a number of rights to the individuals and civil society organizations with regard to the environment. The Parties to the Convention are required to make the necessary provisions so that public authorities, at a national, regional or local level, will contribute to these rights to become effective. The Aarhus Convention provides for: Public participation in environmental decision making: The right of the citizens to participate in preparing plans, programmes, policies, and legislation that may affect the environment.

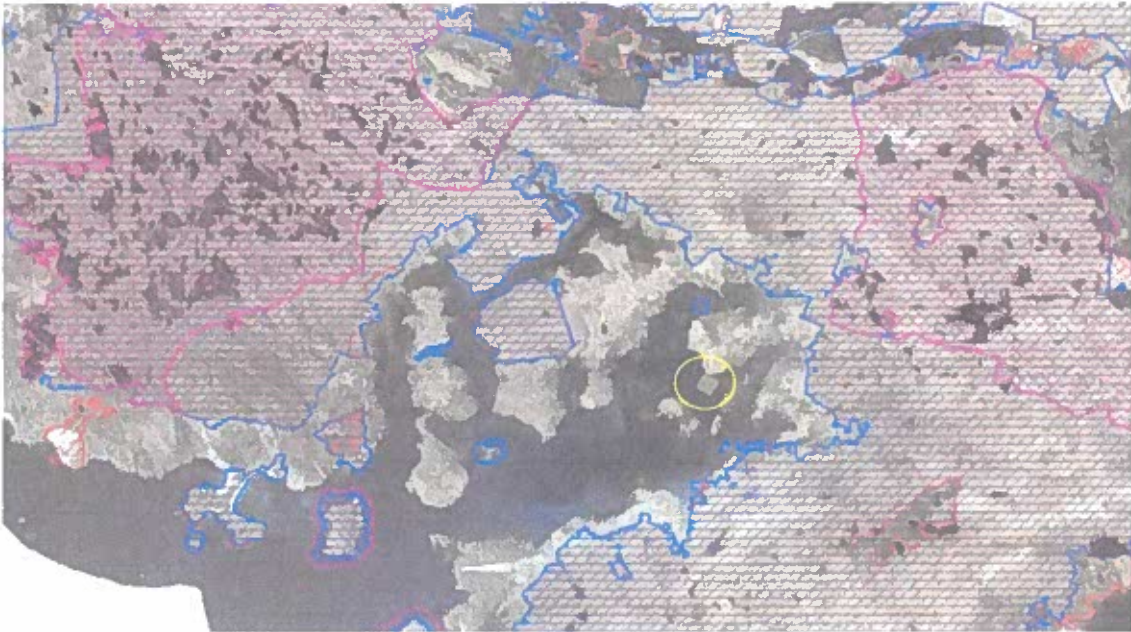
Éamonn Ross  
Secretary NARA



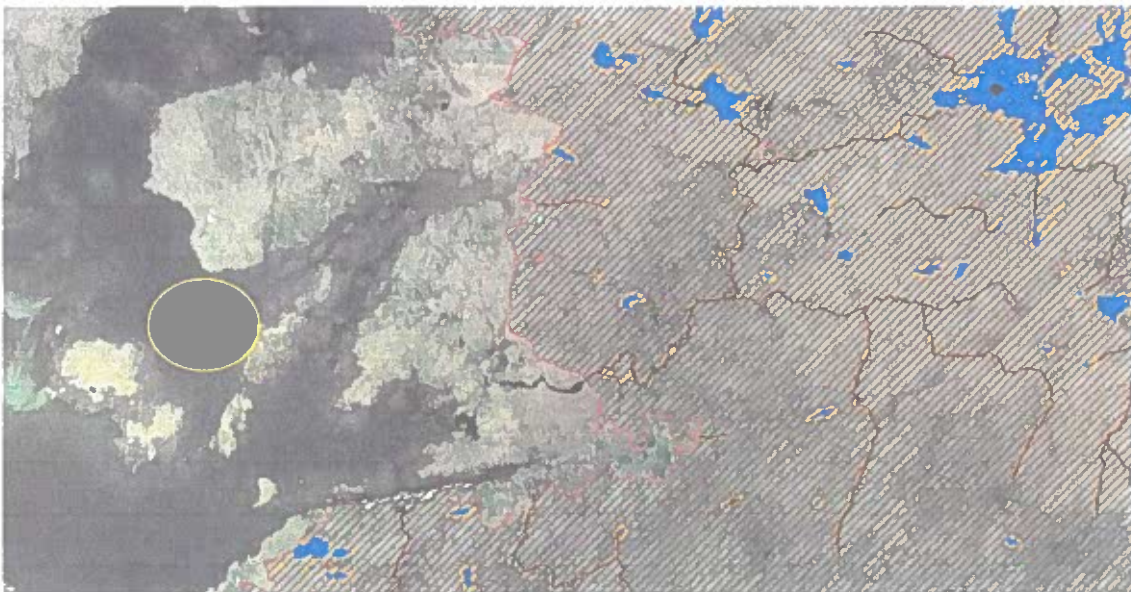
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# **Appendix 1**

**Serving Game Anglers**



Map 1 Natura 2000 network with application site outlined in yellow (NPWS.ie)



Map 2: Rivers (Orange) and lakes (Blue) in proximity to application site. Application site area (approx.) highlighted in yellow

## 2. Otter

Otter are part of the qualifying interest for the nearby Connemara Bog Complex SAC

The rivers marked around are listed by NPWS as Otter commuting zones these connect to the coast which is utilised by otters. They are the same population. The proposed facility is within a 100 m of



If you wish to hand in an appeal you need to contact the office in advance at 057 8631912 or [info@alab.ie](mailto:info@alab.ie)

COVID-19 UPDATE

ALAB'S PUBLIC OFFICE IS CLOSED TO THE PUBLIC AT PRESENT, HOWEVER, YOU CAN CONTINUE TO CONTACT THE OFFICE BY PHONE (0578631912) OR BY EMAIL ( [info@alab.ie](mailto:info@alab.ie) )



COVID-19 Cúimhneamh

**PLEASE RESPECT SOCIAL DISTANCING**

Distance  Distance

COME TOGETHER AS A NATION BY STAYING APART