ALAB
An Bord Achomhairc Um Cheadúnais Dobharshaothraithe

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

AP1-102-25

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 Licenses Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois, R32 DTW5**

Name of Appellant (Block Letters)	ANNA HOSFORD/CHRIS BAKER/CARMEL WALSH
Address of Appellant	All residents of Sandycove community
Eircode	
Phone No.	Email address (enter below)
Mobile No.	

AQUACULTURE LICENCE APPEALS BOARD
26 JUN 2025
RECEIVED

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	✓
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 Licenses 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

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.

RL 0156 0107 7IE

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

SUBJECT MATTER OF THE APPEAL

We are writing to formally appeal the decision to grant an aquaculture license to Woodstown Bay Shellfish Limited for bottom culture mussel farming on a 23.1626-hectare site (T05-472A) in Kinsale Harbour, Co. Cork. While I acknowledge the Minister's consideration of relevant legislation and submissions received, I contend that the decision overlooks several material concerns that warrant further scrutiny.

Note that we have not had access to all of the relevant documentation online. This lack of access results in a structural bias within the appeals process, as it undermines transparency and prevents a clear understanding of how decisions were made. Public bodies have a duty to uphold public trust by ensuring transparency in their decision-making. The absence of complete documentation and clarity around the decision-making process significantly impairs our ability to conduct a thorough review and prepare an informed appeal.

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:

You should briefly explain why this matters to you personally, e.g.:

- We are residents of Kinsale who regularly uses the harbour for swimming, sailing, motor boating, kayaking, and community events ie St Patricks Marine Parade, tri club swim meets etc
- We are VERY concerned about environmental quality, water quality, public safety, and long term community impact.
- We are VERY concerned about the safety of our boats as the seed mussels can enter boats cooling systems and when they grow there they can block the sea water coolant and cause engine failure.
- It is important to note that due to the seeding mussels type of application that the mussels will NOT be kept within the parameters of the licensed areas. Therefore the WHOLE harbour including upriver and out the mouth of the harbour will be covered in mussels that can never be gotten rid of or the growth of them halted at any time in the future.

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)):

Grounds for Appeal

1. Inadequate Environmental and Water Quality impact Assessment
Although the determination claims "no significant impacts on the marine environment", no independent environmental study is cited to support this assertion. The potential for biodiversity disruption, water quality deterioration, and seabed sediment alteration requires rigorous scientific investigation. Furthermore, cumulative impacts from existing and future aquaculture operations in the harbour have not been sufficiently assessed, undermining the sustainability of the marine environment.

2. Public Access and Recreational Use
Large-scale aquaculture developments can restrict navigation, impact traditional fishing routes, and interfere with recreational activities. It remains unclear how public access will be preserved, or whether local stakeholders such as water sports users and tourism operators were adequately consulted in the licensing process. In addition the shell debris as the mussels are harvested accumulates in the area over time and these sharp fragments can cause injury to the beach users, in an area where there is no medical facility to assist.

3. Economic Risk to Existing Local Industries
While the application anticipates economic benefit, there is no record of a Social Impact Assessment being undertaken. On what grounds does the applicant make the assumption of economic benefit. In its application it sites the employment of a further 6 people at its plant in Waterford, The determination does not consider the potential negative impact on established sectors such as tourism and traditional fisheries. A full Social Impact Assessment should be undertaken to assess both the potential loss of revenue to local businesses reliant on the harbour's current use and environmental integrity.

The impact of increased commercial traffic on the roads creating further congestion in the small tourist village of Kinsale has also not been evaluated.

4. Risks to Adjacent Natura 2000 Sites
Although the site does not spatially overlap with designated Natura 2000 areas it is adjacent to two such sites (Old Head of Kinsale SPA (4021) and Sovereign Islands SPA (4124). Seabirds from these SPA's are known to feed in Kinsale harbour and will be adversely impacted. Examples are Cormorants who are regularly seen in the harbor. Indirect impacts such as water pollution, eutrophication, and habitat degradation are a risk. Notably, the proposal involves bottom-culture mussel farming with bottom dredging—a method that is highly disruptive to benthic ecosystems. Dredging displaces sediment, destroys benthic fauna, and threatens biodiversity. The site is known locally to support a particularly rich crab population. Amongst other species, the Otter is listed as an Annex IV protected species present in Irish waters and in the Kinsale, a baseline study of Otter population, location and the potential effect of dredging on otter holts should be undertaken. The failure to conduct a baseline ecological survey is a serious omission that contravenes the precautionary principle set out in EU environmental legislation.

5. Navigational and Operational Safety Overlooked
Under the Fisheries (Amendment) Act 1997, the Minister must consider the implications of aquaculture operations on navigation and the rights of other marine users. No anchor zones and exclusion zones will prohibit existing fishing and recreational activities

6. Fouling of Raw Water Intakes – A Known Hazard
Mussel larvae (veligers) can infiltrate and colonise raw water intake systems in leisure and commercial vessels, particularly those moored long-term or infrequently used. Resulting blockages may lead to engine overheating and failure. This risk has not been acknowledged in the license determination. The consequences may extend to increased RNLI call-outs, raising public safety and resourcing concerns. No evidence is provided that the Harbour Master, RNLI, boat owners or marina operators were consulted.

nor are any mitigation measures (e.g. buffer zones or monitoring protocols) described. This constitutes a serious procedural deficiency. A **Marine Navigation Impact Assessment** is required to address this omission. This concern was explicitly raised in the submission by the Kinsale Chamber of Tourism and Business.

7. Unreasonable Delay in Determination

The original application was submitted in December 2018. A decision was not issued until May 2025 more than six years later. Such an extended delay is at odds with the intent of the Fisheries (Amendment) Act 1997, which mandates that decisions be made as soon as reasonably practicable. This delay risks relying on outdated environmental data and fails to reflect current stakeholder conditions. It raises legitimate concerns regarding the procedural fairness and validity of the decision.

8. Failure to Assess Impact on National Monument and Submerged Archaeological Heritage

The proposed mussel farm site lies directly off James Fort, a protected National Monument (NIAH Ref: 20911215), and adjacent to the remains of the blockhouse guarding the estuary. This area is of significant historical and military importance, with likely submerged archaeological material including maritime infrastructure and possibly shipwrecks. The application fails to include any underwater archaeological assessment or consultation with the National Monuments Service or Underwater Archaeology Unit (UAU) of the Department of Housing, Local Government and Heritage. This represents a serious procedural omission. Dredging associated with bottom-culture mussel farming carries a high risk of disturbing or destroying archaeological material in situ. The failure to survey or evaluate these risks contradicts national heritage legislation and violates the precautionary approach enshrined in European environmental directives. We respectfully request that the license be suspended until a full archaeological impact assessment is carried out, including seabed survey and review by qualified maritime archaeologists in consultation with the UAU

9. Absence of Site-Specific Environmental Impact Assessment (EIA) and Discovery of Protected Seagrass Habitat

No Environmental Impact Assessment (EIA) appears to have been carried out for the proposed aquaculture site, despite its sensitive ecological characteristics and proximity to protected areas. Under national and EU law, the Department of Agriculture, Food and the Marine (DAFM) is obliged to screen aquaculture applications for significant environmental effects. Where such risks exist—particularly in or near Natura 2000 sites or protected habitats—a full EIA may be legally required.

Since the initial license application in 2018, new environmental data has come to light. Research led by Dr Robert Wilkes (University College Cork) national seagrass mapping work—which includes all major Irish coastal zones—strongly suggests that Kinsale Harbour may host these priority habitats, highlighting the need for a site-specific ecological survey. Seagrass is a priority habitat protected under the EU Habitats Directive due to its high biodiversity value, role in carbon sequestration, and function as a critical nursery habitat for fish and invertebrates. The mere presence of seagrass requires formal ecological assessment under EU law before any disruptive marine activity—particularly dredging—can be licensed.

The current license determination fails to acknowledge this discovery or to conduct any updated ecological survey. It instead relies on environmental data now over six years old. This is procedurally and scientifically unacceptable. An up-to-date, site-specific environmental impact assessment is necessary to ensure compliance with legal requirements and to safeguard a now-confirmed protected habitat.

The application is for an intensive mussel farm and therefore under EU law required an Environmental Impact Statement (EIS) to be produced. In the European Commission's (EC) "Interpretation of

definitions of project categories of annex I and II of the EIA Directive"
(*http://ec.europa.eu/environment/eia/pdf/cover_2015_en.pdf*), the Commission provides clarity around what activities it (and other Member States) consider as constituting "Intensive Fish Farming" and therefore requiring a submission/report on "the likely significant impacts on the environment" before the Minister can issue his/her decision.

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 of contamination and its implications for shellfish safety and public health have not been sufficiently evaluated.

12. Displacement of Traditional Fisheries

The proposed site would exclude local fishermen using crab pots and other static gear from a 23-hectare fishing ground traditionally accessed by licensed fishers. This has not been acknowledged in the license, despite the Harbourmaster requiring that the area be designated as a "no pots/fishing" zone. Displacement of static gear fisheries without consultation or provision of compensatory access undermines traditional livelihoods and may be challengeable under EU Common Fisheries Policy obligations. A Marine Resource User Impact Statement should have been required.

13. Absence of Operating Agreement with Port Authority

Cork County Council has confirmed that no Operating Agreement was received from the applicant. Vessel activity, dredging schedule, licensing, and safety protocols were not submitted to the Harbour Master. Without this, no risk assessment on shipping interference, beaching protocols, or berthing pressure was possible. Granting a license in the absence of this data is premature and procedurally deficient.

14. Sedimentation and Navigation Hazards

Cork County Council (CCC) noted a mid-channel bar to the east of the proposed site – a known shallow point that already restricts navigation. Mussel dredging and biodeposit accumulation risk increasing sedimentation, further narrowing this access route. Annual bathymetric surveys were recommended by CCC but are not mandated in the current license. This omission creates navigational hazards in a high-use recreational harbour.

15. Misstatement Regarding Shellfish Waters Designation

The application states that the site lies within Designated Shellfish Waters; this is factually incorrect. Cork County Council and the Kinsale Chamber of Tourism and Business have shown that the designated area is upriver. This misstatement undermines the reliability of the application and affects regulatory compliance with the Shellfish Waters Directive. The error should trigger re-evaluation of public health monitoring requirements and water quality impact.

16. Absence of an assessment under the Water Framework Directive Article 4

A Water Framework Directive Article 4 assessment needs to be carried out to determine the quality of the water in Kinsale harbour and to determine if the proposed mussel farm will impact the need to reach a good ecological status under the Water Framework Directive.

17. Impact on Motorboat engines in a highly populated boating community

Kinsale depends on the boating community for further tourism and local residents' recreation. The mussel farm can pose a risk to this and boat owners will choose to go elsewhere if this proceeds, therefore decreasing valuable income to this area. The mussels attach to submerged surfaces and will clog the filters of the engines, causing untold damage.

Request for Review

In light of these substantive concerns, we respectfully request that the Aquaculture License Appeals Board:

- Commissions an independent, detailed Environmental Impact Assessment to address (but is not restricted to) Benthic ecology, Biodiversity, Water resources, Water quality, Landscape and visual, Cultural heritage, Socio-economics, Commercial fisheries;
- Requires a full Social Impact Assessment that includes the potential impact on existing industries;
- Undertakes a reassessment of public access impacts, with adequate local consultation;
- 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, increased levels of commercial traffic to an already small, congested village, water quality, heritage and the sustainable economic development of the region.

ALAB
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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	x	Date	x 25/6/25

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."

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 license or by the revocation or amendment of an aquaculture license 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://housinggovie.maps.arcgis.com/apps/webappviewer/index.html?id=d7d5a3d48f104eebb206e7e5184b7111

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 (License 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 (License 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.