

# 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)	x CARMEN, OWEN, FAYE MURPHY	
Address of Appellant	x	
Eircode	x	
Phone No.		Email address (enter below)
Mobile No	x	

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	<input checked="" type="checkbox"/>

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:	BIC: AIBKIE2D
	IE89AIBK93104704051067	

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.

AQUACULTURE LICENCES  
APPEALS BOARD  
26 JUN 2023

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

### SUBJECT MATTER OF THE APPEAL

I am writing to formally appeal the decision to grant an aquaculture licence 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

I am impacted by this development because

We are long term residents of Kinsale who are gravely concerned about the detrimental effect of this commercial activity on our marine systems, our recreational economy, our environment and the well-being of generations to come.

#### GROUND(S) 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)):

We have found significant grounds for appeal too long to be included in this field, so please see attached appeals document.

#### 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

N/A

Signed by the Appellant

X

Date

24/06/25

X

Please note that this form...

REGISTERED POST or handed in to the ALAB offices

## **Grounds of Appeal: Licence T05/472A**

**Appellant:** Carmel, Owen and Faye Murphy

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### **GROUND 1: Failure to Adequately Assess Environmental Risks under the Habitats Directive and National Biodiversity Obligations**

The Appropriate Assessment screening conducted for licence T05/472A is fundamentally flawed and fails to meet the legal standards required under Article 6(3) of the Habitats Directive. These failures render the licensing decision legally unsound and constitute a breach of Ireland's EU obligations.

#### **Inadequate Data Sources - Fatal Methodological Flaw**

The AA screening relied almost entirely on desktop studies and generic databases rather than site-specific scientific surveys. The Marine Institute's own methodology acknowledges the use of "Open Street Maps, Google Earth, and Bing aerial photography" as primary data sources—an approach completely inadequate for assessing sensitive benthic habitats in a semi-enclosed estuarine environment.

No site-specific benthic surveys were conducted at the proposed T05/472A site to determine the actual presence or absence of priority habitats. This desktop approach cannot detect the presence of Annex I habitats such as seagrass beds, maerl communities, or other ecologically significant seafloor communities that may be present within the 23-hectare licence area. For a development involving seabed dredging in a sensitive estuarine zone adjacent to designated Natura 2000 sites, the absence of site-specific habitat surveys represents a fundamental breach of assessment standards established in Irish and EU guidance.

#### **Violation of the Precautionary Principle**

Under the precautionary principle established in ECJ case C-127/02 (Waddenvereniging), where scientific uncertainty exists regarding potential effects on Natura 2000 sites, a project must proceed to full Appropriate Assessment rather than being screened out as having "no significant effect."

The absence of site-specific ecological surveys creates precisely this uncertainty. Recent peer-reviewed research (Beca-Carretero et al., 2024) demonstrates that Kinsale Harbour exhibits environmental conditions highly suitable for seagrass colonisation—a priority Annex I habitat. The AA screening failed to consider this published scientific evidence or conduct surveys to determine actual habitat presence.

The precautionary principle requires that potential presence of protected habitats must be verified through appropriate survey methodology before licensing destructive activities. The conclusion of "no significant effect" in the absence of adequate baseline data directly contravenes this fundamental EU legal principle.

#### **Inadequate Assessment of Habitat Connectivity**

The screening treats the proposed site in isolation, failing to properly assess functional ecological connectivity between the licence area and adjacent Special Protection Areas (Old Head of Kinsale SPA and Sovereign Islands SPA). Semi-enclosed estuarine systems like Kinsale Harbour function as integrated ecosystems where impacts in one area can propagate

throughout the system via water circulation patterns, sediment transport, and species movement.

Bottom mussel culture involving dredging poses documented risks of sediment resuspension, benthic habitat disturbance, and water quality impacts that can affect the integrity of the wider conservation network. The screening's failure to adequately assess these connectivity pathways represent a fundamental gap in the analysis required under Article 6(3).

### **Legal Consequences**

These combined failures—inadequate baseline data, violation of the precautionary principle, and insufficient connectivity assessment—render the AA screening legally deficient and incapable of supporting a valid licensing decision. These systematic deficiencies are [REDACTED], creating a pattern of non-compliance with mandatory environmental assessment requirements. The licence must be refused as the decision is legally invalid due to fundamental procedural failures that cannot be remedied through conditions alone.

## **GROUND 2: Risk to Tourism and Local Economy**

- Kinsale is a premium tourism hub. The visual and physical presence of a large mussel farm threatens the harbour's scenic value, which underpins local hospitality, marine tourism, and retail sectors.

Public feedback (flotilla, beach protest, over 5,000 petition signatures) evidence strong community and commercial concern

## **GROUND 3: Impact on Public Recreation and Amenity**

- The proposed mussel farm covers 23 ha of sub-tidal foreshore between Dock Beach, James Fort, and Charles Fort — a zone heavily used for swimming, kayaking, sailing, fishing, and community regattas.

This obstruction will limit access, compromise navigation safety, and pose potential hazards to harbour users