



API-107-25



**ALAB**

An Bord Achomhairc Um  
Cheadunais 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)

Virgil Horjan

Address of Appellant

K

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

✓

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:

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.

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

SUBJECT MATTER OF THE APPEAL	
<p>Determination of aquaculture licensing application, license number T05-472A - To Cultivate Mussels in Kinsale Harbour, Co. Cork</p>	
<p>Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)</p>	<p>T05-472A</p>
APPELLANT'S PARTICULAR INTEREST	
<p>Briefly outline your particular interest in the outcome of the appeal:</p> <p>I have been a resident of Kinsale for the past 47 years. I was legal advisor to Kinsale harbour commissioners for 30 years. I am chairperson of KRD Community Association trading as GAILE. I am also chairperson of the board of management of Summerlove National School.</p>	
GROUNDS OF APPEAL	
<p>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> <p>See attached</p>	

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**CONFIRMATION NOTICE ON EIA PORTAL (if required)**

In accordance with Section 41(1) 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	<input type="checkbox"/>
Other evidence of Project's inclusion on EIA Portal is enclosed or set out below (such as the Portal ID Number)	<input type="checkbox"/>
An EIA was not completed in the Application stage/the Project does not appear on the EIA Portal	<input checked="" type="checkbox"/>

<b>Details of other evidence</b>	
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Signed by the Appellant	Date <u>13/06/25</u>
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**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

An Bord Achomhairc Um Cheadunais Dobharshaothraithe | Aquaculture Licences Appeals Board  
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## 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.**

## 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=d7d5a3d48f104cebb206e7c5f84b71f1>

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) (c) 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.



# HEGARTY HORGAN

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Aquaculture Licences Appeals Board  
Kilminchy Court  
Dublin Road  
Portlaoise  
Cork  
R32 DTW5

Date: 25 June 2025  
Our ref: DOD AD SAV001-0001  
Your ref: T05-472A

**Re: Mussell Cultivation in Kinsale Harbour, Co. Cork**  
**Our client: Virgil Horgan**

Dear Reader,

The grounds of appeal are as follows:

In 2007, Paul Barlow, using a different company at the time but now a director of Woodstown Bay Shellfish Limited, applied to the Minister for the Department of Communications, Marine and Natural Resources for a mussel license. The License was granted by the relevant minister at the time. He subsequently entered Kinsale Harbour one morning with no communication to, or permission from the relevant harbour master at the time and proceeded to deposit seed mussels from the Block House to Money Point in Kinsale Harbour. Within a short space of time, the seed found its way into the inner harbour on the flood tide, attaching themselves to all the moorings, and as they grew, proceeded to sink the moorings with the weight, creating hazards for boats navigating in the harbour. Worse still, the seed mussels attached themselves to fishing boats and yachts, blocking cooling water intakes to engines, and causing damage to same. They also attached themselves to propellers, thus slowing down manoeuvring capabilities of vessels. The harbour master along with a harbour board employee were forced to, on regular occasions, scrape the mussels from the fisherman's pontoon in Kinsale harbour as they were weighing it down. The yacht club had a similar problem. On only one occasion did Mr. Barlow come into the harbour to dredge the area some months later, again with no permission from the harbour master. The harbour master tried calling him on VHF but received no response. The whole position with Mr. Barlow on said occasion was totally unsatisfactory and created terrible problems for the harbour users on that occasion.

Despite all the difficulties that were created previously, the Minister for Agriculture, Food and the Marine, has now decided that it is in the public interest to grant another licence in Kinsale Harbour to Woodstown Bay Shellfish Limited to grow mussels in Kinsale Harbour under licence number T05-472A. The proposed location is in an area containing 23.16 Hectares opposite the dock beach in Castlepark Kinsale. Same will have a terribly detrimental effect on all users of Kinsale Harbour. The public in Kinsale utilise this beach for recreational swimming throughout the year. The water quality will be affected by the mussels in the harbour which as they are living creatures and will

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undoubtedly produce waste. The mussel shells will be washed up on to the beach presenting a potential hazard to beach goers, including children and adults that make use of this recreational area. Kinsale is a tourist town, and tourism provides substantial income for the local economy and creates major employment in the town each year. The tourist season is being extended all the time and a lot of same centres on marine activities in the harbour, particularly the use of Dock Beach.

All the users of the harbour including boats, yachts, pleasure crafts, fishing vessels and coasters will suffer the consequences of mussels lodging on the underside of said vessels thereby detrimentally affecting their safe and efficient operation. The proposed license could cause all these seafarers to avoid Kinsale harbour and go elsewhere to avoid the costs and inconvenience associated with increased maintenance needs. As seafaring activities form a part of our heritage and makeup a large share of our tourism sector, this license will have a detrimental effect on the economy of Kinsale.

The Outdoor Education Centre in Kinsale presently bring their pupils to the location of the proposed licence to teach various maritime skills to the young people of Kinsale. This includes dinghy sailing and kayaking. This would become impossible if the license was granted. There are also several Triathlon clubs that make use of Dock Beach as a training ground for new swimmers given the ease of entry and the soft sand which would be at risk if the cultivation license is granted. The beach is also the starting point for one of the counties biggest Triathlon events, King of The Hill, hosted by Cork Tri Club and Kinsale Tri Club.

Local fishermen presently use said location for inshore fishing. If the license is granted, they will have to move from same and go elsewhere.

Very importantly, there is a current ecosystem in existence in this area. The fauna and flora of the area will be severely impacted by the proposed dredging of the sea floor. The heritage of Kinsale will be impacted by the proposed licence. The shipping lane going into Kinsale Harbour is only a couple of meters from the site. There could be serious consequences if large vessels can no longer enter Kinsale Harbour because there is a possibility of movement of the seabed.

There is a huge absence of relevant documentation on the Departments portal, and this in itself is hampering me in dealing with all relevant matters, for example there is no environmental impact study on the portal. It appears to me that proper procedures were not followed by the department in assessing the application.

There is no evidence of scientific advice to the effect that the waters are suitable. The department did not take into account negative effect of cultivating mussels on said waters.

Public access to recreational and other activities will be negatively impacted by said project.

The proposed development will severely impact tourism, leisure and marine activity in the harbour and take money out of the Kinsale Economy.

I have already set out above the effects on the man-made environmental heritage of the area.

The proposed license would have a negative effect on wild fisheries and the fishing industry in general. Whilst the proposed activities may or may not overlap with any Natura 2000 sites, they will still be a significant impact on Kinsale Harbour. The Marine Environment and the quality status of the area will be severely downgraded by the proposed licence.

Regardless of the terms and conditions of the proposed aquaculture license, Mr. Barlow did not have much regard for same in respect of his previous license in Kinsale Harbour in 2007.

Additionally, the area in question is not a designated mussel farming area. The Department were misled by the applicant's statement that it was a designated mussel farm area. The dept appears to have become confused between two separate applications by the same applicant. It has become clear that due process was not followed. There was no proper public and statutory consultation process. The application was lodged in 2019 and six years later, the minister decides it is appropriate to grant same.

Please take the above points into consideration failing which, the matter will be referred to the High Court in respect of Judicial Review Proceedings.

Yours faithfully,