



AP1-117-25
APPEAL FORM

RECEIVED
26 JUN 2025
APPEALS BOARD
CULTURE LICENCES
Eircode




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

SUBJECT MATTER OF THE APPEAL	
The granting of the licence TOS-472 A to Woodstown Bay Shellfish Ltd and the process and basis of the decision made to grant the licence.	
Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)	TOS - 472 A
APPELLANT'S PARTICULAR INTEREST	
Briefly outline your particular interest in the outcome of the appeal:	
I am a concerned resident living in Kinsale (1959-2015) and Belgooly (current) and my specific interest is in relation to potential damage to the natural environment from Aquaculture of this type	
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)):	
<p>* Please refer to detailed Attachment</p> <p>Ground 1: Failure to Adequately Assess Environmental Risks under the Habitats Directive and National Biodiversity obligations</p> <p>Ground 2: Not in the Public Interest as this is a commercial operator of Woodstown Bay Shellfish Ltd</p> <p>Ground 3: Specific threat to existing Seagrass Beds in Kinsale Harbour</p> <p>Ground 4: Impact on Public Recreation and Amenity</p> <p>Ground 5: Risk to tourism and the local economy</p>	

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		<input checked="" type="checkbox"/>
Details of other evidence		
Signed by the Appellant		Date 24/6/2025
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 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.**

Grounds of Appeal: Licence T05-472A Woodstown Bay Shellfish Ltd

Appellant: Anne Maxwell

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 represents 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.

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: Not in the Public Interest

This is a commercial operation of Woodstown Bay Shellfish Ltd

GROUND 3: Specific threat to existing Seagrass (Zostera Marina) Beds in Kinsale Harbour

Recently mapped Seagrass Meadows in Kinsale Harbour – A Vital Habitat at Risk :

****ATTACHED MAP OF SURVEYED SEAGRASS (ZOSTERA MARINA) AREA KINSALE HARBOUR**

Cork Sub Aqua Club has confirmed the presence of a newly discovered seagrass beds in Kinsale Harbour in the very area where dredging is proposed for the planned mussel farm. This vibrant habitat is home to pipefish, juvenile wrasse, sandeel, hermit crabs, and many more species crucial to the marine ecosystem.

Seagrass meadows are not just biodiversity hotspots they stabilize sediment, prevent erosion, and **absorb carbon up to 35 times faster than tropical rainforests**. With massive losses reported across Europe, protecting these remaining Irish meadows is urgent.

GROUND 4: 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.

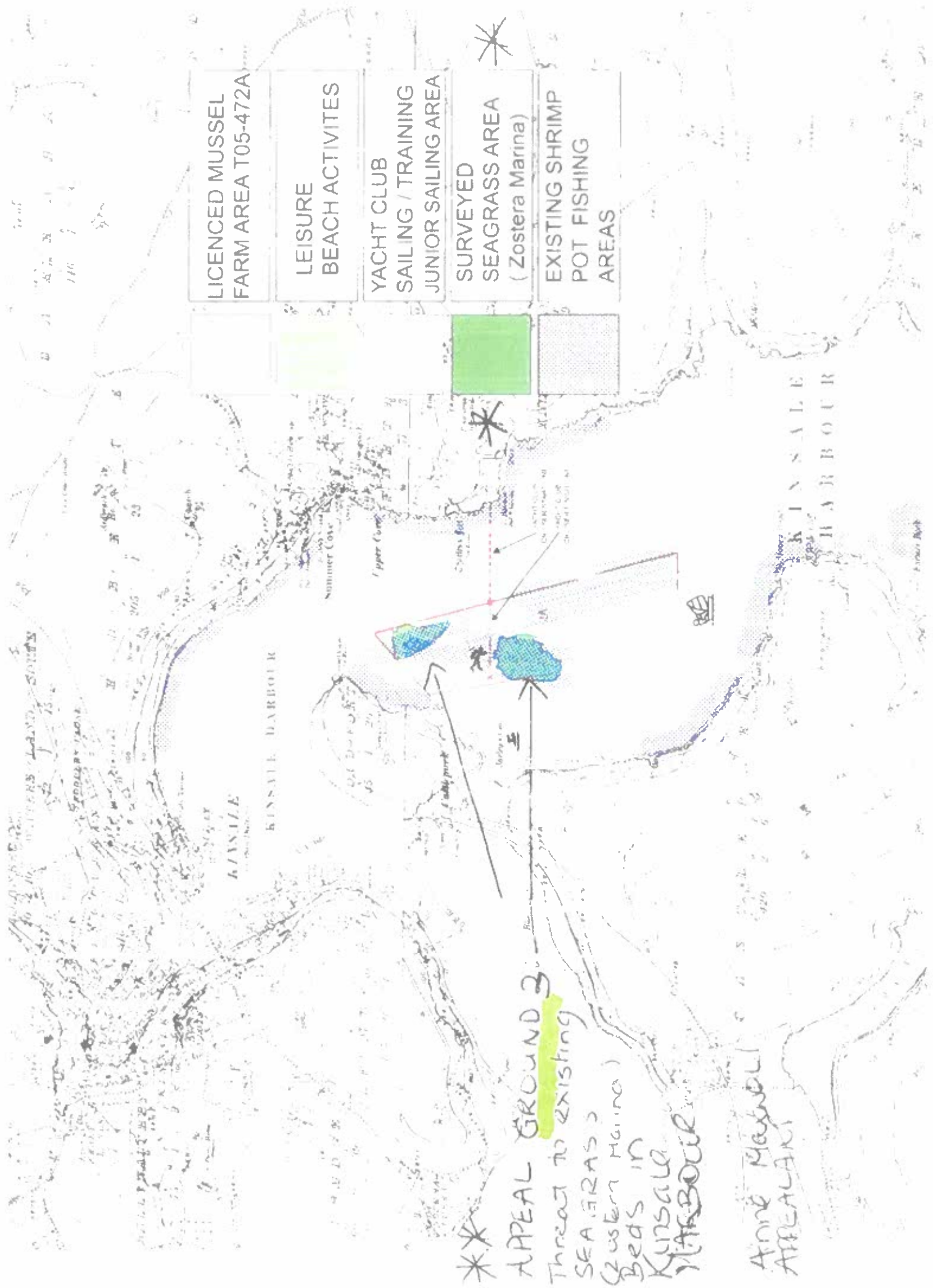
This obstruction will limit access, compromise navigation safety, and pose potential hazards to harbour users

GROUND 5: 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) evidences strong community and commercial concern

- LICENCED MUSSEL FARM AREA T05-472A
- LEISURE BEACH ACTIVITES
- YACHT CLUB SAILING / TRAINING JUNIOR SAILING AREA
- SURVEYED SEAGRASS AREA (Zostera Marina)
- EXISTING SHRIMP POT FISHING AREAS



APPEAL GROUND 3
 Threat to existing
 SEAGRASS
 (Zostera Marina)
 Beds in
 Kinsale
 Harbour

Anne Mayhew
 APPEALANT

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/aregis.com/apps/webappviewer/index.html?id=/d5a3d481104ec0b200c7e5f84b71f1>

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) (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.