

**ALAB**

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licensing Appeals Board

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

API-118-25
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 Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois, R32 DTW5		
Name of Appellant (Block Letters)	Liam Edwards, Chair, Kinsale Chamber Of Tourism & Business	
Address of Appellant		
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	<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: IE89AIBK93104704051067	BIC: AIBKIE2D
Please note the following:		
<ol style="list-style-type: none"> 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>I am writing on behalf of the Kinsale Chamber of Tourism & Business 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.</p> <p>While we acknowledge that the Minister has considered relevant legislation and submissions as part of the decision-making process, we respectfully submit that several material concerns have not been adequately addressed. These concerns merit further scrutiny, particularly in light of the broader public interest and potential long-term impacts on the harbour.</p> <p>We further note that key documentation related to this application and decision has not been made available online. This lack of access constitutes a structural imbalance within the appeals process. It limits transparency and impairs our ability to understand the full basis of the Minister's decision or conduct a meaningful review and prepare a fully informed appeal. Public bodies have a duty to act in a manner that upholds public trust by ensuring transparency, fairness, and accountability in their decision-making processes.</p> <p>The absence of complete and accessible documentation has significantly constrained our capacity to conduct a meaningful review and prepare a fully informed appeal. We respectfully request that this deficiency be recognised as a procedural shortcoming and that it be taken into consideration in the review of this appeal.</p>	
<p>Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)</p>	T05-472A
APPELLANT'S PARTICULAR INTEREST	
<p>The Kinsale Chamber of Tourism and Business represents over 100 local stakeholders whose livelihoods depend on the continued vitality, beauty, and accessibility of Kinsale Harbour. Our members include tourism operators, local businesses, hospitality providers, and community organisations who rely on the harbour's pristine environment and recreational appeal to sustain year-round economic activity.</p> <p>We are gravely concerned that the proposed large-scale aquaculture development may negatively affect tourism—one of the region's primary economic drivers. The determination appears to have overlooked or insufficiently assessed the risks to Kinsale's tourism-based economy, including potential restrictions on navigation, degradation of the harbour's visual and ecological character, and the displacement of recreational and traditional marine activities.</p> <p>Given the proposed site's proximity to key tourist attractions, designated bathing areas, and sensitive ecological zones, we believe the development poses a significant and unexamined risk to both the visitor experience and the broader community that depends on it.</p> <p>We are therefore appealing this decision on the grounds that the potential impact on tourism and related businesses has not been adequately assessed or mitigated.</p>	

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

GROUND OFS 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)):

1. Insufficient Environmental Assessment

The claim that the proposed development will have “no significant impacts on the marine environment” is unsubstantiated, as no independent environmental study is referenced to support this conclusion. Robust scientific analysis is essential to evaluate potential risks, including disruption to biodiversity, deterioration of water quality, and changes to seabed sediment. Moreover, the cumulative effects of current and future aquaculture activities within the harbour have not been adequately considered, casting serious doubt on the long-term sustainability of the marine ecosystem.

2. Public Access and Recreational Use

Large-scale aquaculture developments have the potential to limit navigational freedom, disrupt traditional fishing routes, and interfere with recreational use of the harbour. The application provides no clear assurance on how public access will be maintained. Additionally, it is unclear whether key local stakeholders—such as recreational water users, tourism operators, and the wider community—were meaningfully consulted during the licensing process.

3. Economic Risk to Existing Local Industries

Although the applicant projects economic benefits, there is no evidence of a Social Impact Assessment having been conducted to support this claim. The application references the creation of six additional jobs at a processing plant in Waterford, yet fails to account for potential negative consequences on existing local industries such as tourism and traditional fisheries. Without a comprehensive assessment of both benefits and risks, the true economic impact on the local community remains uncertain. 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.

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

The proposed mussel farm lies directly off James Fort, a protected National Monument (NIAH Ref: 20911215), and adjacent to the remains of the historic blockhouse guarding the estuary. This area is of major historical and military importance and likely contains submerged archaeological material, including maritime infrastructure and potential shipwrecks.

Despite this, the application includes no underwater archaeological assessment and shows no evidence of consultation with the National Monuments Service or the Underwater Archaeology Unit (UAU) of the Department of Housing, Local Government and Heritage. This represents a serious procedural oversight. Bottom-culture mussel farming—particularly dredging—poses a high risk of disturbing or destroying archaeological material in situ. The failure to identify, survey, or evaluate these risks contradicts national heritage protection laws and breaches the precautionary principle enshrined in EU environmental directives.

We respectfully request that the licence be suspended until a full archaeological impact assessment, including seabed survey and expert review by qualified maritime archaeologists in consultation with the UAU, is completed.

These heritage sites are of national importance and play a vital role in the town's tourism, underscoring the need for thorough assessment and protection.

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

GROUND OFS 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)):

8. Incorrect Statement Of Designated Shellfish Water

The application inaccurately claims that the proposed aquaculture site lies within a Designated Shellfish Water area. In fact, as confirmed by both Cork County Council and the 2019 Aquafact report and proven on quick review of official designation maps (<https://assets.gov.ie/static/documents/kinsale-map.pdf>), the Lower Bandon Estuary is the only Shellfish Waters designation in the Kinsale area. The proposed site is on the other side of the headland. This misstatement is not minor: it affects regulatory oversight, food safety obligations, and environmental standards.

Under Directive 2006/113/EC and Regulation (EC) No. 854/2004, only shellfish grown in classified production areas may be harvested for human consumption. Since the proposed site is outside any designated or classified zone, its inclusion in the application is misleading and should render the licence invalid on legal grounds.

9. Public Health Concerns

The proposed mussel farm is situated near the wastewater treatment plant outflows at The Bulman (Summercove) and Castle Park, Kinsale. This proximity raises serious concerns under EU water quality directives. No robust risk assessment or monitoring framework appears to have been conducted to ensure compliance with shellfish hygiene standards.

Public health must be a core consideration in marine licensing decisions. A full risk analysis is required to evaluate contamination pathways and safeguard consumer health.

10. Displacement of Traditional Fisheries

The 23-hectare area designated for the proposed mussel farm overlaps with a fishing ground long used by local licensed fishermen deploying crab pots and other static gear. The introduction of aquaculture infrastructure would render this area inaccessible, yet this displacement is not addressed in the licence determination.

The

This disregard for traditional fisheries undermines local livelihoods and may conflict with principles of equitable marine resource management under the EU Common Fisheries Policy. A Marine Resource User Impact Statement should have been undertaken to fully assess socio-economic implications and ensure fair treatment of existing stakeholders.

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

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)):

11. Absence of Operating Agreement with Port Authority

Cork County Council, in its role as Port Authority for Kinsale Harbour, has confirmed that no Operating Agreement was submitted by the applicant. Critical operational details—including vessel movement schedules, dredging protocols, licensing terms, and safety procedures—were not provided to the Harbour Master. In the absence of this information, no formal risk assessment could be undertaken regarding:

Navigational interference

Beaching procedures

Berthing pressure

Granting an aquaculture licence without securing an Operating Agreement from the relevant Port Authority constitutes a serious procedural oversight and undermines the integrity of the licensing process.

12. Sedimentation and Navigation Hazards

Cork County Council identified a mid-channel bar east of the proposed site—a known shallow zone that already constrains vessel navigation. The proposed mussel dredging operations, combined with organic biodeposit accumulation, are likely to exacerbate sedimentation and further narrow this channel, creating a navigational hazard in a high-use recreational harbour.

While annual bathymetric surveys were recommended by Cork County Council, these are not mandated in the current licence. The failure to require ongoing sediment monitoring in such a sensitive and dynamic area is a clear regulatory gap that may compromise safety for all harbour users.

13. Navigational and Operational Safety Overlooked

Under the Fisheries (Amendment) Act 1997, the Minister is legally obliged to consider the impact of aquaculture activities on navigation and the rights of existing marine users. The proposed mussel farm is located at the centre of Kinsale's outer harbour, a critical area currently used for shrimp pot fishing, sailing and training activities by the Kinsale Yacht Club, and outdoor education programmes by the local adventure centre. The site benefits from natural shelter due to prevailing wind patterns, making it particularly safe and suitable for youth training. The introduction of exclusion and no-anchor zones would effectively prohibit these longstanding uses, particularly shrimp pot fishing, within the licensed area. No navigational or operational safety impact assessment has been undertaken to evaluate these operational and navigational impacts. The proposed mussel farm introduces exclusion zones and operational restrictions that would limit access for:

Local fishermen

Recreational Sailors, Kayakers and swimmers

Tour Operators and Outdoor Education Providers

No adequate spatial analysis or stakeholder consultation was conducted to assess the impact of these restrictions. The shared use of Kinsale Harbour—a key element of its social and economic function—has been entirely overlooked in the licence determination.

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

GROUND OFS 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)):

14. Fouling of Raw Water Intakes – Public Safety Risk

The proliferation of mussel larvae (veligers) poses a well-documented risk to raw water intake systems on vessels, especially those moored long-term or used infrequently. Colonisation of these systems can lead to blockages, resulting in engine overheating or failure. This raises serious public safety concerns, particularly with regard to:

Emergency response capacity
RNLI call-out frequency
Harbour user safety

Despite these concerns being raised in the original submission from the Kinsale Chamber of Tourism and Business, the licence makes no reference to this risk, and there is no evidence of consultation with the Harbour Master, RNLI, marina operators, or boat owners. Nor are any mitigation measures—such as buffer zones, seasonal monitoring, or early-warning systems—proposed.

This omission represents a critical procedural failure, and a Marine Navigation Impact Assessment is urgently required before any licence can be deemed valid.

15. Broader Environmental Concerns and Tourism Impact

The application for the proposed mussel farm in Kinsale fails to include a comprehensive Environmental Impact Assessment (EIA) screening, offering only a limited appropriate assessment narrowly focused on adjacent Natura 2000 sites. This is a critical oversight, as it ignores broader environmental factors, including potential impacts on:

Marine mammals and fish populations

Resident and migratory bird species

Recreational water users

Visual and landscape aesthetics

Sensitive coastal habitats, including nearby *Zostera marina* (seagrass) beds

These omissions are particularly significant given Kinsale's status as one of Ireland's premier tourist destinations—a town that not only draws international and domestic visitors in its own right but also serves as a launch point for tourists exploring the wider Wild Atlantic Way and beyond.

The proposed aquaculture site lies adjacent to busy navigational channels and popular recreational areas, yet no marine recreation impact assessment or visual impact study has been carried out. Furthermore, the environmental risk analysis appears to rely on frameworks suited to renewing existing shellfish farms, rather than assessing the introduction of a new dredge-based mussel operation. It also lacks supporting evidence for its claims regarding minimal impact on protected species, such as otters.

In light of Kinsale's ecological sensitivity and strategic tourism value, the failure to carry out a robust and wide-ranging environmental assessment represents a serious procedural and strategic planning gap

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

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)):

16. Intensive Fish Farming and EIA Requirements

The European Commission clarifies in their published guidance document (http://ec.europa.eu/environment/cia/pdf/cover_2015_en.pdf) 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

17. Invalid Risk Assessment for Annex IV Species

The Risk Assessment for Annex IV Species submitted with the application is fundamentally flawed. It assesses the impacts of intertidal oyster trestles, describing structures "rising to approximately 1m above the seabed." However, the current application is for subtidal, bottom-culture mussel farming involving dredging, not intertidal oyster farming. This makes the assessment irrelevant to the proposed activity.

Annex IV species, including the otter (*Lutra lutra*)—which is confirmed to be present in the Kinsale area—are entitled to strict protection under EU law. The assessment fails to evaluate the distinct and potentially severe impacts of dredging, such as disturbance to otter holts, sediment disruption, and loss of aquatic habitat.

By referencing the wrong type of aquaculture, the Risk Assessment is inapplicable and invalid, and it cannot be relied upon to fulfil the licensing authority's obligations under the Habitats Directive.

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

GROUND OFS 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)):

18. Misleading Information in Appropriate Assessment Screening

The Appropriate Assessment Screening for Aquaculture Activities in Kinsale Harbour contains inaccurate information regarding transportation and site access. It states that aquaculture products will be transported by lorry using the national road network, with no effect on Natura 2000 sites. However, the proposed access point is via Dock Beach, which has no infrastructure to support such vehicle access. Use of heavy vehicles here would likely damage the natural beach environment and public amenity. If this transportation information was included in error, the assessment is invalid. If correct, then neither Environmental nor Social Impact Assessments have been carried out for what amounts to a significant infrastructure intervention.

In the Appropriate Assessment Screening for Aquaculture activities Kinsale Harbour County Cork <https://assets.gov.ie/static/documents/05e8b5ec-appropriate-assessment-screening-for-aquaculture-activities-in-kinsale-harbour.pdf> it states (page 4)

"Transportation requirements: Access routes to the aquaculture sites do not spatially overlap with any of the adjacent Natura 2000 sites. The produced aquaculture products are transported offsite by lorry using the existing national road network with no impact on the adjoining Natura 2000 sites"

Although this statement is made in the context of potential impact on Natura 2000 sites, it is clear that there is no infrastructure at the Dock Beach to support lorries. Any use of lorries would completely destroy the natural access to the beach which would necessitate a Social and Economic Impact Assessment as well as an Environmental Impact Assessment of the surrounding area in preparation for the access requirements of lorries onto the Dock Beach.

An alternative explanation is that this information is included in the documentation in error - which would deem both the assessment null and void and the licence awarded.

19. Omission of Impact on Protected Salmonid Species

The application and supporting documents fail to assess the potential impact on Atlantic salmon and sea trout, both of which migrate through the Bandon River estuary. These species are highly sensitive to changes in water quality, sediment disturbance, and underwater noise—particularly from dredging operations. This omission represents a breach of obligations under the EU Habitats Directive and the Water Framework Directive, which require the protection of migratory fish and their habitats. No mitigation measures are proposed, and the absence of assessment for these vulnerable species constitutes a serious ecological and legal oversight.

20. Heavy metals and hydrocarbons

The application provides no details on the frequency or scope of dredging activities, which are known to disturb seabed sediments and release potentially harmful substances such as heavy metals and hydrocarbons. Scientific studies indicate that mussel dredging can generate large sediment plumes and significantly harm benthic ecosystems, yet these impacts are not addressed. The absence of data on sediment characteristics, dredging intensity, and local currents further limits the ability to assess environmental risks. Other overlooked considerations include potential conflicts with existing commercial fisheries and significant disruption to recreational activities such as sailing, kayaking, and swimming.

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

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)):

21. 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.

Conclusion and Request for Licence Review

The application contains serious omissions and factual errors, including misapplied risk assessments and the absence of a full Environmental Impact Assessment. It fails to consider impacts on protected species, migratory fish, otters, navigation, recreation, and tourism—especially concerning in a town of national tourism importance like Kinsale.

We respectfully request that the Aquaculture Licence Appeals Board recommend the licence be rescinded.

Before any revised application is considered, we request the following actions:

- A full Environmental Impact Assessment (EIA), including benthic and pelagic studies, migratory fish surveys, and updated seagrass mapping.
- A detailed cost-benefit analysis, including long-term socio-economic impacts.
- A Social Impact Assessment addressing tourism, fisheries, public amenity, and community health.
- A Marine Navigation Risk Assessment, in consultation with the Harbour Master, RNLi, and marina operators.
- A Cultural Heritage and Archaeological Impact Assessment, including seabed survey.
- Site-specific surveys of otter and salmonid populations and habitat.
- A cumulative impact assessment that considers all existing and proposed aquaculture operations in the harbour. A public consultation plan, with evidence of meaningful engagement with relevant stakeholders.
- A full legal compliance review under the Habitats, Birds, and EIA Directives.
- An infrastructure and access management plan, particularly if access via Dock Beach is proposed.

References

- De Madron, X.D., Ferré, B., Le Corre, G., Grenz, C., Conan, P., Pujo-Pay, M., Busecail, R. and Bodiot, O., 2005. Trawling-induced resuspension and dispersal of muddy sediments and dissolved elements in the Gulf of Lion (NW Mediterranean). *Continental shelf research*, 25(19-20), pp.2387-2409.
- Pastor, A., Larsen, J., Mohn, C., Saurel, C., Petersen, J.K. and Maar, M., 2020. Sediment transport model quantifies plume length and light conditions from mussel dredging. *Frontiers in Marine Science*, 7, p.576530.
- Bromhall, K., Dinesen, G.E., McLaverty, C., Eigaard, O.R., Petersen, J.K. and Saurel, C., 2022. Experimental effects of a lightweight mussel dredge on benthic fauna in a eutrophic MPA. *Journal of Shellfish Research*, 40(3), pp.519-531.
- O'Neill, F.G., Simmons, S.M., Parsons, D.R., Best, J.L., Copland, P.J., Armstrong, F., Breen, M. and Summerbell, K., 2013. Monitoring the generation and evolution of the sediment plume behind towed fishing gears using a multibeam echosounder. *ICES Journal of Marine Science*, 70(4), pp.892-903.
- Dolmer, P., Kristensen, T., Christiansen, M.L., Petersen, M.F., Kristensen, P.S. and Hoffmann, E., 2001. Short-term impact of blue mussel dredging (*Mytilus edulis* L.) on a benthic community. In *Coastal Shellfish – A Sustainable Resource* Proceedings of the Third International Conference on Shellfish Restoration, held in Cork, Ireland, 28 September–2 October 1999 (pp. 115-127). Springer Netherlands.

**ALAB**

An Bord Achomhairc Um
Cheadunais Dobharshaothraithe
Aquaculture Licences Appeals Board

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		
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		Date 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."

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

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://housing.gov.ie/maps.arcgis.com/apps/webappviewer/index.html?id=d7d5a3d48f104ecbb206e7e5f84b71f1>

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.

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.**