

AP1-122-25

**ALAB**

An Bord Achomhairc Um
Cheadúnais 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)

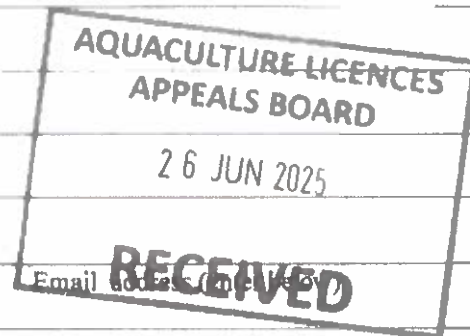
MICHAEL O CONNOR & EILEEN MOLONEY

Address of Appellant

Eircode

Phone No.

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:

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.



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

SUBJECT MATTER OF THE APPEAL	
<p>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.</p> <p>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.</p>	
<p>Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)</p>	T05-472A
APPELLANT'S PARTICULAR INTEREST	
<p>Briefly outline your particular interest in the outcome of the appeal:</p> <p>Dear Sir/Madam</p> <p>I write as an Event Organiser of International Sailing for Events that we have attracted to Kinsale in 20 years bringing international sailing teams and their support operations to Kinsale for training and competition. These events have been funded by Cork County Council, Cork City Council, Port of Cork, Fáilte Ireland and major private sector sponsors associated with the marine, environmental and tourism sectors.</p> <p>The proposed 23 hectare location for the aquaculture license is in the historic sailing grounds of the Middle Harbour seaway used for training and competition. On behalf of all the sailing teams, youth & women and users of the harbour I wish to lodge an appeal to the Aquaculture Licence application identified as T05/472A.</p> <p>The background is as follows:</p> <ul style="list-style-type: none"> I participate as a Committee member of World Sailing elected by the 'Board, the global federation for international sailing events including the Olympics. Involvement in the selection of locations for major sailing events around the world for the last 20 years. Venues and locations are heavily sought-after due to the new green and sustainability agenda and promotion of business and tourism. There have been many <u>changes to the public use of the Harbour</u> and its strategic benefits to the community and business and tourism impact on the region in the intervening years especially since Covid. In this light this application of an Aquaculture License should be considered in terms of current day impact of the use of the Harbour from a business and tourism perspective and include the environmental impact of dredging and on underwater marine 	

archaeology rather than solely from the location of other shellfish licenses (Marine Institute 2019 report)

- Ireland, and Kinsale in particular, has been particularly successful in attracting these major events due to the leisure aspects of the harbour, its marine archaeology and hospitality and quality of life in the Town.
- International Sailing events hosted in Kinsale Harbour and Town and region have been the Flying Fifteen European Championships 2005, the World Sailing Nations Cup 2008, the Clipper Round the World Race 2010 (led by the boat named CORK and sponsored by Cork City and County Councils and Fáilte Ireland), the Dragon Gold Cup 2012, the Cork County Council Disabled Sailing World Championship 2013, and several others (Yachting Monthly Triangle Race, Round Britain and Ireland) and the 2019 International Figaro Race from France and the Dragon Gold Cup (again) in 2024. The latter brought 60 world class boats and 500 crew and thousands of spectators.
- The setting up of a 23 hectare commercial mussel farm operated by dredging in the middle of prime sailing waters will damage the attractiveness of the harbour for sailing and mariners when compared to other locations around the world.
- This will affect the ability to attract major events and visits of cruising boats as it has already been broadcast on social media, will be written up in cruising guides, notices to mariners and propagated by those regions and harbours competing with Kinsale and Cork County Council.
- This has the potential of having a material impact on marine tourism which has been a key strategy of Cork County Council and Fáilte Ireland over the last 20 years.



An additional key area is marine archaeology and preserving Ireland's maritime heritage and preserving the use of the Harbour and its bathymetry over time. Kinsale and its Harbour was the pivotal harbour on the south coast of Ireland from 1600-1850 when the small classic sailing ships found refuge and provisions in Kinsale. Hence the construction of Charles Fort, James

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Fort and the Blockhouse and the UK Naval ship building operation at Castlepark near the current marina.

- During this time there were battles and many ships broke their moorings and sank in Kinsale harbour and over the years the harbour became more silted protecting the wrecks of these classic ships.
- The location of the 23 hectares proposed for the aquaculture project is in the centre of the Middle harbour between Charles Fort and the Blockhouse and directly off James Fort where some seabed has silted up already to create a bar. It is highly likely that there are marine archaeological remains underwater protected in the seabed and therefore we request that a Marine Archaeological Assessment be conducted by the Department to assess the risk of damage to our marine heritage.
- The proposed commercial dredging as the method of harvesting is likely to impact on any marine archaeological remains as well as changing the natural silting patterns of the Harbour. Effectively the mussels are seeded on the sea bottom then dredged by the applicant to dig the animals out of the substrate.
- Dredging of the seabed just outside of the shipping channel will cause sedimentation and silting up or narrowing of the main channel over time or at worst case silting up on a flood tide of the inner harbour and its marinas for fishing, sailing and customs & excise boats.

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. This calls for an **Environmental Impact Assessment** and to be addressed in the context that this area is a Special Conservation Area as identified by the applicant. There is no EIA filing on the EIA Portal which is an omission in the data. An external independent environmental study is called for, to benchmark the impact of biodiversity disruption, seabed impact and sediment alteration. The purpose would be to have a **strategic plan to manage the sustainability of the marine environment**.
2. **Economic Impact and Safety** risk to local Industries. Kinsale and Cork County Council have a major focus on the marine tourism sector. Mussel seed dispersal as a result of dredging infiltrates marinas and the raw water intakes of leisure boats and shipping – cargo vessels, naval fisheries and customs vessels and the fishing fleet. The risks are the degradation of the operational capability and life in an emergency offshore. This has serious costs and a risk to life with operational performance such that shipping would avoid Kinsale.
3. **Marine Tourism would be impacted** and development of watersports for our young and diverse population would be set aside.. Major sailing events would avoid Kinsale and the Middle harbour would be avoided. A prime sailing and cruising location would be lost after decades of development of the brand. The Middle harbour has been described by event organisers and the media as one of the best sheltered sites in Europe – safety, wind, access to a sandy beach and access to high sites for film and video crew by road all around the harbour. It cannot happen with a mussel farm and a bottom dredging operation. At present Ireland holds the World no 1 ranking in sailing with a 21 year old female sailor for the first time ever.
4. **Protecting National Monuments and Marine Archaeological Heritage**. The history of the harbour over 500 years is enshrined with maritime infrastructure and shipwrecks. This centres on the Middle harbour and the area proposed mussel farm. s. 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

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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 licence 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

5. No alternate locations have been considered to mitigate risk and financial and environmental impact on the community – both public and private sector. There are many locations that carry less environmental risk and have less invasive processes. A rack culture/rope web is an alternate and as used in the Netherlands. There are offshore waters as pioneered by MaREI researchers on the WAM project in UCC and funded by BIM in recent years. Ireland has significant marine and coastal resources and there is no good reason to locate this project in the prime Middle harbour in Kinsale with no published EIA report.

The applicant claimed that project will create or support 6 staff in Waterford over 4 years. Against this is the risk to silting the Harbour further to require channel dredging at a cost to Cork County Council and separately less business and tourism revenue to the businesses in and near Kinsale who pay rates, property taxes, VAT and income taxes on behalf of their employees.

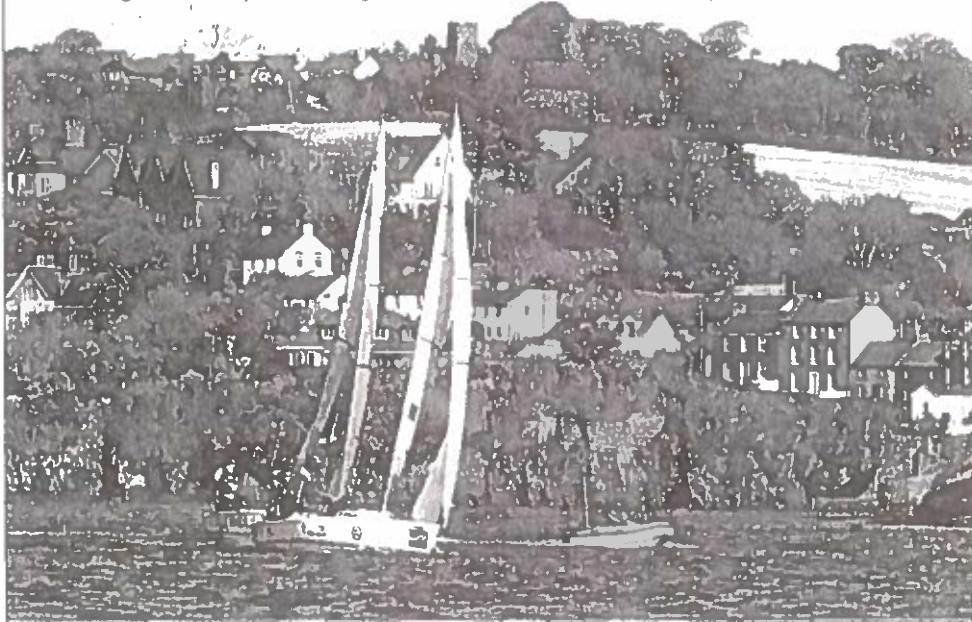
The unknown consequences without further in depth assessment are probably the greatest risk. It is highly likely that this project produces a clear negative economic return to the State and a negative reaction to elected officials involved in the process.

We therefore ask that the licence application T05/472A be considered for revocation or amendment.

Yours sincerely

Michael O'Connor
World Sailing International Judge & Umpire www.sailing.org
Former Board member Cork Chamber
Former Board member and Treasurer of Irish Sailing

World Sailing Nations Cup 2008 racing in the waters of Kinsale harbour subject to the License application





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).

EIA Portal Confirmation Notice is enclosed with this Notice of Appeal

An EIA was not completed in the Application stage/the Project does not appear on the EIA Portal

N/A

Signed by the Appellant x

Date _____

17 June 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.”

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 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=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.