

129/25

**AQUACULTURE LICENCES
APPEALS BOARD**

27 JUN 2025

RECEIVED



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)	Cork County Council	
Address of Appellant	County Hall, Carrigrohane, Cork, T12 R2NC	
C/O County Engineers Section		
Eircode	T12 R2NC	
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	
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. 		



ALAB

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board

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

SUBJECT MATTER OF THE APPEAL	
Draft Aquaculture Licence T05-472A - Aquaculture Marine Shellfish Sea-Bed Culture/Bottom Culture. Woodstown Bay Shellfish Ltd., The Harbour, Dunmore East, Co. Waterford	
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:	
Cork County Council are a Statutory Consultee as per legislation	
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)):	
<p>Please find attached Cork County Council's original statutory consultee submission as part of the Aquaculture Licence application process. Cork County Council is of the opinion that the matters raised in this submission have not been substantially addressed in the conditions pertaining to the draft Aquaculture Licence conditions and respectively request that these matters are fully considered as part of the appeals process.</p> <p>Cork County Council notes the development requires a Foreshore License. Cork County Council reserves its position in relation to matters that may arise in the consideration of same.</p>	



ALAB

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board

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	N/A
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 Appellar+ _____ Date 25/6/2025

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."

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.

Comhairle Contae Chorcaí Cork County Council

Calafort Chionn tSáile, Oifig Mháistir an
Chuain, An Príomh Piara,
Cionn tSáile, Co. Chorcaí, Éire.
Fón: +353 21 477 25 03
kinsale.harbour@corkcoco.ie

Port of Kinsale, Harbour Master's Office
Main Pier, Kinsale, Co. Cork, Ireland.
Tel: +353 21 477 2503
kinsale.harbour@corkcoco.ie



Ann McCarthy

Wine and Spirits

08th March 2019

Re: Application for an Aquaculture Licence for a site in Kinsale Harbour, co. Cork – Woodstown Bay Shellfish - T05/472.

Dear Ann McCarthy,

Please find below list of observations from Cork County Council in relation to the application for an Aquaculture Licence for a site in Kinsale Harbour, co. Cork, ref. T05/472.

1. Designated Shellfish Waters

While aquaculture activities are to be generally welcomed, DAFM should confirm that the area outlined in the application is located within Designated Shellfish Waters as claimed on Pg. 7 of the Application (our records show otherwise) , which states the site *is* within designated shellfish waters. The Applicant should supply relevant S.I. supporting documents. (See figure 1 below)

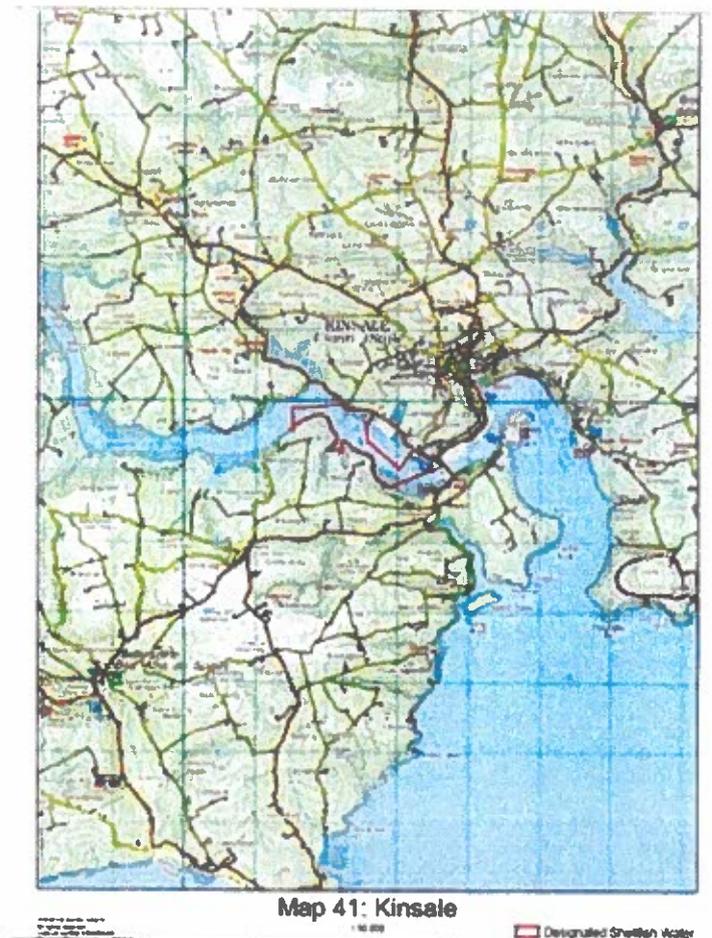


Figure 1: Current delineation of shellfish waters in Kinsale.

From European Communities (Quality of Shellfish Waters) (Amendment) Regulations 2009.

2. Operating Agreement

To this day Cork County Council, as the Port Authority for Kinsale Harbour, has not received communication from the applicant in relation to proposed port operations linked with the commercial exploitation of the proposed site. With a view to issuing an annual Operating Agreement and prior to giving permission for vessels to enter the harbour, CCC will need the applicant to submit details of their operating plan. This shall include, but shall not be limited to:

- 2.1 Vessel details, including: copy of relevant licences, proof of insurance, GMP, crew list, owner and skipper 24h contact details and all other pre-arrival documents
- 2.2 Detailed description and frequency of seeding/ dredging operations including, if relevant, tidal, weather and day time / night time restrictions.

2.3 Berthing, landing and other ports services requirements

2.4 Description of any land based activities taking place in the Kinsale area but outside the remit of port's piers, slipways and other facilities.

3. Fees

Harbour Dues, waste charges, water charges, landing fees and aquaculture site fees may apply to the proposed operations. This will be specified in the Operating Agreement.

4. Bathymetric surveys

In order to monitor potential depths variations due to dredging operations and/or uncontrolled growth of shellfish, CCC would require annual bathymetric surveys of the harbour.

It should be noted there is a mid channel bar to the east of the proposed site, at the widest point of the outer harbour, that restricts navigation. The applicant should demonstrate that there will be no adverse effect on shipping from increased sedimentation at this point.

5. Water quality

In order to monitor the impact on other fisheries (oysters, crabs, lobsters, shrimps, demersal etc.) and other harbour activities (angling, swimming, recreational boating, etc.,) CCC would require regular water quality surveys of the Harbour.

Although Kinsale WWTP was opened in 2011, current classification of this Transitional water body (2012-2015) is "Moderate" and "At Risk" of not achieving Water Framework objectives for this water body. The body was 'Eutrophic' in 2010 to 2012. While there may be an upward positive trend in water quality, there may be a reduction in the 'carrying capacity' of the water body to sustain additional aquaculture activities, without adversely affecting existing aquaculture activities. (See figure 2 below)



Figure 2: Current classification (from www.epa.ie)

6. Archaeological survey

Considering the history of the area and prior to initial seeding/ dredging, CCC would require an archaeological survey of the proposed site.

7. Safety of navigation in the Harbour

- In order to avoid involuntary dissemination and or contamination of the seeded shellfish, the proposed site would have to be designated as a “no anchoring”, “avoid grounding” and “no fishing or pots” area.
- This area should be marked with lit special marks positioned at an interval no greater than 1 cable.
- In the interest of navigation safety, at the south east and north east corners of the site, markers should consist of lit port hand lateral marks similar in size to the current “Spur” mark.
- As a consequence of the the narrowing of the channel caused by the above marking of the proposed site, the dangers on the eastern shore of the channel would have to be marked by at least no. 3 lit starboard hand markers similar in size to the current “Spur” mark. They would have to be located directly opposite the above mentioned no. 3 port hand marks.
- The applicant would have to provide CCC with the above marks and cover regular maintenance and insurance costs. All markers would have to receive statutory sanctions from the Commissioners of Irish Lights.
- In the event of an emergency the proposed site and adjacent beach may be used for the safe “beaching” of vessels. The Operation Agreement would have to stipulate that

neither the Port Authority nor the master or owner of the vessel using this safe beaching area may be liable for damaged caused to shellfish or equipment.

8. Jarley's Cove Beach Amenity

It should be noted by the Licensing Authority that there is a popular beach amenity in close proximity to the proposed site. Cork County Council has concerns there may be an adverse effect on the amenity littoral zone, arising from increased deposition of fine sediment, including pseudofaeces, from the mussel beds. This may result in the beach assuming an unpleasant appearance with malodours, particular during dredging operations. Although currently not statutorily designated bathing water, it is hoped to enhance this beach amenity.

This beach is also a popular site for kayakers and triathalons, the intensification of the use of marker bouys and moorings may adversely affect this activity.

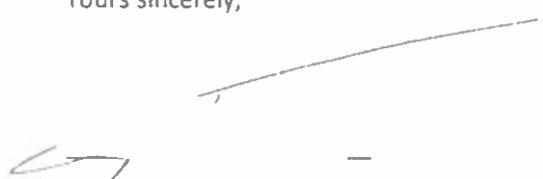
9. Environmental Impact Statement

Having regard to the aforementioned:

- Water designation
- Deficiencies in details of the proposed operation of the activity
- potential impact on tourism and marine leisure
- archaeology and history of the site
- potential visual impact from markers/buoys to provide safe navigation
- impact on Harbour safety management issues
- risk to the adjacent beach amenity
- water quality and carrying capacity

it is the view of Cork County Council Harbour Masters Section, that that the application would greatly benefit from a screening assessment to determine whether the application should be subject to an Environmental Impact Statement, or comfort should be provided by a Ministerial Declaration under Article 5 of the Aquaculture (Licence Application) Regulations, 1998. S.I. No. 236/1998, that an EIS is not required.

Yours sincerely,



Julian Renault

Máistir Cuain Sinsearach | Snr Harbour Master
Comhairle Contae Chorcaí | Cork County Council