

AQUACULTURE LICENCES APPEALS BOARD

27 JUN 2025



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)

RECEIVED

APPEAL FORM

AP1-137-25

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 SUB AQUA CLUB

Address of Appellant

IT

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	

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.



**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	
APPEAL REGARDING GRANTING OF AQUACULTURE LICENCE T05/472A TO WOODSTOWN BAY SHELLFISH AT KINSALE, CO. CORK	
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 SUB AQUA CLUB ORGANISES DIVES AND SNORKELS AT MANY LOCATIONS NEAR THE CLUB BASE AT OYSTERHAVEN, INCLUDING KINSALE HARBOUR. THE CLUB MADE A SUBMISSION WHEN THE LICENCE WAS ORIGINALLY SOUGHT IN 2019.	
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)):	
1) INADEQUACY OF BASELINE ECOLOGICAL DATA INCLUDING EXISTENCE OF SEAGRASS 2) CHANGES IN LEGISLATION RE INVASIVE NON-NATIVE SPECIES MEANS THE APPLICATION IS NON-COMPLIANT IN THIS REGARD SINCE IT IS UNCHANGED FROM 2019. 3) ECOLOGICAL AND SOCIAL IMPACT OF PLASTICS POLLUTION HAS NOT BEEN CONSIDERED. 4) AQUACULTURE ACTIVITY IS INCOMPATIBLE WITH WATER FRAMEWORK DIRECTIVE TARGETS FOR WATER QUALITY IN A TRANSITIONAL WATER BODY. ADDITIONAL PAGES ENCLOSED	

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			
Details of other evidence			
Signed by the Appellant	--	Date	26.6.25
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 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://housing.gov.ie/maps.arcgis.com/apps/webappviewer/index.html?id=d7d5a3d48f104ecbb206c7e5f84b71f1>

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.

Re. Aquaculture Licence Application Ref. No. T05/472A

This document contains observations regarding the recent granting of Aquaculture and Foreshore Licence T05/472A to Woodstown Bay Shellfish with respect to a proposal for mussel aquaculture in Kinsale Harbour, Co. Cork.

The submission is from Cork Sub Aqua Club (Cork SAC). The club is a voluntary organisation and is affiliated to the Diving Ireland, the national governing body for scuba diving in Ireland. In addition to the promotion of scuba diving, snorkelling and other related activities, Diving Ireland is committed to the protection of the aquatic environment. The club boats are moored in Oysterhaven and the area around Kinsale is a focal point for club diving activities.

Dr Tim Butter, a member of Cork Sub Aqua Club for almost 25 years, has a degree in marine biology and MSc and PhD in environmental engineering, and works as a professional ecologist. Dr Butter has used his considerable expertise in this field in assisting the club in the preparation of this documentation.

1) Baseline ecological data

The decision to grant this licence appears to have been taken with no knowledge of the baseline ecological data for the site. What are the existing seabed conditions in the area? What species and benthic communities are present? Are there any notable species present? It is noted, for example, that the only Irish record for the black faced blenny (*Tripterygion delaisi*) is from Kinsale Harbour in an area adjacent to that of the proposed aquaculture activity (source: [Maps - Biodiversity Maps](#), accessed 18 June 2025).

The areas within the proposed aquaculture site are predominantly a sandy, soft, sea bed. The benthic communities that inhabit soft sea beds include a wide range of burrowing species, such as worms and clams, that cannot be seen directly whilst diving. It is important to appreciate that with a soft sediment seabed, the human eye sees an apparently simple two-dimensional habitat on the muddy surface. However, for the animals that inhabit these areas, soft sediments are a complex three-dimensional habitat through which burrowing organisms can move. Soft sediments do also support animals above the sediment, such as various crabs, shrimps and sea snails. The benthic and infauna invertebrate species supported by this habitat are prey to a range of fish species, including commercially important flatfish such as plaice, dab and sole. **All of these species will be lost if the area is converted to mussels.**

Assessment of recent aerial photographs of Kinsale Harbour (for example, on Google Maps), indicated the presence of seagrass (Figure 1). Seagrass meadows are a keystone habitat, important for biodiversity and also carbon sequestration. Seagrass can absorb atmospheric carbon at a rate 35 times more than the same area of tropical rainforest ([Planting hope - How seagrass can tackle climate change | WWF](#)). Furthermore, much of the biodiversity associated with seagrass meadows relates to its function as a nursery habitat for a wide range of commercially important species, including cod, plaice and other flatfish, and lobster. **Due to the importance of seagrass meadows as a habitat, they are scheduled for inclusion in the forthcoming Marine Protected Areas Bill and to sanction the destruction of a seagrass meadow before it can receive due and proper legal protection is inexcusable.**

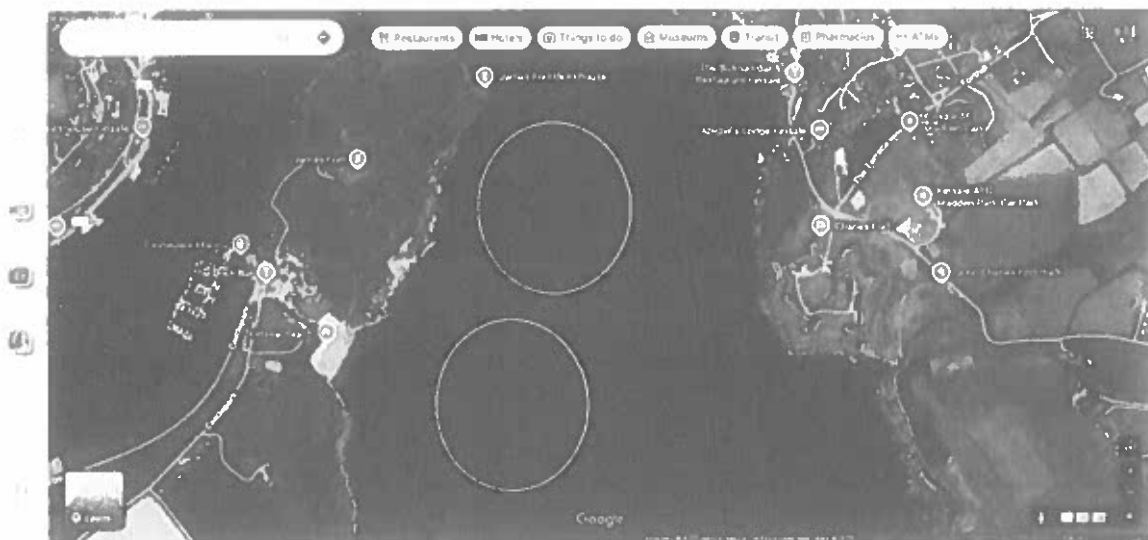


Figure 1. Aerial photograph of Kinsale Harbour. The dark areas circled are indicative of seagrass beds (map courtesy of Google Maps, downloaded 26 June 2025).

The development of a dense ground mussel bed fundamentally alters the entire ecosystem of the area, converting a soft sea bed to a hard sea bed. The Appropriate Assessment screening document indicates that there will likely be a build-up of organic matter within the footprint of the site from faeces and pseudofaeces. Organic enrichment will exacerbate these changes to the site ecology.

The Marine Institute's "Report supporting Appropriate Assessment Screening of Extensive Aquaculture in Kinsale Harbour, Co Cork", that was submitted with the application, states on page 16, with respect to Cormorant, that *"Furthermore, as fish eating species, the potential for the mussel beds to enhance habitat structural diversity and in this way provide greater foraging opportunities for fish eating species cannot be discounted"*. This statement is presented with no evidence to support it. In making a decision to grant this licence, the minister accepted this statement without evidence. Therefore, the contrary position is that the conversion of two rich and biodiverse habitat types (seagrass beds and sandy/muddy sediment rich in burrowing invertebrates) to a mono-culture of mussels will have an extreme adverse impact on "habitat structural diversity". The precautionary principle should apply and a full and proper ecological assessment should be undertaken before a licence is granted.

Without baseline ecological data, it is not possible to predict and quantify the ecological outcome of the proposed mussel aquaculture project.

2) Non-native Species

The Marine Institute "Report supporting Appropriate Assessment Screening of Extensive Aquaculture in Kinsale Harbour, Co Cork" that was prepared in 2019 and submitted in support of the aquaculture licence application states on page 23, Section 4.4 Screening of Potential Effects of Introduction of Non-native Species on Natura 2000 sites, that *"Mussel seed is sourced from seed mussel sites in the Irish Sea only, and will not present a risk of alien taxa introduction"*. **This is quite simply incorrect since the legal situation has changed in the intervening period due to new regulations enacted in 2024.**

Statutory Instrument S.I. No. 374 of 2024 European Union (Invasive Alien Species) Regulations 2024 specifically includes mussel seed as a vector material with regards the potential to spread Slipper Limpet (*Crepidula fornicata*). The applicant describes the source of the mussel seed in the application form as “wild Irish Sea”. Since Slipper Limpet are known to occur in some areas within the Irish Sea ([Slipper limpet \(Crepidula fornicata\) - MarLIN - The Marine Life Information Network](#)), without knowing the actual source of the mussel seed it is not possible for the Marine Institute to stand over the above statement. **If the licence holder were to move mussel seed from a site within 50 kilometres of a known site for Slipper Limpet to Kinsale Harbour, they would be committing an offence under S.I. No. 374 of 2024.**

Furthermore, mussel seed is also a vector for a wide range of other non-native and potentially invasive marine organisms, such as *Sargassum muticum* and *Didemnum* species.

3) Plastics Pollution

Aquaculture activities are recognised as a major source of plastic pollution in the marine environment ([Plastic pollution pathways from marine aquaculture practices and potential solutions for the North-East Atlantic region - ScienceDirect](#)). Plastic pollution from aquaculture results in plastic litter on beaches and also the generation of microplastics and nanoplastics. Recent cleans up in Oysterhaven found drifts of plastic material along the highwater line, mostly in particle sizes that are too small to pick up, and much of it visibly originating from the adjacent aquaculture operations (Figure 2). If the proposed mussel farm were to proceed in Kinsale Harbour, it would be expected that this unsightly and ecologically damaging litter would occur on Kinsale’s beaches too.



Figure 2. Plastic debris at Oysterhaven, Co. Cork, adjacent to licenced oyster aquaculture area.

Plastic litter on beaches is always undesirable and has adverse ecological impacts. However, in a popular tourist location such as Kinsale, there is considerable additional social impact and for this pollution to arise through a state sanctioned project is extraordinary.

Microplastics and nanoplastics are very small particles of plastic that have a very wide range of ecological impacts that even extend to human health. Many marine species ingest micro- and nanoplastics and they can pass up through the food chain to accumulate in apex predators. Humans are known to accumulate micro- and nano-plastics with the full health impacts not known at this point in time. Indeed, cultivated mussels are a significant dietary source of micro- and nano-plastics ([Microplastics and nanoplastics size distribution in farmed mussel tissues | Communications Earth & Environment](#)).

4) Water Framework Directive Considerations

Figure 3 is a map of Kinsale Harbour downloaded from the EPA website on 25 June 2025 ([EPA Maps](#)). The layer shown is for the Water Framework Directive 3rd cycle. It shows Kinsale Harbour to be “At Risk”. The documentation from the Marine Institute that accompanied the application when first submitted stated that there will likely be a build-up of organic matter within the footprint of the site from faeces and pseudofaeces. Furthermore, the dredging required to harvest the mussels will likely cause further degradation of water quality. This opinion is based on previous knowledge of similar projects as there is no information provided by the applicant with regards the nature, duration, occurrence, etc. of the dredging activity required for harvesting and also predator control (dredging was indicated in the application form to be a method to control predators such as crabs and starfish). There was no modelling of sediment release from dredging or water quality impacts of dredging. In the absence of any data to the contrary, the precautionary principle must apply and **the conclusion is that these activities are wholly incompatible with the water quality objectives for an at risk transitional water body such as Kinsale Harbour.**

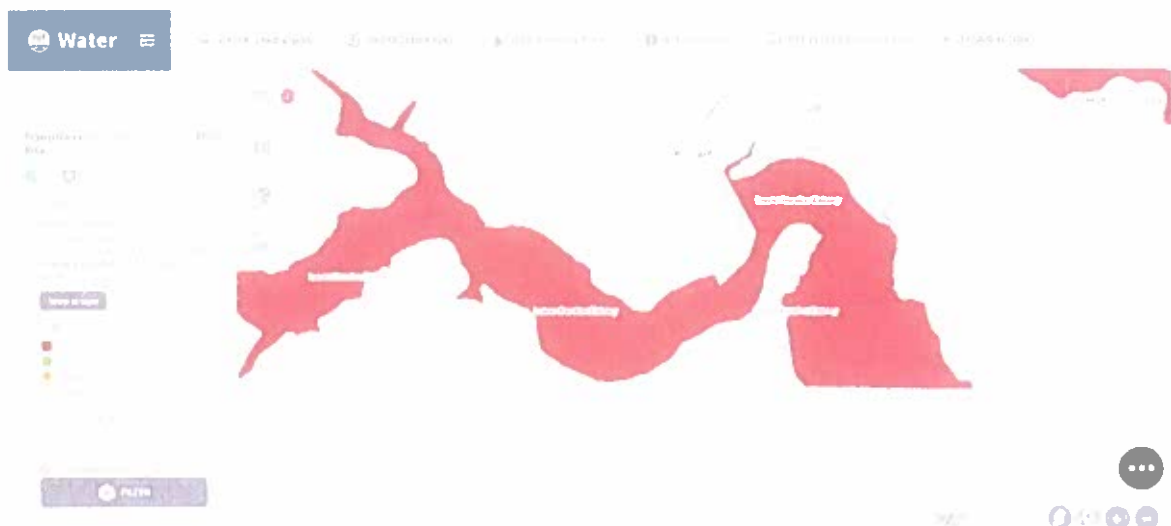


Figure 3. Map of Kinsale Harbour downloaded from the EPA website on 25 June 2025 showing Kinsale Harbour as an “At Risk” transitional water body with respect to the third cycle of the Water Framework Directive.

Summary

Bearing in mind the high importance of tourism to Kinsale, and the comparatively small economic significance of the proposed mussel farm (stated as supporting just six jobs, and those not necessarily in Kinsale), it seems a retrograde decision to grant a licence for such an operation from an economic point of view. Add in the ecological impacts, and the decision amounts to State sanctioned vandalism of the environment. The licence holder may also potentially be guilty of an offence under S.I. No. 374 of 2024 in relation to the movement of mussel seed, a listed vector for the transport of invasive alien species, depending on where the seed is sourced. The activities are also contrary to the requirements of the Water Framework Directive.