

NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)



Appeal Form

**Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices**

Name of Appellant (block letters)	John Harrington		
Address of Appellant	Kush Seafarms Ltd,		
	O'Shea House,		
	New Road,		
	Kenmare,,		
	County Kerry, Ireland		
Phone:		Email:	
Mobile:		Fax:	

Fees

Fees must be received by the closing date for receipt of appeals	Amount	Tick
Appeal by licence applicant	€380.92	
Appeal by any other individual or organisation	€152.37	✓
Request for an Oral Hearing * (fee payable in addition to appeal fee)	€76.18	✓
* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.		
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))		
Electronic Funds Transfer Details	IBAN: IE89AIBK93104704051067	BIC: AIBKIE2D

Subject Matter of the Appeal

Appeal against the granting of licence (Ref AQ143) for site T06/35* operated by Shamrock Shellfish Ltd.

* This site is referred to as both T06/35 and T06/35A in the site application papers dated 5th April 2018, but for avoidance of doubt it is the site covering 2.6353 ha enclosed at the following co-ordinates in Kilmackilloge Harbour that is the subject of this appeal.

074754, 059001 to Irish National Grid Reference point
074485, 059001 to Irish National Grid Reference point
074495, 059099 to Irish National Grid Reference point
074764, 059099 to the first mentioned point.



Site Reference Number: - T06/35*
(as allocated by the Department of Agriculture, Food and the Marine)

Please forward completed form to: Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. Tel: (057) 8631912 Email: info@alab.ie



RL 75557940 2/E



Extracts from Act

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) **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.

Appeal Ground 1: Unsustainable density of layout

In 2017 Gary Mc Coy ⁽³⁾ produced a report for the BIM (*Bord Iascaigh Mhara*) on shellfish farming in Kilmackilloge Harbour – the same area in which site T06/35 is located . This report (provisionally) entitled '*Kilmackilloge Harbour 2017 Study*' is currently being held by DAFM (Department of Agriculture, Fisheries and the Marine) and the Board should be able to obtain a copy (it is currently not being given out in full to the general public or appellants).

The Board will be aware of a not dissimilar study carried out in 2013 by AQUAFACT, acting as technical advisors to ALAB in relation to Killary Mussel Licence Renewal Appeal at Site T9/389 ⁽⁴⁾. The UISCE (Understanding Irish Shellfish Culture Environments) 2010 carrying capacity study is also relevant ⁽⁵⁾, as is Nunes et al 2010.⁽⁶⁾

All of the above reports have been seen by Kush Shellfish and the concurring conclusions of them can be summarised thus:

1. Overcrowding has already contributed to a significant decline in mussel growth rates and reduction in mussel quality. There are a number of mechanisms for this, including reduced flow rates of water in and out of the bay a decrease in phytoplankton food as it is consumed by existing farms.
2. Higher densities present a greater risk of disease.
3. High densities employed by one farm will adversely affect other farms nearby.

The licence layout plan for T06/35 has 10 longlines of 110m each (5 double longlines of 220 each) . This is far too high. In fact, expert advice included in the above reports suggests that no additional lines should be considered in the inner Kilmackilloge area. A uniform longline stocking density of 3 longlines per licenced hectares, based on previous original licenced hectares, is an appropriate stocking density for successful growth of all mussels in all farms. 5 longlines per hectare is excessively high.

While there are as yet no formal standards for density at rope mussel farms, it is considered likely that such standards are likely to be imposed in future, certainly within the lifetime of the proposed license. As the Board is likely to be aware, Best Practice has already moved in this direction. For example, through the CLAMS (*Co-ordinated Local Aquaculture Management Systems*) process ⁽⁷⁾:

- Ardgroom Harbour: a self-imposed stocking limit of 2 longlines per hectare at 406 droppers per line
- Killary CLAMS group: stocking limit of 2 long-lines at 110m each per hectare with a maximum of 400 droppers on each.

Appendix 1. Photographs of harvesting craft employed.

