

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)	COOLEY OYSTERS LTD		
Address of Appellant	MUCHGRANGE,		
	GREENORE,		
	DUNDALK,		
	CO. LOUTH,		
	IRELAND, A91FN50		
Phone:		Email:	
Mobile:		Fax:	N/A

### Fees

<b>Fees must be received by the closing date for receipt of appeals</b>	Amount	Tick
Appeal by licence applicant	€380.92	V
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

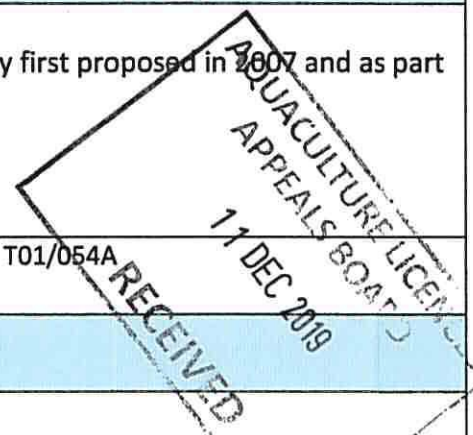
The determination should have been made in light of realignment strategy first proposed in 2007 and as part of aquaculture profile submitted to inform the Appropriate Assessment.

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

T01/054A

Appellant's particular interest in the outcome of the appeal:

Licence applicant



Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

The Ministerial determination relating to licence T01/054A states that the "The Minister had regard to the Marine Engineering Report regarding the unsuitability of the site for the cultivation of oysters using bags and trestles. The following are the reasons and considerations for the Minister's determination to refuse the licences sought: The Site depth is too great, most of the site area is subtidal and at too low an elevation, depths are typically in excess of 2m below chart datum. The substrate is poor on west margins of the sites based on the inspections carried out. There is an issue of safety of attempting to operate on this site given proposed means of access, the poor-quality ground and exposure/excessive depth of the sites. This site is unsuited to trestle and bag oyster culture and it would not be appropriate to licence it for this purpose."

The MED report referred to in the determination was not made available during the public and statutory consultation process which we feel is in contravention to the convention on Access to information, public participation in decision-making and access to justice in environmental matters dictates "that public participation procedures shall include reasonable time-frames for different phases of consultation, allowing sufficient time for informing the public and for the public to prepare and participate effectively during the environmental decision-making."

We further contend that this site renewal/realignment forms an integral part of our farm realignment first requested in 2007. This licence was initially applied for and granted November 1999, based on sight lines and old OSI maps from the 1970's, since then these coordinates have been transformed through a number of coordinate systems and renewals. When the licence was first subject to a modern GPS survey it was identified as effectively being in the wrong place. This realignment was agreed with MED at that time and submitted for approval, but then was caught up in the Birds and Habitats case and was never progressed.

Addressing this issue is not an attempt to gain additional production areas but rather to align the maps with the historic location of the farm. In fact the BIM statement from the statutory consultee responses said "BIM support the renewal of the realigned version of this licence. We note that the proposal for realignment of this site was first submitted in 2007 and again in the aquaculture profile submitted by BIM to the MI to inform the Appropriate Assessment. In our considered view, it is the realigned version that should legitimately be considered for renewal purposes".

The full realignment proposal was again submitted to the Department and the Marine Institute in the Aquaculture Profile which informed the AA.

Signed by appellant:  Date: 09/12/2019

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This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

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

### 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.