

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)	CARROLL O'DONOGHUE	
Address of Appellant	1, RAMPART LANE	
	KINSALE	
	CO.CORK	
Eircode	P17 EF22	
Phone No.	021-2429000	Email address (enter below)
Mobile No.	085-8631000	info@KinsaleNets.com
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	X
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. 		

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

SUBJECT MATTER OF THE APPEAL	
<p>A chairde,</p> <p>I am the Cork County Council approved Harbour Pilot for the Port of Kinsale. I believe that the Mussel Farm is wrong for Kinsale as the spoil disturbed by dredging will very quickly fill the abutting narrow channel making it in time EITHER impossible for commercial craft to use the harbour OR very expensive for the state to continually and frequently dredge the channel. At the bar (by Charles Fort) there is less than 2m under ships I bring in at the best of times (high water and low recent rainfall).</p> <p>I have other serious concerns at the loss of what is effectively a Regional Maritime Hub for commercial, educational and tourism activities in Kinsale harbour and more specifically in the actual area of the farm.</p> <p>As a commercial diver I have found a 17th century anchor (15' long shank) about 300m from the farm site boundary and also a wreck of a steam trawler about 700m from the boundary. (The Underwater Archaeology Unit was notified some years ago by me of these finds).</p>	
<p>Site Reference Number: - (as allocated by the Department of Agriculture, Food, and the Marine)</p>	<p>T05 472A</p>
APPELLANT'S PARTICULAR INTEREST	
<p>Briefly outline your particular interest in the outcome of the appeal:</p> <p>I'm a Kinsale resident of 40 years. For much of that I ran a tourism wildlife/sea-angling charter business. I also run a commercial diving and underwater search/survey company from Kinsale. Finally I am the Cork County Council approved Kinsale Harbour Pilot for the port's commercial, cruise liner, superyacht, military and other visiting traffic.</p> <p>Due this work I have a unique perspective on the negative impacts the mussel farm will have on port traffic and the shipping channel. Also from my own (and others) nautical archaeological finds in the area and Kinsale's unique maritime history I believe not only is there more to be found but Ireland still has yet to fully appreciate the value of our maritime trove.</p> <p>Apart from the de-facto Regional Maritime Hub/Campus that currently exists in the area. But there are also shrimp and other full-time fishermen that work the farm area who will be displaced for 5 part-time jobs.</p> <p>The major commercial gains from this farm will be made abroad such as the restaurant tables of France,etc.,. For this, there will be a huge cost to the local council and state . Unfortunately the sewage infrastructure in Kinsale fails during storms and other events. As with Cork harbour mussel farms, the council will have to pay compensation for downtime required for the mussels to self-cleanse of bacteria from such ongoing events.</p>	
GROUNDS OF APPEAL	
<p>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>	
<p>GROUNDS OF APPEAL: Page 1.</p> <p>I wish to make my appeal under the following headings, and given that I have some photos, please bear with me as I will need to add pages:-</p> <ul style="list-style-type: none"> A) Shipping Channel - silting effects caused by dredged mussel farm spoil. B) De-facto Regional Maritime Hub C) Historical site and Maritime Heritage D) Summary 	

GROUNDS OF APPEAL: Page 2.

A) Shipping Channel - silting effects caused by dredged mussel farm.



The picture, left, was taken by myself as acting pilot aboard m/v BALTIC FIN as she approached the Bar, Kinsale on 04/June/2025. The ship is represented as the dot on centre of the main (coloured) screen - as she passed just abeam Charles Fort.

What is important is the depth reading on the echo sounder at the bottom right hand side of this photo - 2.6 metres depth under the ship at this point and falling. Generally, cargo ships passing the bar entering Kinsale have about this depth below them AT HIGH TIDE. If there has been heavy rain, the water density decreases and the ship may sit even closer to the bottom. If the ship goes too fast it will "squat" and can touch the bottom with serious risk of damage or pollution.

So, given that the mussel farm directly abuts the channel, what you have is guaranteed and fast filling of this channel with sand, silt and sediment - blown into the channel by dredger propeller wash, tides and currents. The only answer is expensive and regular dredging at Cork County councils expense.

An unthinkable side-effect of the loss of a marine training area to a mussel farm is that the public, students and trainees of the marine will now be training in the shipping channel or else deep sea - there is no other suitable training area. To clarify this, the upper harbour/Bandon river already is an Oyster farm, the port itself is a busy working port and the lower harbour is all that remains for the safe training in sailing, swimming, kayaking, wind-surfing, etc.,. This is being taken from everyone to give to a business in exchange for 5 low-level, part-time jobs at a time of effective full employment. Unfathomable!

THIS FARM IS NOT RIGHT FOR THE HARBOUR.
THIS FARM IS A LIABILITY TO THE TAXPAYER.
THE FARM SQUANDERS A VALUABLE, BEAUTIFUL AREA



Pictured left is m/v BALTIC FIN leaving Kinsale, June/2025. She is typical of the coastal traders that visit Kinsale.

Another affect of mussel farms - they, as with Zebra mussels can quickly infest cooling water intakes of ships, boats, coastal intake and outfall pipes and ultimately block them. We are already seeing that from earlier tests for this mussel farm and, as the farm will be regularly seeded, this problem will only be made worse in time.

Anecdotal evidence is that the mussel farm area is NOT GOOD FOR FARMING but the surrounding harbour areas are blighted with mussel growth. Mooring works that I regularly do in the area would support that - moorings and swim-mark risers in the farm are with little growth whereas mooring risers in the inner harbour are overgrown with farm-migrated mussels.

THIS MUSSEL FARM IS NOT RIGHT FOR HARBOUR INFRASTRUCTURE.

GROUND S OF APPEAL: Page 3.

B) De-facto Regional Maritime Campus Hub.


Sections

THE IRISH TIMES

Dún Laoghaire harbour set for €1m watersports campus

Master plan will set out comprehensive and long-term vision for a 'living harbour', says

Expand



Tim O'Brien

Tue Jun 03 2025 - 05:25

Dún Laoghaire-Rathdown County Council

 has signed a €1 million contract for the design and planning of a national watersports campus in [Dún Laoghaire](#) harbour.

The contract is a big step forward in planning for the national watersports campus, which has been an aspiration since the *Stena Line* ferry service left the harbour in 2014.

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Kinsale-based historic Irish Tall Ship 'ILEN' takes young salts to sea, many possibly for the first time. 6/May/2025

On 3/June/2025 the Irish Times announced Dun Laoighaire-Rathdown council's brave visionary move - to invest over €1,000,000 in preparing a master plan to make a National watersports campus from the disused site that was the Stena Ferry site. The plan is to make a living harbour "reflecting the widely held interest in enhancing water sports access and infrastructure", the council said.

Simultaneously unfortunately, the granting of the permission to for the Kinsale mussel farm shows a complete lack, not only of vision, but also of insight to the fact that what is being taken from Kinsale is a de-facto Regional Maritime Campus Hub.

Thanks to the foresight of great people in Kinsale, the County Council, the OPW, the Tourist Board and others, the harbour has been wisely developed over many decades.

Two world-class marinas bring visitors, races and colour from around the world. Now a mussel farm announces their arrival.

The Kinsale Outdoor Education Centre trains young sailors, canoeists, kayakers and others, skills in safety off the golden Dock beach. Now a mussel farm obstructs them.

The inspiring, historic sail-training vessel ILEN sails from Kinsale bringing wellness to many in need and teaches skills to Ireland's nascent mariners. Nearby, Ireland's Olympic-class sailors train in an area that now is to be handed over to mussel farmers.

IS IT ANY SURPRISE THAT THE IRISH NAVY CAN ONLY MAN A SINGLE SHIP FROM A MODERN 7-SHIP FLEET GIVEN THIS LACK OF AWARENESS?

FOR AN ISLAND NATION NOT TO APPRECIATE THE TRAINING OF THOSE THAT GO DOWN TO THE SEA IN SHIPS IS AN ENORMOUS MISTAKE. TO INTERFERE WITH AN ACTIVE, SUCCESSFUL MARINE SCHOOLING AREA FOR A MUSSEL FARM IS A TRAVESTY.

INTERFERING WITH AN ACTIVE AREA OF MARITIME TRAINING IS THE WRONG DECISION.



The Irish Navy can man only one ship from a fleet of 7 due to recruitment issues. Recruits on L.E. P63 - William Butler Yeats training in Kinsale beside planned mussel farm area, 16/May/2025. Urgent understanding of the marine schooling assets/needs of this country is required.

GROUNDS OF APPEAL: Page 4.

C) Historical site and Maritime Heritage.

Battles, forts, Irelands primary port of the 17th and 18th centuries, wrecks, naval dockyards, King James II, William Penn, Churchill, Lusitania,... so much history tied up in one place it is hard to start. A place where convoys formed with emigrants for the New World, a place where American sub-chasers of WW1 formed-up before hunting their submarine prey, a place above which a Spanish memorial flag flies in memory of her sons lost fighting for the town - is now to be a mussel farm.

The seabed of the farm area is sand so any wreckage will be covered. A magnetometer / sidescan sonar survey will not show submerged timber beams or detect submerged items such as bronze fittings, ceramics, etc.. A full sub-bottom profile survey in conjunction with magnetometer and sidescan sonar surveys is the only fully acceptable truthing survey. Was this done? I don't believe so.

For some pre-survey sonar equipment tests in the area over the years I uncovered a 14' long anchor, (about 300 years old), some 400m from the farm site. A stream trawler wreck (possibly early 1900s) was discovered nearby in later tests. (The Irish Underwater Archaeology Unit was notified of these finds). Given this, available records of wrecks lost in Kinsale and the vast maritime history of the port it is my belief that not enough attention has been given to the archaeological potential of the farm site and that further investigative surveys should be done.

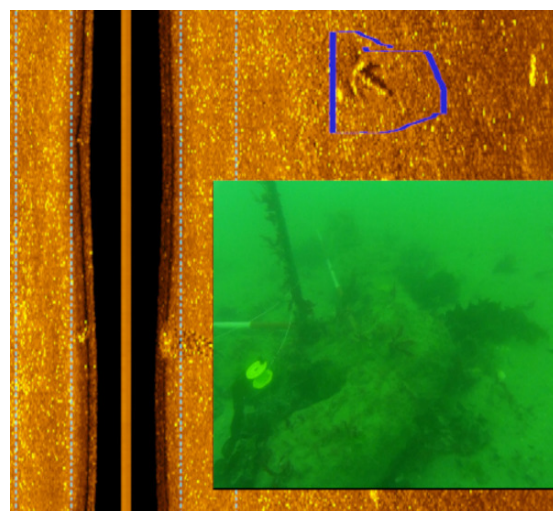


Above: Portion of Map by planners of Queen Elizabeth I record, amongst others features, the ship positions during the siege of Kinsale in 1601. Obviously her planners didn't do much for the town.

The blue quadrangle marks current Irish Planners efforts that will also take greatly from the harbour - with an unwanted mussel farm.

This is an area of great historical significance, currently being effectively used to school Ireland's future mariners and enjoyed for centuries by locals and tourists alike

KINSALE HARBOUR WRECKS: Some of the wrecks recorded lost INSIDE Kinsale harbour include PROVIDENCE (1661), frigate SWALLOW (1692) - she being one of the 3 ships that broke through the boom at the Siege of Derry and whose figurehead is in Kinsale museum, ADVENTURE of London and several other ships in the storm of 1691, DEVONSHIRE (1695), SANTA TRINIDAD (1849), Revenue Barge (1766), RIALTO (1776), ANNABELA (1807), WATERLOO (1848), LORD SANDON (1849), Austrian Brugantine (1851), POLLUX (1867), Sand-barge (1900?).



Above: Sidescan sonar image showing (pencilled in blue) a 300 year old 14' admiralty anchor. Found about 10 years ago, she is lying about 400 metres from the mussel farm and is an indication that there may be more to be found. Inset is a picture of the anchor's large flukes. (Irish Underwater Archaeology Unit notified).

An area of such maritime historic significance deserves at a minimum a full sub-bottom profile survey.

D) Summary.

Woodstown Bay Shellfish Ltd claim that 5 part-time jobs will be created. These part time jobs can be filled from the company own staff so effectively no jobs will be created - just their benefits from increase in scale. However this company benefit comes at a huge cost, as described above, in continual outlay by the County Council for regular required dredging and in compensation to this farm for effluent-caused interruptions. These jobs come at a cost of loss of free access to a much loved aquatic training and sporting area of the town. We happily live in a time of FULL EMPLOYMENT - I support job creation, but not artificial jobs that are simply a drain on the local economy to profit an faceless, remote, uncaring business.

Minister Martin Hayden's claim that the farm will benefit the local economy is a nonsense. One could make a similar claim of advantages for the environment and local economy by the planting potatoes on the lawns of Arás an Uachtarán - Kinsale, like TARA is part of the holy ground at the heart of this countrys essence. Given what the planners have already done to **HILL OF TARA**, (an environmentally friendly motorway through a world heritage site), the analogy is not trivial. Hopefully the minister has learned from such past mistakes. Shameless government giveaways to remote, faceless businesses - (remember the **CORRIB GAS FIELD**) - are not to be repeated. We have an asset in Kinsale, grown by the people of Kinsale that is not to be dumped, diluted or dissolved by you Minister! Please!

Minister Martin Hayden's claim that is is good for the environment is another nonsense - the government has committed to biodiversity in name, but in fact is simply cramming another unwanted shellfish farm into an area that already has a huge oyster farm. (The Oyster farm is clearly marked with hundreds of ugly trestles protruding above the river after mid to low-tide to entertain locals and tourists). This is mono-culture - not biodiversity. In the end there will probably be only one company for shellfish (Imaybe GILLARDEAU) just as there is in effect one company farming salmon in Ireland now - MOWI. This is far from biodiversity, it is a monopoly in the making and this government is working, it appears, for big business against the local Irish citizens and the environment.

This farm is not an addition to the area, it is a replacement for what has been developed by people with vision over the past 5 decades. They built respectfully on what already existed. This outside company cares little for the area - it did not even attend the towns people's meeting on the matter. The farm is another navigation hazard to be considered by visiting yachts, cargo-ships, cruise liners and super-yachts.

Shrimp fishermen will be displaced by this farm, tour boats and charter boats will no longer have the free access to the area with consequences for them and for their clients and tourists. The local marine training schools will similarly no longer have free access to what has been their safe, open, free training areas.

Finally, as mentioned initially, siting a dredge mussel farm such that it immediately abuts to a shipping channel when there is only two metres of water available below commercial shipping is a very regrettable planning oversight with attendant risks of serious pollution from ruptured fuel bunker spillage, wreckage and possible loss of life. Even if the channel is dredged, the overall effect for the harbour is the loss of free access to a much loved marine playground, a much utilized training space. The loss to the locality and to the country of the maritime training grounds is far greater that this coalition government seems to understand.



Above: Eltin O'Hea's new vessel MOLLY-O over his lost shrimping grounds. 18/June/2025.

Footnote: Spare a thought for local fisherman Eltin O'Hea who, like his father before, fishes for shrimp. Like most people in Kinsale he, not hearing for years any news from the Planning Office, believed that the mussel farm idea had been laid to rest.

At the end of May 2025 Eltin and his family invested in the family's future by upgrading to a new boat, only to hear that the shrimp grounds he worked for years is to become a mussel farm.

So, the farms 5-part time jobs just cost 1 fisherman his fishing ground and he will be forced to fish further afield. But Eltin is not alone - there are more shrimp fishermen in Kinsale who will also be displaced. They are not included in **Coalition Minister Martin Hayden's** jobs tally calculation. NOTHING ADDS UP HERE!

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	
<p>Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices</p> <p>Payment of fees must be received on or before the closing date for receipt of appeals, otherwise the appeal will be deemed invalid.</p>			

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://housinggovie.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.