



Martin Riordan

Site T6/368A

Appeal

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)	MARTIN RIORDAN		
Address of Appellant	TULLIG BEG KILLORGLIN CO KERRY		
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	<input checked="" type="checkbox"/>
Appeal by any other individual or organisation	€152.37	<input type="checkbox"/>
Request for an Oral Hearing * (fee payable in addition to appeal fee)	€76.18	<input checked="" type="checkbox"/>
* 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

TO DEPARTMENT DECISION TO REFUSE AN  
AQUACULTURE LICENCE APPLICATION REF:  
TD6/368A

AQUACULTURE LICENCES  
APPEALS BOARD  
1 NOV 2018

Please forward completed form to: Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise Co. Laois. Tel: (052) 651911

RECEIVED



Site Reference Number:- (as allocated by the Department of Agriculture, Food and the Marine)	T06 / 368 A
Appellant's particular interest in the outcome of the appeal:	

I THE APPELLANT TO RECEIVE A AQUACULTURE  
LICENCE ON SITE T06/368A

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):

PLEASE SEE ATTACHED DOCUMENTS  
OUTLINING MY APPEAL

Signed by appellant: Martin Jordan. Date: 30-10-2018

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

**Fees must be received by the closing date for receipt of appeals**

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

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



### 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.

The grounds of our appeal are as follows:

1. On the 10<sup>th</sup> October 2011, I forwarded my Aquaculture Licence Application to the Department that pledges to support and develop the fishing industry of the state, now more than 7 years later, with minimal engagement with the applicants in the interim, refuses my application. Where does that leave these pledges, where is the natural justice and fairness in this.
2. It is Government Policy to develop and grow the aquaculture sector. The primary legislation which applies to aquaculture covers food safety and hygiene requirements. The Department has refused our application but has not mentioned any food safety or hygiene issue.
3. That the Department did not consider the application in isolation and on its merits and instead issued a blanket refusal of all application.
4. The application was refused on the assumption of having adverse affect on the environment, yet Dr. McMahon's report of the 9<sup>th</sup> of July states "Significant impacts on the general environment are not considered likely".
5. That the Department acknowledges it does not have sufficient information to adequately assess the environmental impact.
6. That the Department did not consider that this decision is of critical importance to me as it affects my ability to earn a sustainable livelihood.

Outlined hereunder and in the attached correspondence are details of our efforts to engage with the Department throughout the application process with little success.

7. Correspondence forwarded to Minister Creed in June 2018 outlining our serious concerns regarding the Draft Appropriate Assessment for Aquaculture Activities in Castlemaine Harbour. The Minister or his Department did not address my concerns.
8. Correspondence forwarded to Mr. Oisin Kelly, Aquaculture and Foreshore Management Division, again outlining my concerns as to the direction of my application was progressing and to the attitude of the Department of non engagement with the applicants. Again my concerns were not addressed.

I, Martin Riordan have been involved in growing oysters with the last 17 years. It has since become my livelihood. I applied for my first licence in August of 2004 (316 A – 1 Hectore), I was approved of this licence in July 2013, it took 9 years for this to be granted , during that time I was advised by the Social Welfare Department to contact the South Kerry Development to go self employed at oysters.

I then applied for site T6/368 in 2011 because mud flaps started forming on site 316A which created a high mortality level and making working conditions extremely difficult. All reports shown by the Marine Institute on the growing of oysters, states they need to be grown on a higher level.

I need this site T6/368, so that I can continue to provide for my family and not be a burden on the state, and also to be able to create future employment which is sorely needed in this locality.

The following are attached:

Copy of letter to Minister Creed

Copy of letter to Mr Oisin Kelly

Cheque for the amount of 457.10 euro which includes fee of 380.92 euro and the oral hearing fee of 76.18 euro.

Yours Sincerely

Martin J. Riordan

Cromane Lower  
Killorglin,  
Co. Kerry.

Oisin O'Kelly  
Aquaculture and Foreshore Management Division  
Department of Agriculture, Food and the Marine  
Clogheen,  
Clonakilty  
CO. Cork.

Dear Oisin

I wish to make the following points in relation to your letter of the 16/07/18 about my Aquaculture Application.

1. I note that objections received have generally targeted all applications indiscriminately, on broad environmental grounds. The need for applicants to be able to earn a sustainable livelihood is unfortunately generally overlooked.
2. The Marine Institute letter of the 09/07/18 in relation to my application states on the one hand that "Significant impacts on the general environment are not considered likely", yet goes on to indicate that, based on the Department's draft AA conclusion, Marine Institute is of the view that a license should not be granted. This is to say the least inconsistent and circular thinking.
3. As indicated in our letter sent in June to the Minister, the Department must in our view take a balanced approach to the progressing of such applications, rather than a blanket refusal based on insufficient evidence (as acknowledged in the Department's own draft conclusion). We have suggested an alternative, practical approach, and await a substantive response from the Minister/Department.

Yours Sincerely

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Martin Riordan



428

Tulligbeg/Cromane  
Killorglin  
Co. Kerry

June 2018



Mr Michael Creed T.D  
Minister for Agriculture, Food and Marine  
Kildare Street  
Dublin 2



Dear Minister Creed

**RE: Serious concerns about Draft Appropriate Assessment Statement for Aquaculture Activities in Castlemaine Harbour, Co.Kerry**

This draft statement has been published on your Department's website and has recently come to our attention. It has raised extremely serious concerns on our part as people who are engaged in aquaculture activity in Castlemaine Harbour or who have applied (in some cases many years ago) to do so.

Our concerns can be summarised as follows:

1. The draft proposes on the basis of a Marine Institute assessment to grant just one out of the 98 new applications. It states that "The remaining new licence applications for Castlemaine Harbour cannot be authorised as it is not possible to measure the magnitude of the impact of individual licenses which could adversely affect the integrity of the Natura 2000 sites". It also states "In general, there is insufficient data to determine a threshold whereby the cumulative effect of application sites could be "built-up" by consenting applications to a point before an adverse effect on site integrity is beyond reasonable doubt". This is an extreme and unwarranted proposal in our view, and all the more so given that the draft itself is acknowledging it is based on insufficient information.
2. This is a matter of critical importance to us as it affects our ability to earn a sustainable livelihood. We share concerns about the need for environmental protection, but is it not also important to protect employment opportunities where they arise, particularly in an area like this which is been blighted by forced



emigration over the years? This would also be in line with national and regional plans to grow the aquaculture sector.

3. Surely in coming up with a strategy in this area it would be best practice to consult those affected? We are not aware that anyone operating in the sector here, or who has applied to do so, has been consulted in relation to the draft, we certainly weren't.
4. Some outstanding applications have been with the Department for several years - going back as far as 2011 as we understand - without being progressed. In our view the Department must now take a balanced approach to the progressing of such applications, rather than a blanket refusal which would be based as the draft acknowledges on insufficient evidence.

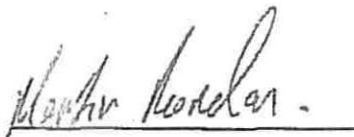
We are willing to work with the Department to develop a pragmatic solution which respects all the factors involved, including environmental considerations but also the need to protect the ability of individuals to earn a livelihood in a sustainable way.

We would suggest that a more practical approach could be to grant licences on an incremental basis, e.g. in groups of 20, with the oldest applications being dealt with first, and accompany this with ongoing assessment of the environment impact if any. Application of "no-go" areas and/or restricted access could also be considered for specified locations if necessary based on clear evidence.

The Department has recently contacted all applicants requesting that they publicise their applications in the local press. We are concerned that this is a prelude to the blanket refusal of all but one application, as outlined above, so we would appreciate your response to this letter as a matter of urgency. Please send all forwarding replies to Martin Riordan, Tulligbeg, Killorglin, Co. Kerry.

Yours sincerely


Martin J. Riordan



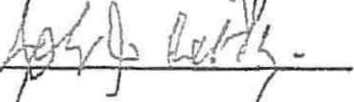
Frank Riordan



Sean O'Reilly



John Joe O'Reilly



John Riordan

A handwritten signature in dark ink, appearing to read 'John Riordan', written over a horizontal line.

Martin Riordan

A handwritten signature in dark ink, appearing to read 'Martin Riordan', written over a horizontal line.



Office of the Minister for Agriculture, Food and the Marine, Dublin 2.

Oifig an Aire Talmhaíochta, Bia agus Mara, Baile Átha Cliath 2.

*June* June 2018

Mr. Martin Riordan  
Tulligbeg/Cromane  
Killorglin  
Co.Kerry

**PLEASE QUOTE REF NUMBER ON ALL CORRESPONDENCE.**

Our Ref: 2018/59777N /PO

Dear Mr. Riordan

I wish to acknowledge receipt of your recent correspondence addressed to the Minister for Agriculture, Food and the Marine, Michael Creed, TD concerning aquaculture activities in Castlemaine Harbour Co.Kerry.

I will undertake to bring your correspondence to the Minister's attention at the next practical juncture. In the interim I have forwarded your correspondence for the attention of relevant Department officials.

Yours sincerely,

Graham Lennox  
Private Secretary

All personal data processed by this Office will take place in accordance with the law on Data Protection and will only be for the purpose(s) connected to the functions of the Office. Further information is available on the Department's Data Protection page:  
<https://www.agriculture.gov.ie/dataprotection/>





Oifig an Ard-Rúnaí  
An Roinn Talmhaíochta, Bia agus Mara, Baile Átha Cliath, DO2 WK12.  
Office of the Secretary General  
Department of Agriculture, Food and the Marine, Dublin, DO2 WK12.

Telephone: (01) 607 2184 / 2134  
Facsimile: (01) 662 1739

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25 June 2018

Mr Martin Riordan  
Mr Frank Riordan  
Mr Seán O'Reilly  
Mr John Joe O'Reilly  
Mr John Riordan  
Mr Martin Riordan  
C/o Tulligbeg/Cromane  
Killorglin  
Co Kerry

Dear Sirs

I acknowledge receipt of your letter to the Secretary General received 19 June 2018, regarding your concerns about Draft Appropriate Assessment Statement for Aquaculture Activities in Castlemaine Harbour, Co Kerry. Your correspondence has been forwarded to the relevant officials in the Department for direct response to you.

Yours sincerely

Siobhan Ball  
Private Secretary to Secretary General

An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine



Mr Martin Riordan,  
Tulligbeg,  
Killorglin,  
Co. Kerry

11<sup>th</sup> July, 2018

Dear Mr Riordan,

I refer to your letter dated June 2018 which was received by the Department on 27<sup>th</sup> June.

I acknowledge receipt of your observations in respect of the aquaculture and foreshore licence applications for sites in Castlemaine Harbour.

Yours sincerely,

  
Oisín O'Kelly  
Aquaculture & Foreshore Management Division