

An Bord Achomhairc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board



Frank Riordan

Site T6/369A

Appeal

Cúirt Choill Mhinsí, Bóthar Bhaile Átha Cliath, Port Laoise, Contae Laoise, R32 DTW5
Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5

Guthán/Telephone: 057 8631912 R-phost/Email: info@alab.ie Láithreán Gréasáin/Website: www.alab.ie

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)	FRANK RIOR DAN		
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) <small>* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.</small>	€76.18	<input checked="" type="checkbox"/>
(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 Department Decision
to Refuse a Licence



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



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

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

TO RECIEVE AN Aquaculture
LICENCE FOR SITE T09/369A

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):

ATTACHED

Signed by appellant: Fred Proctor Date: 25-10-18

**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 my appeal are as follows:

1. I forwarded an Aquaculture License Application to the department on October 10th 2011. After little communication over such a long period of time, I am now informed that this application has been refused, 7 years later. Where is the natural justice and fairness here, from a department that promises to support and develop the fishing industry.
2. That the department itself realises and acknowledges it does not have sufficient information to adequately assess the environmental impact.
3. It is government policy to nurture and advance the aquaculture sector. The department has refused this application but has not mentioned any food safety or hygiene issues, which are the primary legislative requirements that apply to the aquaculture sector.
4. That the department didn't consider and evaluate this application alone and instead issued blanket refusal to applications generally.
5. That the department didn't consider that this outcome is of vital importance as it directly affects my ability to earn a sustainable living.
6. Dr. McMahon's report on the 9th of July stated "Significant impacts on the general environment are not considered likely" and although this was stated, the department refused this application on the unfounded assumption of having adverse affect on the environment.

Outlined below and in the attached correspondence are examples of my attempts to engage with the department throughout the application process, with very little success.

7. Correspondence forwarded to Mr. Oisín Kelly, Aquaculture and Foreshore Management Division, described my concerns as to how my application was progressing and to the attitude of the department not engaging with the applicants. None of my concerns were addressed.
8. Correspondence sent to Minister Creed in June 2018 regarding serious concerns with the Draft Appropriate Assessment for Aquaculture Activities in Castlemaine Harbour. I (and others involved) were willing to work with the department to create a solution that would respect all factors involved. The Minister or his department did not respond to these constructive and practical proposals.

In the Castlemaine Harbour area people have made a living from the land and sea for many generations. They were always very aware of their responsibilities to respect nature and the environment around them.

I am acutely aware of the importance of preserving the balance of the nature of the harbour, without this I am unable to earn a sustainable living, I should not be denied this as the harbour is full of rich natural resources.

All I am asking to work is 0.782 Ha, which is a tiny percentage of the overall area of the harbour.

I have attached the following:

Letters to Mr. Oisin Kelly and Minister Creed.

A cheque for €457.10, this includes the Oral Hearing fee of €76.18 and the appeal fee of €380.92

Yours Sincerely,
Frank 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



Frank Riordan

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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.

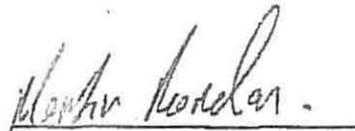
We are willing to work with the Department to develop a pragmatic solution which respects all the factors involved, including environmental considerations but also the need to protect the ability of individuals to earn a livelihood in a sustainable way.

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



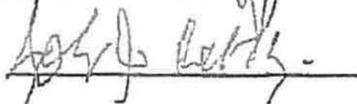
Frank Riordan



Sean O'Reilly



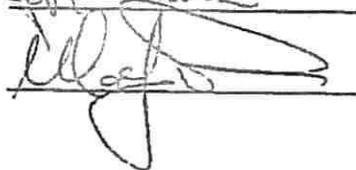
John Joe O'Reilly



John Riordan

A handwritten signature in cursive script, appearing to read "John Riordan", written above a horizontal line.

Martin Riordan

A handwritten signature in cursive script, appearing to read "Martin Riordan", written above a horizontal line.