

An Bord Achomhairc Um Cheadúnais Dobharshaothraithe  
Aquaculture Licences Appeals Board



John J Reilly

Site T6/ 405A

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)	JOHN J REILLY		
Address of Appellant	CROMANE LOWER KILLDRIGIN 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	✓
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

*Refusal of Aquaculture Licence. T06/405A.*



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)	T 06/405A
Appellant's particular interest in the outcome of the appeal:	
Appellant is 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):	
See attached, please.	
Signed by appellant: <u>John J Reilly</u>	Date: <u>01/11/2018</u>
<b>Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices</b>	
<b>Fees must be received by the closing date for receipt of appeals</b>	

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.



The grounds of my appeal of application Ref: T06/405A are as follows:

- 1) As a current license holder and oyster farmer for the past 20 years in Castlemaine Harbour, I forwarded my Aquaculture License Application to the Department in good faith. A Department which claims it pledges to support and develop the fishing industry of the state, however with little or no engagement in the interim has refused my application. What does this say of these pledges? Where are the interests of fairness and justice in this?
- 2) The primary legislation which applies to aquaculture cover Food safety and hygiene requirements. As a current oyster farmer, I maintain strict conditions as laid down by the Marine Institute's Fish Health Authorisation & Shellfish Health Management Plan. The Department has refused my application but has not mentioned any food safety or hygiene issues.
- 3) Over the years I along with others in Castlemaine Harbour have developed a strong much sought-after product which is revered in the French market and further afield. This has taken tireless hard work and endless efforts to develop, therefore to maintain this I am applying for this license. It has slightly different characteristics such as solid ground quality & higher ground level to what I currently work with. These are vital characteristics to maintain and improve the quality of the oyster product. This site application is a direct response to high mortality rates which occurred between 2008 and 2013. There was between 60% to 65% mortality, firstly in seed oyster and then mature oyster, this has been officially recorded by the Marine Institute. Through experimentation and trials, it was found that having the oyster on high solid sandy ground decreased mortality to a minimum during the time at which they were most at risk.
- 4) The Department did not consider applications in isolation or of their own merits and instead issued a blanket refusal of all applications regardless of size or number of applications per applicant. My application Ref T06/405A is a total of 6.3 Hectares. The Draft Appropriate Assessment outlines a total intertidal habitat area to be 4,284.8 Hectares meaning my applications are 0.147% of the total area. Do you believe this is much to ask?
- 5) My application was refused on the assumption of having adverse effect 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".
- 6) That the department acknowledges it does not have sufficient information to adequately assess the environmental impact. As someone who has made a living from the waters of Cromane and Castlemaine Harbour all my life I am acutely aware and conscious of protecting these waters from a potentially negative environmental impact. Surely without this information applications cannot just be simply refused. Would it not be imperative to gather such information before making an uninformed decision?
- 7) The Department did not consider that this decision is of critical importance to us as it affects our ability to earn a sustainable livelihood. Rural Ireland was on its knees in the wake of the economic downturn and is still lagging well behind as the county recovers economically. However, the oyster industry has been an exception and has kept the fishing community of Cromane alive as traditional industries such as salmon fishing and most recently its mussel industry has declined to almost non-existence. As a sole trader I currently employ two fulltime and three partime staff rising to 5 or 6 in summer months. The oyster industry has become my sole income and by being fully tax compliant and creating employment, I believe I am contributing more than my fair share to the local economy

and the larger Government Revenue pool. If this license is refused I will be left at best standing still if not going backwards. If it is granted it will allow me to develop and expand slightly and leave a strong sustainable structure and income for future generations coming through.

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

8) Correspondence forwarded to Minister Creed in June 2018 regarding our serious concerns regarding the Draft appropriate assessment for Aquaculture Activities in Castlemaine Harbour. We outlined our willingness to work with the Department to develop a solution which would respect all factors involved. This would have involved potentially reducing the area of the applications, which I remain open to this type of solution.

The Minister or his Department did not address our concerns.

9) Correspondence forwarded to Mr. Oisín Kelly, Aquaculture and Foreshore management Division, again outlining our concerns as to the direction my applications were progressing and to the attitude of the Department of non-engagement with the applicants.

Again, our concerns were not addressed.

Generation in the Castlemaine Harbour area have made a living from the land and sea, it was always their mantra to "respect nature", they were acutely aware of their responsibilities to the flora and fauna.

It is of paramount importance for us the present caretakers to manage and care for the ecology and to preserve the balance of the nature of the harbour, without it we do not mean to earn a living.

But this should not preclude us from earning such a living from the rich natural resources of the harbour.

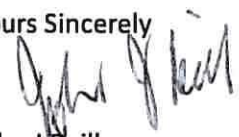
The following are attached:

Copy of letter to Minister Creed

Copy of letter to Mr. Oisín Kelly

Cheque for €457.10 which includes appeal fee of €380.92 and the Oral Hearing fee of €76.10.

Yours Sincerely

  
John J Reilly



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.

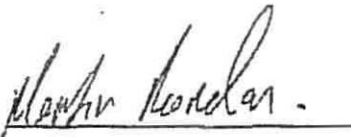
We are willing to work with the Department to develop a pragmatic solution which respects all the factors involved, including environmental considerations but also the need to protect the ability of individuals to earn a livelihood in a sustainable way.

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.

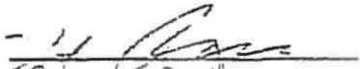
The Department has recently contacted all applicants requesting that they publicise their applications in the local press. We are concerned that this is a prelude to the blanket refusal of all but one application, as outlined above, so we would appreciate your response to this letter as a matter of urgency.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

Yours sincerely

Martin J. Riordan



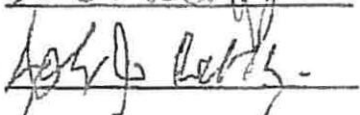
Frank Riordan



Sean O'Reilly



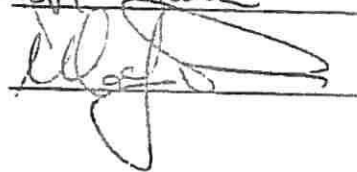
John Joe O'Reilly



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.



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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John Joe O Reilly