



Patrick & Joseph O'Sullivan

Site T6/420

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)	Patrick and Joseph O'Sullivan		
Address of Appellant	Cromane Lower 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 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

APPEALING MINISTERIAL Decision
TO Refuse TO Grant AN Aquaculture
Licence and Foreshore Licence
Tob-420

AQUACULTURE LICENCES
APPEALS BOARD
24 OCT 2018

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

RECEIVED

Site Reference Number:- (as allocated by the Department of Agriculture, Food and the Marine)	Tob - 420
Appellant's particular interest in the outcome of the appeal:	
<p>we currently producing oysters in Castlemaine Harbour Co Kerry To allow sustainable expansion of our business we require site Tob-420 be licenced for the production of oysters.</p>	
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):	
<p>see Attached.</p>	
Signed by appellant:	<p><u>PATRICK Sullivan</u> <u>Joseph Sullivan</u></p>
Date:	<u>22-10-2018</u>
<p>Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices</p>	
<p>Fees must be received by the closing date for receipt of appeals</p>	

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

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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.

Outline the grounds of appeal.

We wish to appeal the Minister's decision to refuse to grant an aquaculture and foreshore licence T6-420 on the following reasons

1. Site T6-420 if granted will not affect the integrity of SAC or SPA. The site T6-420 is located within the "fine to muddy fine sand community complex" area, Macrofaunal benthic communities in Castlemaine SAC. The site T6-420 compromises an area of 9.9 Ha within the large fine to muddy fine sand community complex" area of the SAC. In relation to the SPA, the site T6-420 is not in a bird nesting area or near/adjacent to the important Zostera beds. Access to the site is by boat and will be kept to a minimum to be cognisant of the birds and wildlife.
2. Time frame for Ministerial Decision. This licence application was submitted 17th November 2014. We feel if this application had been processed within an acceptable time frame we would not have been considered and assessed as part of a block of over 100 aquaculture licence applications/reviews that had been allowed to build up with the Department of Agriculture Food and the Marine.
3. Consideration/Assessment of Licence application as part block of 100 applications/ reviews. Our licence application T6-420 was considered and assessed as a block of over 100 aquaculture licence applications/ reviews. Our licence is for a small sustainable area within the Harbour and was not considered on its own merit individually.
4. Sustainable expansion. We currently have a licence to produce oysters within Castlemaine Harbour. Site T6-420 is an application for an area of approx. 9.9 ha. The site applied for is beside our currently licenced site. This area will allow the sustainable expansion of our business. The increased area, if the licence was granted it will allow us to engage in better farm husbandry management practices as advised by the Marine Institute Fish Health Unit. As a result of oyster mortalities in recent years, reduced stock numbers in oyster bags is being advised. The increased area by having site T6-420 licenced with extra area will allow us to ensure we carry out best practice in terms of farm husbandry and fish health.
5. SUMS. The area applied for is currently within a Special Unified Marking Scheme where a number of oyster producers have come together to group mark oyster sites for navigational safety.
6. Recreational use/area. The site T6-420 is not in an area used by marine recreational users.
7. Benefits to Locality. The licencing of this site will have many benefits for a rural coastal community including direct revenue from oyster sales, ensuring local full time employment for us and part time employment for others to work on the site, monies being spent on local

suppliers such as fuel, transport capital equipment. We currently employ 2 full time staff with 2 part time during the summer months. The licencing of site T6-420 will continue to allow us and our employees live and work in a community. Where we were born and raised in.

Should you require any further information please feel free to contact us at anytime. We would be more than happy to facilitate a site visit to the area if you though that would be beneficial.

Thanking You

Patrick Sullivan - Joseph Sullivan

Patrick O Sullivan & Joseph O Sullivan