

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)	National Inshore Fishermen's Association CLG (NIFA)	
Address of Appellant	11 Cois Uisce, Reenrusheen, Cahirciveen, Co.Kerry, V23 H985	
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	X
Request for an Oral Hearing * (fee payable in addition to appeal fee)	€76.18	
<small>* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.</small>		
(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		
<p>The National Inshore Fishermen's Association (NIFA) wishes the appeal the decision to grant the aquaculture licence referenced below to Michael J O' Driscoll and Laura O'Donovan, T/A Ballinskelligs Sea Farms, Reen, Ballinskelligs, Killarney, Co. Kerry have applied for authorisation to cultivate seaweeds using longlines on a 14.7258 hectare site (T06/520A) on an area of foreshore in Ballinskelligs Bay, Co. Kerry</p>		
Site Reference Number:-	T06/520A	



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



(as allocated by the Department of Agriculture, Food and the Marine)

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

NIFA is a national Inshore Fisheries Representative Association. Established in 2017 it now has 160 members Nationally. NIFA has applied to DAFM for formal Producer Organisation Status and is a member of the North West Waters Advisory Council (NWWAC) to the EU. Further information can be found on our website www.inshore.ie

In total we have 29 members based in Kerry including 11 based in South Kerry on the Iveragh peninsula. At the request of, and in consultation with our South Kerry based members the board of directors agreed to lodge this appeal. The original request came from members who felt the decision will have a significant negative economic impact on their business and they weren't consulted adequately prior to the decision being made. Neither NIFA or any of its members were aware of the application until after the closing date of the public consultation and on that basis failed to make a submission during the public consultation

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 separate sheet

Signed by appellant:



Date: 03/11/21

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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

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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) 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.

In the determination notice the Minister outlined that he had made the decision in the belief that it was "in the public interest" we dispute this, further and specifically ,

The determination notice claims that there will be " No significant effects arise regarding wild fisheries". We dispute this. Having obtained from DAFM a copy of the response made by the SFPA as a statutory consultee we are aware that the content of that response concurs with this our position.

Two of our members have relied on this area covered by the sites for the entire of their fishing careers, a period spanning several decades.. These members currently operate from Reen Pier, Ballinskelligs. The decision to grant these licences should the planned development proceed will effectively prevent them from operating in the area covered by the site. Their business have a significant economic dependency on the area

Their dependency is based on the following:

The area is productive fishing ground and operating there accounts for a significant portion of their earnings. The area offers an opportunity to fish in relative shelter during prevailing SW wind. The area close to the shore where the seabed is rough is productive and traditional ground for potting for lobster and velvet crab and fishing with lines and nets for pollack. Slightly further from the shore where the seabed is sand and mud the area is productive and traditional ground for brown crab. In addition to being productive fishing ground the relative shelter allows a safe haven to fish successfully for around 9 months of the year during spells of SW wind and swell. Traditionally these members would have moved gear from West and South West of Hogs Head into this area during spells of unsettled weather, not only to fish it during this weather but to reduce the possibility of it becoming lost or damaged in more exposed locations. No other such location within the scope of their operating range offers such opportunity.

Other members that operate from Bunavalla pier have a similar traditional dependency based on a similar operational pattern

It's common local knowledge, based on accounts of previous fishing operations and those of recreational divers that a scallop bed exists in the area. While that bed is not currently being exploited it offers potential for our members and indeed the wider Kerry Inshore

The determination Notice claims that "The proposed development should have a positive effect on the economy of the local area;" we dispute this.

While (if successful) the development may benefit the applicants and have some further downstream benefits, it will have a negative impact on existing proven and successful traditional fishing activity, and it's associated downstream benefit. The anticipated employment, detailed in the application, that will be created by this development is similar or less than the employment that currently supported by the activity it will negatively effect.

In the application it is claimed that Michael Joe O'Driscoll and his family have a "long and close relationship with the seafaring and the fisheries industry" and that Michael would have spent "much of his youth working in the local inshore fisheries". As with most Inshore fishing communities the

one in South Kerry is close knit, and despite the claims made in the application, Michael O'Driscoll and his long standing relationship with the local fishing industry is not known to any of our ten South Kerry based members. The two members we have with the highest dependency on the area operate from Reen Pier Ballinskelligs and despite as outlined in the application that Michael O'Driscoll lived "almost on the head of Reen pier" neither of these members have ever met him on the pier and have confirmed that he never went down the pier to discuss the application with them. In fact to the best of our members' knowledge there was no pre application consultation between the applicants and the local Inshore Fishing Community.

Based on the above we are highly sceptical of any net benefit to the local economy or coastal community.

Furthermore, while the area offers relative shelter from poor weather and prevailing South West winds for Commercial fishing operations for approximately nine months of the year, the area has proven itself not suitably sheltered to safely operate without the risk of loss and damage to fishing equipment during the Winter Months. Based on the extensive, collective experience of Members we believe that this site isn't sufficiently sheltered to locate aquaculture infrastructure on a permanent basis. Additionally the closest piers to the site are Reen and Bunavalla piers neither of which is a "safe haven" suitable for operating fishing vessels from, on a permanent basis. Therefore we are concerned that any infrastructure and equipment located at the site may be prevented from being maintained regularly during the Winter months and that coupled with the exposed location during the Winter creates a high risk of damage and loss to any aquaculture infrastructure located at this site. Potential entanglement (of boats and fishing equipment) with damaged and lost Aquaculture equipment poses a serious risk to the viability and more importantly the safety of our members operations. Lost or damaged aquaculture equipment also poses a risk to the Marine environment that sustains the operations of our members.

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