



AP7/3/2018

Tomás Ffrench

Site Ref: T3/86A, B & C

Appeal

**NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)**

Name and address of appellant:

Telephone:..... Fax:
Mobile Tel:..... E-mail address:

Subject matter of the appeal:

.....APPEALING REFUSAL OF LICENCING OF APPLICATIONS TO3/86 A, B+C
.....IN BANNEW BAY CO. WEXFORD, BASED ON THE FLAWED APPROPRIATE
.....ASSESSMENT......

Site Reference Number:-

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

Appellant's particular interest

in the outcome of the appeal:

.....WANT TO3/86A, B+C LICENCE......

.....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 LETTER AND ASSOCIATED DOCUMENTS. APPROPRIATE ASSESSMENT
.....SERIOUSLY FLAWED, PREVIOUS BIRD ZONE MANAGEMENT PLAN
.....COMPLETELY DISREGARDED. OUR OWN BIRD DATA IGNORED......

Fee enclosed: €380-92 €

(payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture
Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))(See Note 2)

Signed by appellant:.....Lemas French.....Date: 8/8/18.

Note 1: 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.

Note 2: The fees payable are as follows:

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.



08/08/18

Tomás Ffrench

SBS Ltd.

Danescastle

Carrig-on-Bannow

Co. Wexford

Mobile:

Aquaculture Licence Appeals Board

Kilminchy Court

Portlaoise

Co. Laois

RE: SBS Ltd. comments on the Bannow Bay SPA Appropriate Assessment and its Conclusion statement and the refusal of applications T03/86A, B and C.

Dear Sir/Madam,

Find enclosed my completed application form of appeal and several maps along with this covering letter which includes my concerns regarding the validity of the appropriate assessment process that concluded that these applications could not be licenced as they would cause such a disturbance to birdlife that no mitigating measures could remedy that damage.

You may or may not be aware but our company along with other shellfish growers sponsored 3 years of winter bird data collection (2014/2015, 2015/2016, 2016/2017) plus co-sponsored an additional winter bird dataset (2017/2018) and indeed our data was submitted to the Department of Agriculture Food and the Marine (DAFM) in order for them to update their appropriate assessment which in our opinion does not have the required amount of bird field data. We are concerned that in their updated AA they only refer to use of two of the four datasets that we sent viz (2014/2015 and 2015/2016 bird datasets paid for wholly by the oyster growers. This concerns us greatly as it would be logical to use all datasets to strengthen the AA.

Furthermore we were over the course of many years guided to the centre of the bay based on a bird zone management system an area where these applications are now being refused by an appropriate assessment that has completely dismissed the zoning plan. I enclose the original bird zoning plan stamped by the engineering section of the then department of Marine and a letter (**13th September 1993**) telling me that my application (T03/32C) was refused due to it being in one of the bird zones. I am then advised in the same letter that *'should you wish to apply for an alternative site*

please mark on the same map avoiding those areas which are shaded yellow and return map as soon as possible'.

The map clearly shows that the middle of the bay was not deemed important for birds. More information on the zoning is detailed below.

The local community know us and do not object to these applications. Indeed we would hope that oyster farming will develop in a potential tourist food trail in the near future and have an even bigger economic impact in the region. The county council aren't even opposing these sites but it is a very badly cobbled together appropriate assessment that has led to their refusal.

Specific details in the AA process that highlight its weakness.

Site specific data bird data:

SBS has concerns that the limited amount of site specific data for Bannow Bay may affect subsequent confidence in the assessment conclusions. The SPA assessment relies heavily on the research carried out for a previous project: The Effects of Intertidal Oyster Culture on the Spatial Distribution of Waterbirds (Gittings & O' Donoghue, 2012), which for Bannow Bay relied on data from one observer/counter spending four days to studying the bay. The study area for that report did not extend to the whole bay or the entirety of the aquaculture production area.

Assessment assumptions:

We have great concerns with regard to the assumptions underlying the assessment.

The predicted displacements are based on three assumptions (Section 8.25) which we assume must hold true for the final predictions in the assessment to be valid, these are:

- 1. The 2009/2010 low tide counts provide an accurate representation of the species low tide distribution*
- 2. In the absence of intertidal oyster cultivation, the species would be uniformly distributed throughout the available intertidal habitat within subsite 00413.*
- 3. The species are completely excluded from areas occupied by trestles*

Based on local knowledge SBS have the following comments on these assumptions:

- *Assumption 1:* T2009/2010 low tide counts were carried out over 4 low tides: 1 in each October, November and December 2009 and 1 in February 2010. As stated above the limited nature of the site specific dataset may affect subsequent confidence in the assessment conclusions.
- *Assumption 1:* No data appears available on the weather conditions during the low tide counts, weather conditions do influence bird behaviour and inclusion of such data would increase confidence in the assessment outcomes.

licences refused, trestles removed and realignment of trial licences conducted, under the oversight of NPWS who did not object to these amendments.

The long established and clearly understood zones clearly influenced the pattern of applications in the Bay by guiding the industry into the less sensitive areas (as agreed with NPWS). With the exception of the small trial site T03/41/1B, no other renewal, trial site or application overlaps with the wildlife zones as originally agreed and subsequently modified (an additional bird zone was inserted on the bend of the channel traversing the bay) and agreed to in 1999. A review in 2002 by DAFM into licensing identified room for limited expansion. This was in reference to zone 'Y' in the agreement which was an area deemed suitable for aquaculture development as it was 'less sensitive' in relation to birds.

It is also noted that the Areas for Aquaculture Development in Bannow Bay as produced by Department of the Arts Culture and Gaeltacht has a reference on the map to the co-financing of the project through 'LIFE' E.U. funding which is the same reference stated at the bottom of the Duchas produced Bird Usage Map included in the SPA Assessment. So the amendments to the less sensitive zone for aquaculture development and the reaffirmation of the existing wildlife zone boundaries north and further south of the production area was the outcome of an EU funded bird usage study.

To our disbelief all of this zoning has been pushed to the side as if it never existed which surely cannot be correct.

IWeBs data:

Table 2.1 of the SPA Assessment detailing IWeBS coverage in Bannow Bay since 1994/95 to 2013/2014 shows that the minimum target of one count per month for the months September to March inclusive for that period of years would yield 140 counts. However the data available only reaches 35- 37% of that target (35 if the three poor counts are excluded) and the collection effort changes in 2002 (two counters changed to one). The limited amount of site specific data and the variation in collection effort in may affect subsequent confidence in the assessment conclusions.

AA concerns about sedimentation and eutrophication:

In Section 7.3 the SPA Assessment states that *'intertidal oyster and mussel cultivation may cause impacts to benthic invertebrates through sedimentation and eutrophication and this could potentially affect food resources for waterbird species.'* We would suggest that this statement be balanced against the ecosystem services provided by cultured shellfish in the bay and the husbandry practices undertaken by operators in the Bay. The risk of benthic impacts is associated with a high density culture in areas of low flushing. Producers operate at reduced trestle densities in Bannow Bay when compared to other bays in the region. This is in tune with the hydrographic conditions of the bay and serves to mitigate the risk of benthic impacts. As far as we are aware shellfish cultivation fights against eutrophication and does not promote it as is evident in abundant scientific research.

For the AA to state otherwise is another indication of how weak it is. Indeed it would be our belief that the bay would be in a terrible state if it was not for shellfish farming as it would be fully eutrophic.

Feeding areas for Brent geese:

In Section 8.17 the SPA Assessment states that '*Light-bellied Brent Goose were only recorded on two of the four trestle study counts and they showed strongly negative patterns of association with trestles on both these counts.*' Given the reduced monitoring effort (number of tides and number of counters) and the presence of other feeding sources such as *Zostera*, we would suggest that as there may simply be a habitat preference rather than a trestle effect. We see Brent Geese frequently close to trestles and on trestles in Bannow Bay as well as the 'green' shoreline areas.

Conclusion:

We are only seeking limited expansion within the SUMS marking scheme. In particular site 86A and 86B are of particular importance to us as it will provide us with better training (toughening of the oysters) prior to sale (86A) and great meat yields (86B). We access all of these sites either by foot or by boat so we are very environmentally sensitive in our actions.

We have no desire to extend out beyond the SUMS marking poles. The local community know this too.

I feel that the bird zone management plan that did have such a guiding influence on our businesses cannot be simply dismissed nor can the top class bird data that we submitted for updating the AA process.

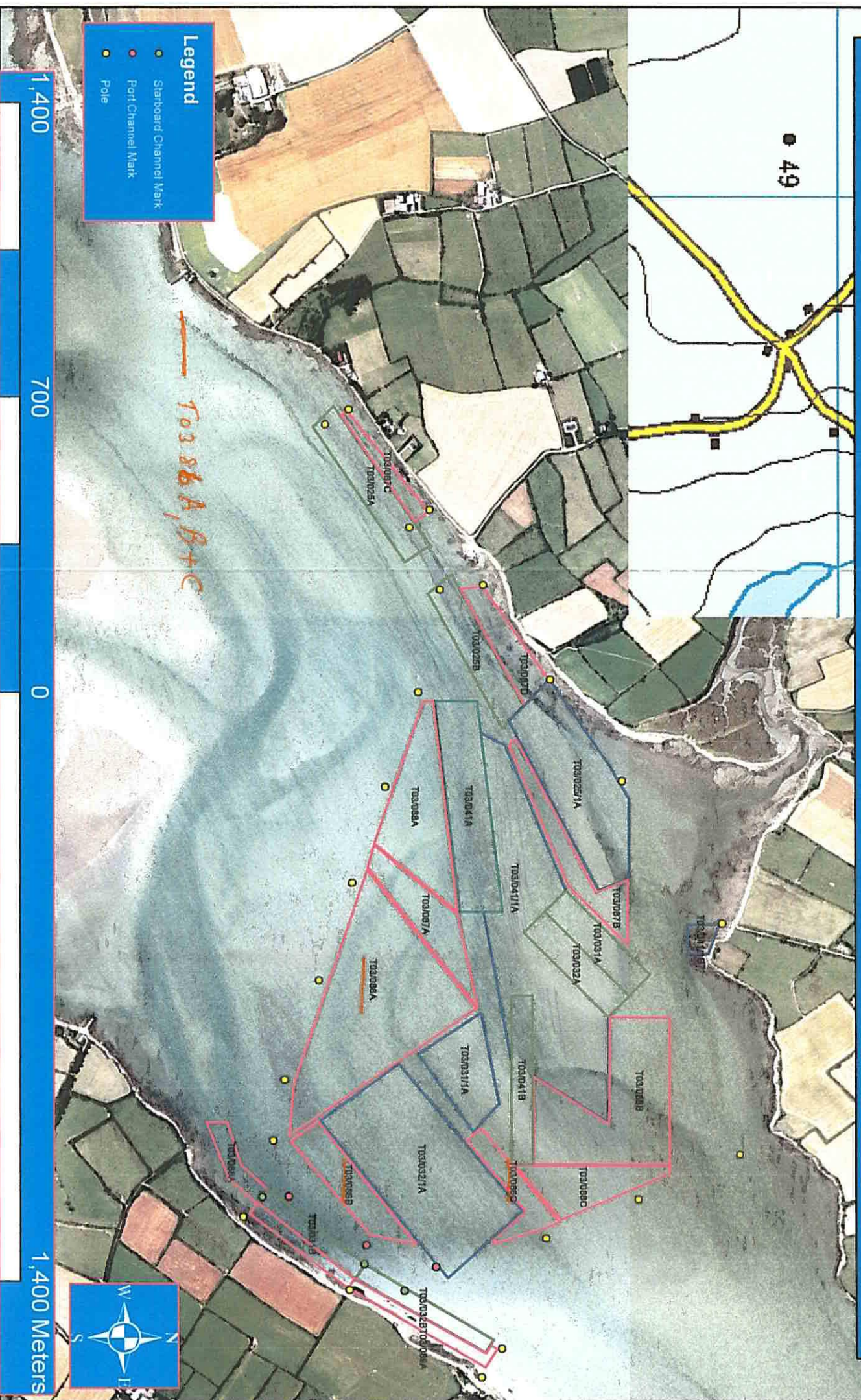
Yours Sincerely

Tomás Ffrench

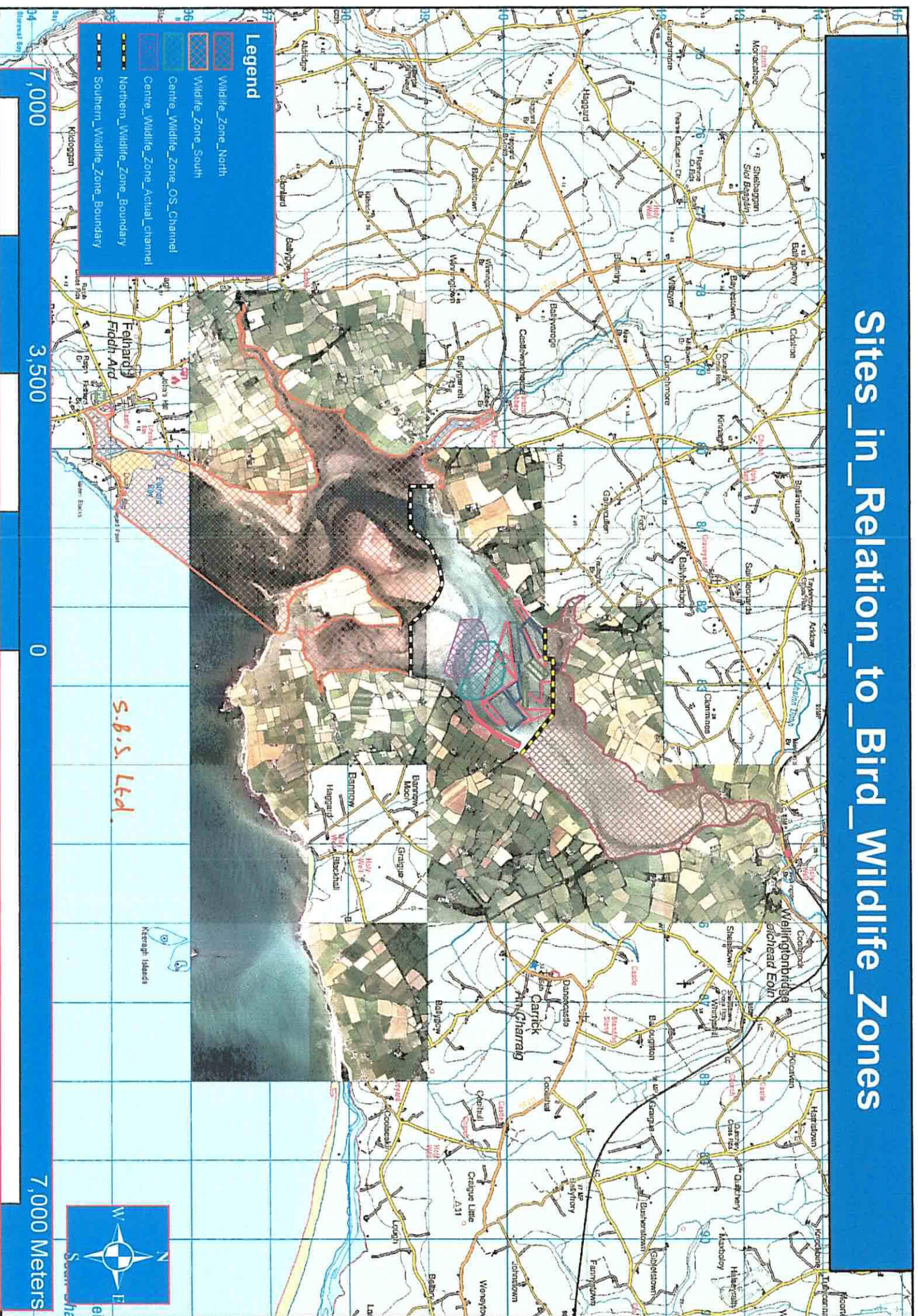
A handwritten signature in black ink, appearing to read 'Tomás Ffrench', written in a cursive style.

SBS Limited

Existing sites (licensed (Green) and trials awaiting full licence (Blue) and new applications (Red)



Sites_in_Relation_to_Bird_Wildlife_Zones



Bannow_Bay_OS_based_Wildlife_Zone vs_Actual_Channel_Wildlife_Zone





Roinn na Mara

Department of the Marine

Lána Chlí Mochargán
Baile Átha Cliath 2

Leeson Lane
Dublin 2

Teileafón (01) 678 5444
Macasamhail (01) 661 8214

Telephone (01) 678 5444
Fax (01) 661 8214

GTN: + 1 18

T3/32

13th September, 1993

Mr. Thomas Ffrench
Danescastle
Carrig-on-Bannow
Co. Wexford

Dear Mr. Ffrench

I refer to your application to this Department to engage in cultivation of oysters in Bannow Bay, Co. Wexford and wish to refer in particular to site number 32C in Bannow Bay.

Unfortunately we are unable to process further your application for this site as the site applied for lies in within an area which the Wildlife Service requested to be kept free of aquaculture due to its importance for bird life.

I have enclosed herewith a map showing marked in yellow the area which should be left clear. Should you wish to apply for an alternative site, please mark same on the map avoiding those areas which are shaded yellow and return the map to me as soon as possible.

Yours sincerely

Carmel Daly
Aquaculture Section

Spécial Bannow Bay Shellfish Ltd

Danescastle, Carrig on Bannow
Co. Wexford

Tel: 051 569517

sbs.bannowbay@gmail.com

Company No: 469235

Nat No: IE 9646400w

