



LIZARD

Landscape Design and Ecology

SHADOW HABITATS REGULATIONS ASSESSMENT

Wilsons Marina, Marine Walk, Hayling Island

On behalf of: Wilsons of Hayling Ltd

Client:	Wilsons of Hayling Ltd			
Project:	Wilsons Marina, Marine Walk, Hayling Island			
Reference:	LLD3024-ECO-REP-002-00-sHRA			
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Validity:

This report is valid for 18 months from the date of the site visit. If works have not commenced by this date, an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.



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SUMMARY

Lizard Landscape Design and Ecology has been commissioned by Wilsons of Hayling Ltd to provide information to assist the Local Planning Authority in their assessment under the Habitat Regulations, of development proposed at Wilsons Marina, Hayling Island (*Located around central grid reference: SZ 7336 9939 – hereafter referred to as 'the site'*).

Given the location of the site within Solent Maritime SAC and Chichester and Langstone Harbours SPA it is understood that Havant Borough Council, as the competent authority, have determined that a Habitats Regulations Assessment is required. This Shadow Habitats Regulations Assessment (HRA) has therefore been provided to address the consultation response in relation to this planning application.

All potential impacts pathways were assessed, resulting in the following impact pathways being scoped in and taken forward to the Appropriate Assessment stage:

- Permanent habitat loss
- Temporary removal of habitats / abrasion of the seabed
- Water pollution
- Noise disturbance
- Visual disturbance
- Litter

Mitigation / preventative measures as described in Section 5 can be secured by planning obligation / conditions, as appropriate. Once these measures have been implemented all impacts shall be reduced to **negligible** levels.

This assessment has considered all potential significant effects that could arise from the development scheme in view of the European sites Conservation Objectives and makes the recommendation that it can be concluded that the project will have **no significant adverse effect** on the integrity and conservation objectives of the relevant identified European designated sites for nature conservation either alone or in combination with other projects.

1.0 INTRODUCTION

- 1.1 Lizard Landscape Design and Ecology has been commissioned by Wilsons of Hayling Ltd to provide information to assist the Local Planning Authority in their assessment under the Habitat Regulations, of development proposed at Wilsons Marina, Hayling Island (*Located around central grid reference: SZ 7336 9939 – hereafter referred to as 'the site'*).
- 1.2 A Preliminary Ecological Appraisal (PEA) of the site was undertaken by Phillips Ecology in January 2022. An updated survey visit to confirm conditions remained as they were during the original PEA was completed on the 24th of August 2023. Winter bird surveys to establish the current levels of use of the site were then completed by this company between November 2023 and January 2024 (see appendix A).
- 1.3 Given the development sites location within Solent Maritime Special Area of Conservation (SAC), Chichester & Langstone Harbours Special Protection Area (SPA) and Ramsar site and adjacent to Chichester Harbour Site of Special Scientific Interest (SSSI), it is understood that Havant Borough Council, as the competent authority, have determined that a Habitats Regulations Assessment is required. This Shadow Habitats Regulations Assessment (HRA) has therefore been provided to address the consultation response dated 02nd of November 2022 in relation to this planning application.

Site Information

- 1.4 The development site area covers approximately 0.15ha of land currently utilised for boat mooring on existing swing moorings. The site lies within Chichester Harbour which surrounds the site to the north, east and west.

Surrounding Landscape

- 1.5 The site is located to the south of Hayling Island, within a channel of Chichester & Langstone Harbour separating the site from Thorney Island and West Wittering to the east. The land to the south and west is dominated by houses, hotels and caravan sites, with land to the north more open comprising woodland with large arable fields separated with hedgerows and trees.

Development Proposals

- 1.6 It is understood that the development proposals include the installation of a new floating pontoon unit to be attached to the eastern side of an existing pontoon. The new floating pontoon shall cover c. 250m², comprising 2.5m pontoon units, with 9m x 1m finger units extending in a northerly direction from the new pontoon frame. The pontoon shall be supported by 4no. 339mm diameter piles, covering a total area of 0.342m², and shall rest on concrete floats at low tide, which shall cover 91.04m².

2.0 LEGISLATION & PLANNING POLICY SUMMARY

- 2.1 Natura 2000 is a network of nationally designated statutory sites within the EU. It is made up of Special Areas of Conservation (SACs), Special Protection Areas (SPAs) designated respectively under the Habitats Directive and Birds Directive and RAMSAR sites. The network includes both terrestrial and marine sites (Marine Protected Areas (MPAs), which are afforded strict protection from the potentially damaging effects of development. As per article 6(3) of the *Habitats Directive (92/43/EEC)*:

“Any plan or project not directly connected with or necessary to the management of the [Natura 2000] site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned.”

- 2.2 The *Habitats Directive* was transposed into UK law through the *Conservation of Habitats and Species Regulations (2017)*, widely referred to as the ‘Habitat Regulations’. Several significant legal precedents have modified the process through which an Appropriate Assessment should be conducted. The most notable of these are the ‘*Waddenzee Case*’, the ‘*Sweetman Case*’ and the ‘*People Over Wind Case*’
- 2.3 Habitats Regulation Assessments can be seen as having a number of discrete stages:
- Stage 1: Screening
 - Stage 2: Appropriate Assessment
 - Stage 3: Assessment of Alternatives
 - Stage 4: Assessment where no alternatives are available
- 2.4 The purpose of the screening stage of the HRA process is to initially identify the risk or the possibility of significant adverse effects on a European site which could undermine the achievement of a site’s conservation objectives and which therefore require further detailed examination through an appropriate assessment. If risks which might undermine a site’s conservation objectives can clearly be ruled out (based on the consideration of objective information), a proposal will have no likely significant effect and no appropriate assessment will be needed.
- 2.5 In order for a development or project to be screened out at Stage 1: Screening there must be no doubt that the scheme will not have any harmful impacts on the special interest of any European Site. In undertaking an assessment of ‘likely significant effects’ under the Habitats Regulations, authoritative case law has established that:
- a. An effect is likely if it ‘cannot be excluded on the basis of objective information’
 - b. An effect is significant if it ‘is likely to undermine the conservation objectives’
 - c. In undertaking a screening assessment for likely significant effects ‘it is not that significant effects are probable, a risk is sufficient’.... but there must be credible evidence that there is ‘a real, rather than a hypothetical, risk’

- 2.6 In a recent authoritative decision in C-323/17 People Over Wind, the Court of Justice of the European Union (CJEU) concluded that it is not appropriate, at the screening stage of a HRA, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European Site. This overrules previously established UK case law which concluded that incorporated measures could be taken into account at this screening stage when judging the risk of a significant effect. These matters can now only be taken into account as part of the appropriate assessment stage of a HRA.

3.0 IDENTIFICATION OF POTENTIAL RECEPTORS

3.1 Designated Sites

- 3.1.1 The following statutory protected sites are noted within the anticipated zone of influence of the proposed site:

Table No. 01 – Statutory Protected Sites

Site	Description	Location
Solent Maritime SAC	Designated for Annex I habitats including estuaries, spartina swards and Atlantic salt meadows.	0km
Chichester & Langstone Harbours SPA, RAMSAR, SSSI	The site supports important numbers of breeding little tern, common tern and sandwich tern. The site also supports important numbers of overwintering wildfowl and waders including bar-tailed godwit and dark-bellied brent geese, as well as regularly supporting in excess of 20000 wintering wildfowl and waders.	0km
Solent and Dorset Coast SPA	The site supports internationally and nationally important numbers of breeding sandwich tern <i>Thalasseus sandvicensis</i> , common tern <i>Sterna hirundo</i> and little tern <i>Sternula albifrons</i> .	c. 1km S
Sandy Point LNR	Sandy Point LNR is made up of sand dunes, heathland, shingle, grassland, and scrub. These fragile habitats offer a glimpse into how Hayling Island's southern foreshore would have once looked.	c. 1.5km SE

Site	Description	Location
Sinah Common SSSI	The site is notified for its coastal habitats including the following: pioneer shingle vegetation, maritime shingle grassland which includes dry acid grassland and lichen rich acid grassland, mobile dune, semi-fixed dune, dune heath and an associated small area of saltmarsh. The site is also notified for a range of endangered and nationally scarce plants.	c. 1.7km SW

3.1.2 Given the small size of the site, and the intervening distances, no impacts upon Solent and Dorset Coast SPA, Sandy Point LNR or Sinah Common SSSI are predicted to occur. These sites have been screened out of further assessment.

3.1.3 Based on the proximity to the European designated site, habitats present within the proposed construction zone, and with consideration to the potential impact pathways, it is reasonably concluded that Solent Maritime SAC and Chichester & Langstone Harbours SPA, RAMSAR, SSSI may be adversely impacted by the proposed development.

3.2 Solent Maritime SAC

3.2.1 A 11243.12 hectare coastal site which encompasses parts of Hampshire and Isle of Wight, Surrey, East and West Sussex.

Qualifying Features

3.2.2 1130 Estuaries: The Solent encompasses a major estuarine system on the south coast of England with four coastal plain estuaries (Yar, Medina, King's Quay Shore, Hamble) and four bar-built estuaries (Newtown Harbour, Beaulieu, Langstone Harbour, Chichester Harbour). Sediment habitats within the estuaries include extensive estuarine flats, often with intertidal areas supporting eelgrass *Zostera* spp. and green algae, sand and shingle spits, and natural shoreline transitions. The mudflats range from low and variable salinity in the upper reaches of the estuaries to very sheltered almost fully marine muds in Chichester and Langstone Harbours.

- 3.2.3 1320 *Spartina* Swards (*Spartinion maritimae*): Solent Maritime is the only site for smooth cord-grass *Spartina alterniflora* in the UK and is one of only two sites where significant amounts of small cord-grass *S. maritima* are found.
- 3.2.4 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*): The Solent contains the second-largest aggregation of Atlantic salt meadows in south and south-west England. Solent Maritime is a composite site composed of a large number of separate areas of saltmarsh dominated by sea-purslane *Atriplex portulacoides*, common sea-lavender *Limonium vulgare* and thrift *Armeria maritima*.
- 3.2.5 Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site include:
- 1110 Sandbanks which are slightly covered by sea water all the time
 - 1140 Mudflats and sandflats not covered by seawater at low tide
 - 1150 Coastal lagoons * Priority feature
 - 1210 Annual vegetation of drift lines
 - 1220 Perennial vegetation of stony banks
 - 1310 Salicornia and other annuals colonizing mud and sand
 - 2120 "Shifting dunes along the shoreline with *Ammophila arenaria* ("white dunes")"
- 3.2.6 Annex II species present as a qualifying feature, but not a primary reason for selection of this site include:
- 1016 Desmoulin's whorl snail *Vertigo moulinsiana*

Conservation Objectives

- 3.2.7 The conservation objectives of the SAC are defined by Natural England as:

'Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species.
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.'

3.3 Chichester & Langstone Harbours SPA

Qualifying Features

3.3.1 The site qualifies under Article 4.1 (79/409/EEC) due to supporting important breeding numbers of the following species:

- *Sterna albifrons* (Eastern Atlantic - breeding) 4.2% of the GB breeding population 5 year mean, 1992-1996
- *Sterna hirundo* (Northern/Eastern Europe - breeding) 0.3% of the GB breeding population 5 year mean, 1992-1996
- *Sterna sandvicensis* (Western Europe/Western Africa) 0.2% of the GB breeding population 5 year mean, 1993-1997

3.3.2 The site also qualifies under Article 4.2 due to supporting important numbers of overwintering:

- *Anas acuta* (North-western Europe) 1.2% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Anas clypeata* (North-western/Central Europe) 1% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Anas crecca* (North-western Europe) 0.5% of the population 5 year peak mean 1991/92-1995/96
- *Anas penelope* (Western Siberia/North-western/North-eastern Europe) 0.7% of the population in Great Britain 5 year peak mean 1991/92-1995/96

- *Arenaria interpres* (Western Palearctic - wintering) 0.7% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Branta bernicla bernicla* (Western Siberia/Western Europe) 5.7% of the population 5 year peak mean 1991/92-1995/96
- *Calidris alba* (Eastern Atlantic/Western & Southern Africa - wintering) 0.2% of the population 5 year peak mean 1991/92-1995/96
- *Calidris alpina alpina* (Northern Siberia/Europe/Western Africa) 3.2% of the population 5 year peak mean 1991/92-1995/96
- *Charadrius hiaticula* (Europe/Northern Africa - wintering) 3% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Mergus serrator* (North-western/Central Europe) 3% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Numenius arquata* (Europe - breeding) 1.6% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Pluvialis squatarola* (Eastern Atlantic - wintering) 2.3% of the population 5 year peak mean 1991/92-1995/96
- *Tadorna tadorna* (North-western Europe) 3.3% of the population in Great Britain 5 year peak mean 1991/92-1995/96
- *Tringa totanus* (Eastern Atlantic - wintering) 1% of the population 5 year peak mean 1991/92-1995/96
- As well as an internationally important assemblage of birds over winter; the area regularly supports 93230 waterfowl (5 year peak mean 1991/92-1995/96).

Conservation Objectives

3.3.3 The conservation objections of the SPA are defined by Natural England as:

'Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,

- The distribution of the qualifying features within the site.'

3.4 Winter Bird Survey

- 3.4.1 A detailed Winter Bird Survey of land surrounding Wilsons Marina was undertaken over the winter of 2023/24.
- 3.4.2 A total of 24no. species were recorded during the surveys, including a number of species which are qualifying features of the adjacent SPA. Of these species, brent geese, redshank, dunlin, grey plover and curlew were recorded frequently within the wider harbour.
- 3.4.3 Redshank was the only qualifying bird species which was recorded within or immediately adjacent to the proposed construction zone during the survey visits. Full results of the survey are contained within Appendix A.
- 3.4.4 The results of the survey strongly suggest that the footprint of the proposed new pontoon does not contain any habitat utilised by ornithological qualifying features of the SPA.

4.0 SCREENING OF LIKELY SIGNIFICANT EFFECTS

- 4.1 The internationally designated statutory sites identified in Table No. 01 above were subject to a screening assessment, to identify the potential for any 'likely significant effects' to occur in light of the sites qualifying features and conservation objectives.
- 4.2 This screening exercise considers potential impact pathways through which deterioration of the sites qualifying features have the potential to occur. This included, but was not limited to; direct impacts, such as through direct land take or changes directly adjacent to the sites, and indirect effects, such as loss of functionally linked habitat, increased mortality or disturbance of key species and deterioration of designated habitats, such as through air pollution, changes to hydrology, soil chemistry and water quality and quantity. This LSE Assessment has been undertaken using the Natural England Conservation Advice Package for each site, including reference to the Advice on Operations Matrix which identifies pressures associated with the marine activities relevant to the project, and provides a detailed assessment of the feature/sub feature or supporting habitat sensitivity to these pressures.

Table No. 02 – Screening of Likely Significant Effects upon Solent Maritime SAC

Impact Pathway	Assessment of Likely Significant Effect (LSE) of Unmitigated Scheme	Potential LSE?
Permanent Habitat Loss	Construction: The site is located within an area of intertidal mudflats and shingle, both of which are qualifying habitats. The new pontoon shall be kept in position by 4no. 339mm diameter piles, resulting in the permanent loss of 0.342m² of habitat within the SAC. Operation: No further habitat losses shall occur during use of the pontoon.	Yes

Impact Pathway	Assessment of Likely Significant Effect (LSE) of Unmitigated Scheme	Potential LSE?
Temporary removal of habitats / abrasion of the seabed	Construction: Use of spud-legged piling barge is likely to disturb the seabed and the associated sub-tidal feature of subtidal mixed sediment, but the duration of its use will be short, impacts shall be temporary and shall not alter the total extent (2,619 hectares) and spatial distribution of subtidal mixed sediment. Operation: The proposed pontoon shall be supported by 32no. concrete floats, with a total area of 91.04m². The pontoon shall rest on the mudflats at low tide, resulting in the temporary loss of 91.04m² of habitat during this tidal state.	Yes
Changes in suspended solids (water clarity)	Construction: Installation of piles has potential to mobilise sediment and organic particulate matter into the water column during construction, but any occurrence will be localised, temporary and in the direct vicinity of the works within the tidal estuary. Operation: As the scheme shall result in no net increase in the number of moorings, there are no impacts anticipated during operation.	No
Smothering and siltation rate changes (Light)	Construction: Installation of new piles has potential to mobilise sediment and release sediment into the water column during construction, but any occurrence at the scale of this proposal will be highly localised and temporary. Operation: As the scheme shall result in no net increase in the number of moorings, there are no impacts anticipated during operation.	No
Water pollution	Construction: Machinery used during construction has the potential to introduce pollutants into the water course during construction, which could degrade qualifying habitats. Operation: As the scheme shall result in no net increase in the number of moorings, there is no greater risk of pollution arising from fuel / oil spill than existing baseline levels.	Yes

Impact Pathway	Assessment of Likely Significant Effect (LSE) of Unmitigated Scheme	Potential LSE?
Changes in nutrient or organic loading	Operation: As the scheme shall result in no net increase in the number of moorings, there are no impacts anticipated during operation.	No

Table No. 03 – Screening of Likely Significant Effects upon Chichester and Langstone Harbours SPA

Impact Pathway	Assessment of Likely Significant Effect (LSE) of Unmitigated Scheme	LSE?
Permanent habitat loss	Construction: The site is located within an area of intertidal mudflats and shingle. The new pontoon shall result in the permanent loss of 0.342m² of habitat within the SPA. Given the absence of qualifying bird species utilising this habitat during winter bird surveys, no LSE upon qualifying features or their habitat is anticipated. Operation: No further habitat losses shall occur during use of the pontoon.	No
Temporary removal of habitats / abrasion of the seabed	Construction: Impacts during construction may arise from the use of piling barge. Damage to the mudflats and shingle shall be temporary and of very small scale. Operation: The proposed pontoon shall supported by concrete floats, with a total area of 91.04m². The pontoon shall rest on the mudflats at low tide, resulting in the temporary loss of this habitat during this tidal state. Given the absence of qualifying bird species utilising this habitat during winter bird surveys, no LSE on the conservation features of the SPA are anticipated.	No
Killing / injuring of a qualifying bird species	Construction / Operation: The site was found to be very little used by bird species during the winter bird surveys, with no qualifying species present (see appendix A). Given the small scale of the proposals, static nature of the pontoon, and no net increase in moorings overall, no significant effect is anticipated.	No

Impact Pathway	Assessment of Likely Significant Effect (LSE) of Unmitigated Scheme	LSE?
Noise Disturbance	Construction: The surrounding SPA is utilised by high numbers of wintering wildfowl and waders, with significant numbers of qualifying species recorded within 200m of the proposed construction zone (see appendix A). Noise generated by construction, particularly piling activities, may result in disturbance of qualifying species, reducing the time available to forage, and causing un-necessary energy expenditure. Operation: As the scheme shall result in no net increase in the number of moorings, and is located within an existing marina area, noise levels shall be no greater than baseline levels.	Yes
Visual Disturbance	Construction: The surrounding SPA is utilised by high numbers of wintering wildfowl and waders, with significant numbers of qualifying species recorded within 200m of the proposed construction zone. The presence of machinery and contractors in high-viz clothing may result in disturbance of qualifying species, reducing the time available to forage, and causing un-necessary energy expenditure. Operation: As the scheme shall result in no net increase in the number of moorings, and is located within an existing marina area, visual disturbance shall be no greater than baseline levels.	Yes
Litter	Construction: There is a minor risk that packaging and general waste from construction may be blown into the SPA, and that the uptake of microplastics or entanglement may adversely affect qualifying species of the SPA. Operation: The scheme shall result in no net increase in the number of moorings, and is located within an existing marina area with the provision of waste disposal services.	Yes
Water pollution	Construction: Machinery used during construction has the potential to introduce pollutants into the water course during construction, which could degrade qualifying habitats.	Yes

Impact Pathway	Assessment of Likely Significant Effect (LSE) of Unmitigated Scheme	LSE?
	Operation: As the scheme shall result in no net increase in the number of moorings, there is no greater risk of pollution arising from fuel / oil spill than existing baseline levels.	
Changes in nutrient or organic loading	Operation: As the scheme shall result in no net increase in the number of moorings, there are no impacts anticipated during operation.	No

In-Combination Effects

- 4.3 No major plans or projects are anticipated to come forward in the vicinity of the site within the next 5 years, therefore no in-combination likely significant effect has been identified.

Significance of Effects

- 4.4 Based on the above evaluation of potential effects (Table No. 02), the following impact pathways have been scoped in and shall be taken forward to the Appropriate Assessment stage:

- Permanent habitat loss
- Temporary removal of habitats / abrasion of the seabed
- Water pollution
- Noise disturbance
- Visual disturbance
- Litter

5.0 APPROPRIATE ASSESSMENT

5.1 Permanent and Temporary Habitat Loss – H1140 Mudflats and Sandflats not covered by seawater at low tide.

5.1.1 Habitat within the area proposed for pontoon installation predominantly consists of A2.4– intertidal mixed sediment, with small areas of A2.2 - intertidal sand and muddy sand. The recent condition assessment of The Solent SAC concluded that within the SAC as a whole these habitats are considered to be in unfavourable – no change condition, caused by elevated nutrient levels, low infaunal quality index (IQI) in intertidal and subtidal sediments, elevated aqueous contaminants, most notably TBT, a continued decline in extent of saltmarsh; and decrease in extent when compared with historic extent of both intertidal and subtidal seagrass beds. The project shall not result in additional nutrients or aqueous contaminants, nor shall it reduce the extent of saltmarsh or seagrass as this habitat is not present on site. Given the absence of foraging birds within the site area, and relatively coarse sediments which are less suitable for benthic invertebrates, the IQI within the site area is considered to already be low. Given the above factors, the proposed project shall not contribute to further decline in the condition of qualifying habitats within the SAC.

5.1.2 Installation of the new pontoon shall require the installation of 4no. tubular steel piles, each of 339mm diameter. The 4no. additional piles are estimated to result in the direct and unavoidable permanent loss of a total 0.342m² of intertidal habitat within the Solent Maritime SAC. The current extent of intertidal mixed sediment within the estuaries of Solent Maritime SAC is 2,619.08 hectares (26,190,000 m²). The proposed permanent loss of 0.342m² equates to 0.000013%.

- 5.1.3 The proposed pontoon shall be supported by concrete floats, covering a total area of 91.04m². These floats shall rest on the substrate at low tide, functionally removing the habitat and potentially causing compression and degradation of the substrate with each tide. The proposed pontoon is located within an area of intertidal substrate with a high degree of algae and seaweed coverage, which decreases its overall value and suitability for foraging birds.



Figure No. 01 – View of the proposed development area.

- 5.1.4 The onsite habitats were found to support no qualifying bird species, which suggests that the permanent loss of 0.342m², and temporary loss of 91.04m² at low tide, would have no significant effect upon the SPA features or their supporting habitat. Full results of the surveys are as detailed in Appendix A.
- 5.1.5 The quality of the qualifying habitat on site is generally poor, consisting of larger sediment smothered in algal mats and seaweed which further reduces their quality as a foraging resource. Given the very small quantum of development, the overall impact shall be de minimis and will not significantly or adversely affect the total extent and spatial distribution of qualifying habitat, in accordance with the conservation objectives of both the SAC and SPA.

Avoidance / Mitigation

- 5.1.6 All construction vehicles shall access the site from existing hardstanding areas within the marina environment and shall at no time track across the intertidal mudflats / shingle. All measures shall be outlined within the approved CEMP.
- 5.1.7 The location of the proposed pontoon has been chosen to extend landward, between the shore and an existing pontoon. Land to the north of the pontoon is formed of A2.3 - intertidal mud, a habitat which supports a 50% greater number of key taxa than the muddy sand and mixed substrates found within the proposed construction zone. Locating the pontoon in this area avoids impacts to higher value mudflats located to the north of the existing pontoon and ensures that any impacts are restricted to poor-quality frequently disturbed habitat which does not support any qualifying features of the SPA.

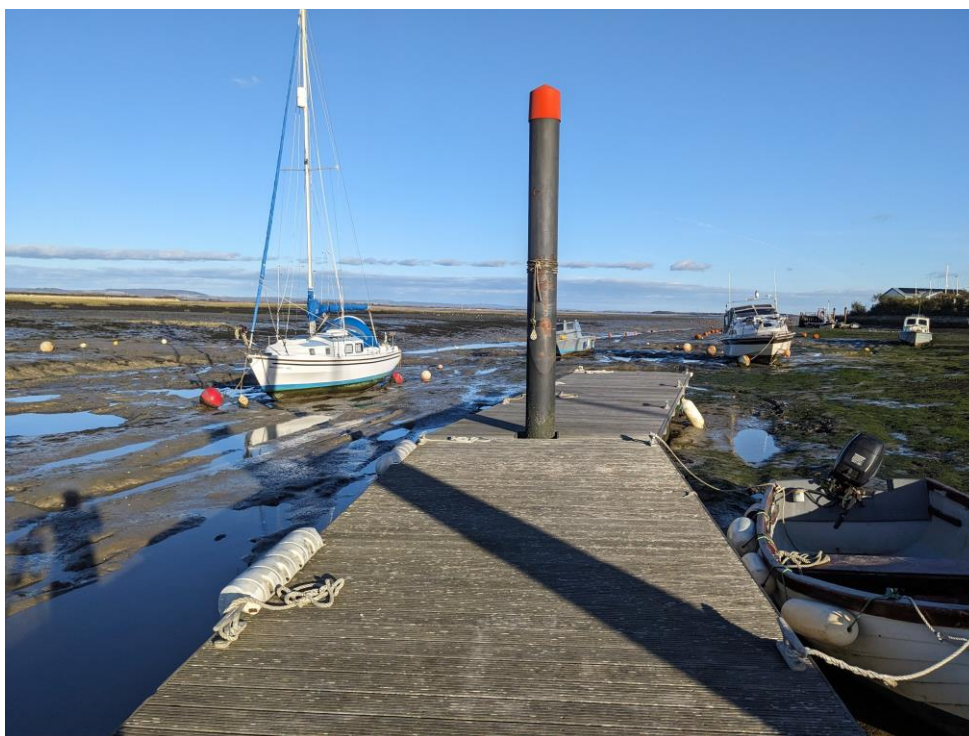


Figure No. 02 – Differentiation between existing poor-quality habitat within the construction zone (right of frame) and higher quality mudflats within the harbour (left of frame).

- 5.1.8 Only coatings and treatments that are suitable for use in the marine environment are to be used in accordance with best environmental practice, reducing the risk of decline in condition of the surrounding habitat.

- 5.1.9 The use of a pontoon fixed by positioning piles shall prevent movement which could cause abrasion of the substrate, and greater impacts would occur should additional moorings be provided via another method, such as additional swing moorings.

5.2 Habitat degradation through water pollution

- 5.2.1 The screening assessment has identified that a Likely Significant Effect may arise from habitat degradation as a result of water pollution during the construction phase, in the absence of mitigation measures.

- 5.2.2 Given the small scale of the site, the impacts would be limited but could adversely affect the conservation objectives of the site by causing a degradation in the quality of qualifying habitat within the SAC. The small quantum of development means that any impacts would be highly likely to be temporary and reversible.

Avoidance / Mitigation

- 5.2.3 All reasonable precautions shall be undertaken to ensure no pollutants enter the waterbody. All works shall adhere to the following measures, which shall be outlined in a Construction Environment Management Plan (CEMP):
- All contractors shall be made aware of the presence of the designated sites, and measures needed to ensure their protection.
 - Any temporary site compound shall be located within an existing area of hardstanding, at least 10m from the waters edge. Storage containers will be located upon impermeable surfaces a minimum of 10m from the waters edge, and not on surfaces in which vehicles will be operating over, to prevent collisions.
 - Procedures must be in place for safe delivery of materials and a known storage place must be confirmed prior to delivery, ensure that suppliers are made aware of this storage location, and all deliveries must be supervised so that procedures are followed.
 - Spill kits will be kept close to delivery and storage areas, suppliers and staff will also be made aware of how to use them. Minimising the time spent handling and movement of materials will reduce the risk of spills.

- Machinery will be kept clean and well maintained to ensure their continued effective usage and fewer rates of failure, potentially causing pollution events.
- Any machinery required for the installation of the pontoon will stay on the hardstanding areas of the boatyard and slip way and will avoid the intertidal mudflat habitat.
- Plant and machinery shall use drip trays which shall be checked and emptied as required to an authorised location.
- A PICP will be produced to include response to spillages of oil, which site staff will have read and understood. Onsite provisions will be made to contain a serious spill or leak through the use of spill kits, booms, bunding and absorbent material. Personnel will be trained on the use of spill kits, where applicable.
- Only coatings and treatments suitable for use in the marine environment will be used on the pontoon.

5.3 Noise and Visual Disturbance

- 5.3.1 Construction activities, in particular piling, are likely to generate noise levels in excess of existing background noise. Noise levels above 70dB have been shown to impact birds up to 300m away; there is therefore the potential for noise to impact areas beyond the site boundaries.
- 5.3.2 Impacts arising from noise and visual disturbance shall be limited to the construction phase, however given the known high sensitivity of bird species such as brent geese and redshank to noise disturbance, works could potentially adversely affect qualifying species within the wider SPA. In the absence of mitigation measures, this could reduce the survivability of bird species by reducing foraging time and causing unnecessary energy expenditure.

Avoidance / Mitigation

- 5.3.3 Installation of the new pontoon shall be timed to occur between 1st April and 30th September to avoid disturbance to overwintering birds which utilise the surrounding SPA. There is no suitable habitat for tern breeding within 300m of the site and as such timing works during the summer shall not impact any qualifying species of the SPA.
- 5.3.4 Where possible, piles shall be installed by vibro piling which produces less noise and vibration than traditional piling techniques. All new piles shall be installed in accordance with best practice guidance to reduce noise and vibrations such as the use of impact dollies between hammer and pile to dampen sound and reduce vibrations. All measures shall be outlined within the approved CEMP.

5.4 Litter

- 5.4.1 Given the small scale of the site, there is a low risk of packaging, wrap etc blowing into the surrounding designated sites during the construction phase.
- 5.4.2 Litter and debris occurring during the construction phase could adversely affect the surrounding qualifying habitats of the SAC, and also cause ingestion which may adversely affect qualifying bird species of the surrounding SPA.

Avoidance / Mitigation

- 5.4.3 Measures for the control of waste and litter during the construction phase shall be outlined within the approved CEMP and shall include measures such as:
- Designated waste disposal points on site;
 - All waste to be removed from site daily or stored in sealed containers to prevent spread into adjacent habitats;
 - All waste materials are to be stored on hardstanding within the marina.
 - All material is to be disposed of at an approved waste site.

6.0 RESIDUAL EFFECTS

- 6.1 Once the above avoidance and mitigation measures are taken into account there shall be no residual likely significant effect upon any surrounding designed site as a result of this development, either alone or in combination with any other scheme or plans.
- 6.2 Taking into consideration the conservation objectives of the SPA and SAC and the significance of the anticipated effects on the characteristics of the qualifying features effected in terms of their sensitivity and vulnerability to potential change, location, distribution and ecological function, it is possible to conclude that the proposal will have no adverse effect on the integrity or conservation objectives of the Solent Maritime SAC or Chichester and Langstone Harbours SPA.

7.0 COMPENSATION

- 7.1 Compensation for the permanent loss of habitat as a result of piling works, and the temporary habitat loss at low tide, shall be provided through the removal of 16no. concrete anchor blocks and associated buoys and chains, each covering an area of c. 0.636m². Furthermore, the 2no. existing pontoon sections located to the south-east of the proposed development site shall be removed. The removal of these features shall result in the restoration of approximately 26.37m² of intertidal habitat.
- 7.2 Further compensation shall be provided through the relocation of 10no. existing swinging moorings onto the new pontoon. The relocation of these moorings shall remove negative impacts currently arising from scour/abrasion during operational activity as there will be no uncontrolled swing of vessels and no mooring chains or anchoring activity to impact the substrate. Recent research by the University of Swansea found that each swinging mooring damaged an area of 122m² of seabed habitat. The relocation of these moorings to fixed points along the pontoon shall therefore represent an overall benefit to habitats within the SAC / SPA.

8.0 CONCLUSION

- 8.1 The conclusions of this assessment work are set out to enable a Habitats Regulations Assessment, such that the competent authority, in exercising its duties under the Habitats Regulations, has all the necessary information to consider the application.
- 8.2 This assessment has considered all potential significant effects that could arise from the development scheme in view of the European sites Conservation Objectives and makes the recommendation that it can be concluded that the project will have **no likely significant effect** on the integrity and conservation objectives of the relevant identified European designated sites for nature conservation, either alone or in combination with other projects and plans.
- 8.3 It is advised that the incorporation of the mitigation / preventative measures as described in Section 5 can be secured by planning obligation / conditions, as appropriate. Once these measures have been implemented all impacts shall be reduced to **negligible** levels. Compensation measures are likely to have a minor beneficial impact upon habitats within the site area in the long-term.

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Appendix A – Winter Bird Survey Results



WINTER BIRD SURVEY REPORT

Wilsons Marina, Marine Walk, Hayling Island

On behalf of: Wilsons of Hayling Ltd

Client:	Wilsons of Hayling Ltd			
Project:	Wilsons Marina, Marine Walk, Hayling Island			
Reference:	LLD3024-ECO-REP-001-00-WinterBird			
Revision:	Date:	Author	Proof	Approved
00	08/02/24	Hayley Swann PgCert	Catherine O'Reilly MCIEEM	Catherine O'Reilly MCIEEM

Disclaimer:

The information provided within this report has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's (CIEEM) Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

This report is intended for the sole use of the Client and their agents in accordance with the agreement under which our services were performed. Unauthorised communication, reproduction or usage of this report by any party other than the aforementioned is prohibited. No liability is accepted by Lizard Landscape Design and Ecology for any use of this report, other than for the purposes for which it was originally prepared and provided. This report does not constitute legal advice. No warranty, express or implied, is made as to the advice in this report or any other service provided by us.

Validity:

This report is valid for 18 months from the date of the site visit. If works have not commenced by this date, an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.



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SUMMARY

Lizard Landscape Design and Ecology has been commissioned by Wilsons of Hayling Ltd to undertake a detailed Winter Bird Survey of land surrounding Wilsons Marina, Marine Walk, Hayling Island (*Grid Reference: SZ 7336 9939– hereafter referred to as ‘the site’*). The aim of these surveys was to assess the likely value of the construction zone and surrounding habitat to qualifying bird species for which the adjacent Chichester and Langstone Harbours SPA has been designated. Winter bird survey visits were completed 24th November and 20th December 2023, and 18th January 2024.

A total of 24no. species were recorded during the surveys, including a number of species which are qualifying features of the adjacent SPA. Of these species, brent geese, redshank, dunlin, grey plover and curlew were recorded frequently within the wider harbour, however redshank was the only qualifying bird species which was recorded within or immediately adjacent to the proposed construction zone during the survey visits.

The surrounding area was frequently used by bird species during the surveys, including large numbers of brent geese. This was despite the high levels of disturbance resulting from boats and commercial activities within the marina. Given the results, it is likely that bird species have become somewhat habituated to human presence in this area.

In the absence of mitigation, development may result in impacts arising from direct habitat loss, disturbance and pollution during construction. A series of avoidance, mitigation and compensation measures including sensitive timing of works and removal of existing concrete anchor blocks shall ensure that the impact of the proposed development upon Chichester and Langstone Harbour SPA is reduced to de minimis levels.

1.0 INTRODUCTION

1.1 Lizard Landscape Design and Ecology has been commissioned by Wilsons of Hayling Ltd to undertake a Winter Bird Survey of land surrounding Wilsons Marina, Marine Walk, Hayling Island (*Grid Reference: SZ 7336 9939 – hereafter referred to as ‘the site’*).

1.2 The purpose of this report is to establish the site’s suitability for development, inform the design process for future proposals, record the levels of usage of the surrounding land by waders and wildfowl and identify key mitigation measures which should be designed into the scheme.

Site Information

1.3 The development site area covers approximately 0.15ha of land currently utilised for boat mooring on existing swing moorings. The site lies directly adjacent Chichester Harbour which surrounds the site to the north, east and west.

Surrounding Landscape

1.4 The site is located to the south of Hayling Island, within a channel of Chichester & Langstone Harbour separating the site from Thorney Island and West Wittering to the east. The land to the south and west is dominated by houses, hotels and caravan sites, with land to the north more open comprising woodland with large arable fields separated with hedgerows and trees.

Development Proposals

1.5 It is understood that the development proposals include the installation of a new pontoon unit to be attached to the eastern side of an existing pontoon. The new floating pontoon shall cover c. 250m², comprising 2.5m pontoon units, with 9m x 1m finger units extending in a northerly direction from the new pontoon frame.

Survey Rationale

- 1.6 The proposed construction zone is located within Chichester and Langstone Harbours SPA, RAMSAR, which supports internationally important numbers of wildfowl and waders. Qualifying features of the SPA include dark-bellied brent geese *Branta bernicla*, shelduck *Tadorna tadorna*, wigeon *Mareca penelope*, teal *Anas crecca*, pintail *Anas acuta*, shoveller *Spatula clypeata*, red-breasted merganser *Mergus serrator*, common ringed plover *Charadrius hiaticula*, grey plover *Pluvialis squatarola*, sanderling *Calidris alba*, dunlin *Calidris alpina*, bar-tailed godwit *Limosa lapponica*, Eurasian curlew *Numenius arquata*, common redshank *Tringa totanus* and turnstone *Arenaria interpres*.
- 1.7 This survey has been commissioned to allow the status and distribution of birds to be assessed, and any potential impacts upon Chichester and Langstone Harbours SPA to be addressed.

2.0 SCOPE OF THE SURVEY

- 2.1 The aim of the winter bird survey was:
- *To identify the main bird species using the site and land;*
 - *To establish whether the site is of importance to any Annex 1 species for which the SPA is designated;*
 - *To allow the formulation of a suitable mitigation strategy (should one be required).*

3.0 METHODOLOGY

- 3.1 The survey area was selected as the site itself and the surrounding harbour area. 3no. vantage points were used ensuring all areas could be surveyed using binoculars and telescope as appropriate. The survey points were each assigned a number in order to be able to identify them (*refer to Figure 01 for location of survey points*). Bird location at each vantage point was mapped, and their distance from the survey point recorded as 0-50m, 50-100m or 100m+.

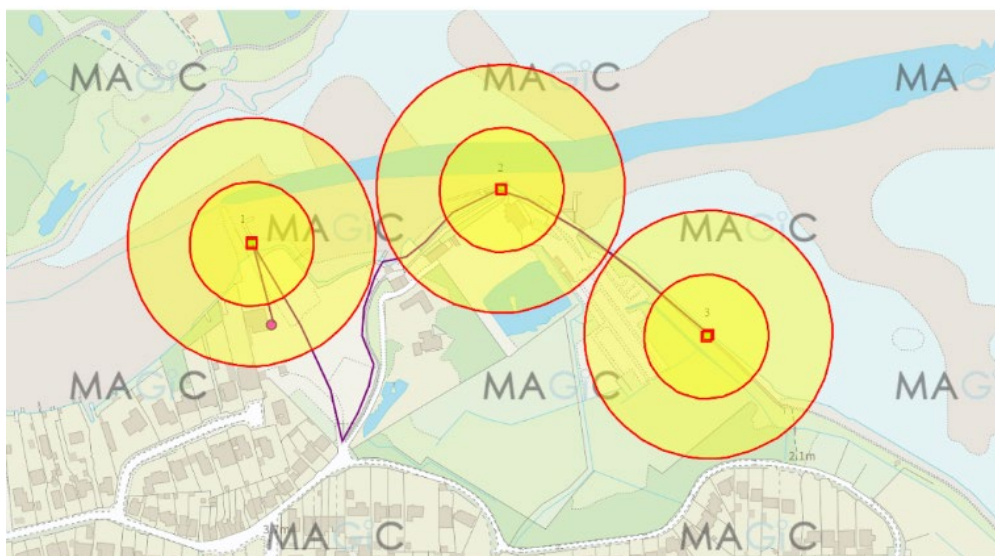


Figure 01 – Vantage point plan, with 50m and 100m radius around each point shown.

- 3.2 Survey work was undertaken by experienced bird surveyors. Surveys were carried out on 24th November 2023, 20th December 2023, and 18th January 2024. Surveys were timed to co-inside with periods of low water when exposed mudflats were present. Surveys avoided adverse weather conditions such as heavy rain, strong winds or poor visibility when activity is decreased. Each survey took c. 2 hours to complete. Weather and tidal conditions were recorded for each visit, these are shown in Table No. 01 below.

- 3.3 The numbers, location and species of any feeding or roosting birds was recorded.

Table No. 01 –Survey Details

Date	Surveyor	Weather Conditions	Tides	Survey Time
24.11.23	CO	9°C, Dry, WF4, 0% cloud	LT: 14:02 HT: 21:06	13:30 – 15:30
20.12.23	AR	9°C, Dry, WF4, 70% cloud	LT: 10:29 HT: 17:25	10:00 – 12:00
18.01.24	CO	1°C, Dry, WF2, 30% cloud	LT: 09:52 HT: 16:56	10:30 – 12:30

3.4 Constraints and Limitations

- 3.4.1 Given the small scale of the proposals, and existing land use of the site, a reduced survey effort consisting of 3no. survey visits during the optimal season was considered proportionate to the predicted scale of the impacts.
- 3.4.2 The surveys were undertaken during the peak months for winter bird surveys, in weather conditions optimal for birds to be present, therefore it is considered that the survey effort has provided an accurate representation of the sites usage by qualifying features of the SPA.

4.0 RESULTS

4.1 Desk Study

- 4.1.1 The following designated sites are not necessarily representative of the existing site's ecology but are indicative of the ecological context of the surrounding area; a factor that may be important when assessing the presence / absence potential of certain species groups.

Statutory Protected Sites

- 4.1.2 Given the small scale of the proposals, the desk study identified Local Nature Reserves and Sites of Special Scientific Interest within 2.0km of the site. Statutory sites which have been designated for their bird interest and therefore which directly relate to this report include:

Table No. 02 – Statutory Designated Sites

Site	Description	Location
Solent Maritime SAC	Designated for Annex I habitats including estuaries, spartina swards and Atlantic salt meadows.	0km
Chichester & Langstone Harbours SPA, RAMSAR, SSSI	The site supports important numbers of breeding little tern, common tern and sandwich tern. The site also supports important numbers of overwintering wildfowl and waders including bar-tailed godwit and dark-bellied brent geese, as well as regularly supporting in excess of 20000 wintering wildfowl and waders.	0km
Solent and Dorset Coast SPA	The site supports internationally and nationally important numbers of breeding sandwich tern <i>Thalasseus sandvicensis</i> , common tern <i>Sterna hirundo</i> and little tern <i>Sternula albifrons</i> .	c. 1km S
Sandy Point LNR	Sandy Point LNR is made up of sand dunes, heathland, shingle, grassland, and scrub. These fragile habitats offer a glimpse into how Hayling Island's southern foreshore would have once looked.	c. 1.5km SE
Sinah Common SSSI	The site is notified for its coastal habitats including the following: pioneer shingle vegetation, maritime shingle grassland which includes dry acid grassland and lichen rich acid grassland, mobile dune, semi-fixed dune, dune heath and an associated small area of saltmarsh. The site is also notified for a range of endangered and nationally scarce plants.	c. 1.7km SW

Priority Habitats

- 4.1.3 The site lies within an area of intertidal mudflats and shingle. Coastal salt marsh, saline lagoons, mixed lowland deciduous woodland and coastal and floodplain grazing marsh were also present within 1km from the site.

4.2 Field Survey

Survey Area Land Use

- 4.2.1 Point A included the site itself (an area of intertidal mudflats) and the area of Chichester and Langstone Harbours to the north of the marina. During the surveys, the marina was in frequent use both on water and on land.
- 4.2.2 Point B covered an expansive area of intertidal mudflats adjacent to Mengeham Rythe Sailing Club. The area around point B was regularly used by walkers along the public footpath during the survey visits.
- 4.2.3 Point C covered areas of intertidal mudflats and coastal saltmarsh to the south of Mengeham Rythe Sailing Club. The area around point C was regularly used by walkers along the public footpath during the survey visits.

Development Site Land Use

- 4.2.4 The proposed development site area was noted as containing a greater component of shingle and heavier colonisation of bladder wrack *Fucus vesiculosus* and green algae than during the original Preliminary Ecological Appraisal completed by Phillips Ecology in January 2022. This resulted in very few areas of open mudflat being noted within the construction zone, and generally lower habitat suitability for wading bird species.

Survey Results

- 4.2.5 A total of 24no. species were recorded during the surveys, of which 14no. (58%) were 'amber' and 3no. (12%) were listed as 'red' species of Conservation Concern.
- 4.2.6 A number of species which are qualifying features of the adjacent SPA were present during the survey, including brent geese, shelduck, teal, red-breasted merganser, grey plover, dunlin, curlew, redshank and turnstone. The majority of these species were recorded in infrequently and / or in low numbers, with the exception of large numbers of brent geese which were recorded in large numbers on 2no. occasions.

Table No. 03 – Summary of Survey Results

Common Name	Max. no. Nov	Max. no. Dec	Max. no. Jan	On site?	BoCC4 Status	SPA Feature
Black headed Gull	11	10	3	N	Amber	N
Brent Geese	817	445	0	N	Amber	Y
Buzzard	0	0	1	N	Green	N
Goosander	0	4	0	N	Green	N
Cormorant	1	0	0	Y	Green	N
Crow	6	0	23	Y	Green	N
Curlew	5	5	5	N	Red	Y
Dunlin	38	0	60	N	Red	Y
Godwit	4	0	0	N	Amber	Y
Great crested grebe	0	1	0	N	Green	N
Greater black gull	0	1	0	N	Amber	N
Greenshank	0	1	0	N	Amber	N
Grey plover	0	250	1	N	Amber	Y
Herring gull	0	1	1	N	Red	N
Kestrel	0	1	0	N	Amber	N
Knot	9	0	0	N	Amber	N
Little egret	2	2	0	Y	Green	N
Mallard	24	3	21	N	Green	N
Red breasted merganser	0	5	0	N	Amber	Y
Redshank	18	173	12	Y	Amber	Y
Shelduck	0	0	4	N	Amber	Y
Teal	0	0	13	N	Amber	Y
Turnstone	0	1	0	N	Amber	Y
Oystercatcher	17	55	4	N	Amber	N

2.4.7 Redshank was the only qualifying bird species which was recorded within or immediately adjacent to the proposed construction zone during the survey visits. Most frequently recorded were small numbers of carrion crow foraging amongst the seaweed. The low usage of the site by wintering wildfowl and waders is further corroborated by the findings of the original PEA, where only 1no. little egret was recorded within the site area.

5.0 POTENTIAL IMPACTS AND MITIGATION

5.1 The result of the survey highlights the importance of the surrounding Chichester and Langstone Harbour SPA for wintering wildfowl and waders, with the intertidal mudflats within the wider area utilised by various species during the survey period.

- 5.2 Habitats within the proposed construction zone however were utilised by very few bird species in low numbers. This is likely contributed to the extensive algae and seaweed presence within this area of the site which has smothered the mudflats, and the enclosed nature of the area by boats and seawall which increases the perceived predation risk. Both factors reduce the overall suitability of the site for wintering wildfowl and waders.
- 5.3 The marina itself has existing high levels of disturbance resulting from boats, commercial activities within the marina and users of the adjacent footpath. Given the result of these surveys, it is likely that bird species utilising the wider harbour have become somewhat habituated to human presence in this area.

Potential Impacts during the Construction Phase

- 5.4 Despite birds within the vicinity of the site clearly being habituated to some levels of disturbance, works during construction are likely to cause disturbance levels over and above the existing baseline. Research (Wright et al, 2010) has shown that general background construction noise below 55 decibels is generally tolerated by bird species, yet levels around 70 decibels result in the most profound responses. Irregular, loud sounds cause the greatest effects, with impacts observed for up to 300m in some species. In the absence of avoidance / mitigation, noise generated during construction activities may result in changes in the distribution of key qualifying features such as birds, with temporary displacement of birds from the surrounding area. This displacement could result in birds expending additional time and energy in finding undisturbed habitat and can ultimately affect their ability to survive and reproduce.
- 5.5 In addition to noise, construction activities may result in disturbance through increased human presence and the presence of large machinery such as plant and cranes. Such disturbance may result in bird displacement from the immediate vicinity of the site.

- 5.6 Introduction of contaminants into the adjacent harbour through fuel / chemical spillage, litter, emissions and nutrient-rich run off has the potential to severely impact upon the adjacent designated site causing damage to habitats and harm to qualifying features. Given the existing usage of the site however, and the relatively small size of the proposed development site, no impacts above the existing baseline are predicted.
- 5.7 The proposed pontoon shall provide mooring for 10no. boats and shall replace the 10no. swing moorings located to the immediate south of the new pontoon location. Given the like-for-like replacement of moorings, there shall be no direct habitat loss arising from increased mooring numbers.
- 5.8 Construction of the pontoon shall however require the installation of 4no. new piles, which shall result in the direct loss of a small area of habitat. The pontoon shall also be supported by concrete floats which shall rest on the mudflats at low tide, resulting in the temporary loss of the habitat directly beneath these floats at low tide. Given the very low usage of habitats on site by wintering birds, the removal of this small area of habitat shall have a negligible overall effect on the qualifying features and conservation objectives of the SPA.

Potential Impacts During the Operational Phase

- 5.9 Given the existing land-use, no additional impacts are predicted to occur during the operational phase as a result of this development. The temporary removal of habitats as a result of the concrete floats shall continue throughout the operational period. Given the very low usage of habitats on site by wintering birds, the temporary removal of this small area of habitat shall have a negligible overall effect on the qualifying features and conservation objectives of the SPA.

Avoidance and Mitigation Measures

- 5.10 Impacts can be largely avoided by timing major construction work during the summer months (e.g., between April – October inclusive). This shall ensure that wintering birds utilising the adjacent harbour are not displaced by noise and visual disturbance.

- 5.11 Any risk of pollution events which may impact the adjacent harbour should be mitigated by ensuring all re-fuelling takes place a minimum 10m from the waterside, storing all chemicals in appropriate containers within an approved location on site, and ensuring that suitable secondary containment measures and spill kits are available.
- 5.12 All machinery required for construction shall access the site via existing hardstanding areas and shall at no time track across existing intertidal habitats.
- 5.13 Compensation for the loss of habitat shall be provided through the removal of 14no. concrete anchor blocks which support the current swing moorings. Given the low usage of the habitats within the site by qualifying bird species, the loss of a small area of habitat is considered to have a negligible impact on the qualifying features of the SPA.

Residual Impacts

- 5.14 Once the above avoidance, mitigation and compensation measures have been taken into account, impacts upon Chichester and Langstone Harbour SPA shall be de minimis.

6.0 CONCLUSION

- 6.1 Very few birds were identified using any part of the proposed development site during the survey period. The habitats within the site itself are therefore considered to be of very low value to foraging and roosting wildfowl and waders.
- 6.2 Numerous species of wildfowl and wader, including qualifying species, were recorded utilising the adjacent mudflats and salt marsh during the survey period.
- 6.3 In the absence of mitigation, development may result in impacts arising from disturbance, pollution and habitat loss. A series of avoidance, mitigation and compensation measures including sensitive timing of works and removal of existing concrete anchor blocks shall ensure that the impact of the proposed development upon Chichester and Langstone Harbour SPA is reduced to de minimis levels.

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Appendix A – Full Survey Results

Visit No.	1			
Surveyors	CO			
Date	24.11.23			
Time	13:30 - 15:00, low tide			
Weather	WF4, sunny			
Temperature	9 °C			
Location	Species	Scientific Name	No.	Notes
Point 1				
0-50m	Little Egret	<i>Egretta garzetta</i>	1	Foraging at base of existing pontoon
	Curlew	<i>Numenius Arquata</i>	1	Foraging on mudflat to north
	Black-headed gull	<i>Chroicocephalus ridibundus</i>	4	Loafing in pool to NE
	Redshank	<i>Tringa totanus</i>	2	Foraging along water edge
	Cormorant	<i>Phalacrocorax Carbo</i>	1	Drying on pontoon
50-100m	Brent geese	<i>Branta bernicla</i>	90	Foraging on sand bank beyond water channel
	Malard	<i>Anas platyrhynchos</i>	24	In channel
	Redshank	<i>Tringa totanus</i>	4	Foraging
	Oystercatcher	<i>Haematopus ostralegus</i>	4	Foraging
	Crow	<i>Corvus corone</i>	4	Foraging amongst seaweed
100m+	Brent geese	<i>Branta bernicla</i>	120	Foraging on sand bank to east
Point 2				
0-50m	Black-headed gull	<i>Chroicocephalus ridibundus</i>	6	Foraging on edge of channel
	Little Egret	<i>Egretta garzetta</i>	1	Foraging near sea wall
	Knot	<i>Calidris Canutus</i>	9	Foraging on bank to north
	Brent geese	<i>Branta bernicla</i>	6	Foraging on bank to north
50-100m	Redshank	<i>Tringa totanus</i>	12	Foraging in channel to east
	Dunlin	<i>Calidris alpina</i>	8	Foraging in channel to east
	Brent geese	<i>Branta bernicla</i>	11	Foraging in channel to east
	Oystercatcher	<i>Haematopus ostralegus</i>	3	Foraging in channel to east
100m+	Brent geese	<i>Branta bernicla</i>	90	Foraging on mudbank to NE
	Black-tailed Godwit	<i>Limosa limosa</i>	4	Foraging on mudbank to NE
	Curlew	<i>Numenius Arquata</i>	4	Foraging on mudbank to NE
Point 3				
0-50m	Black-headed gull	<i>Chroicocephalus ridibundus</i>	1	Loafing in salt marsh
	Crow	<i>Corvus corone</i>	2	Foraging near sea wall
50-100m	N/A	n/a		n/a
100m+	Brent geese	<i>Branta bernicla</i>	500+	Foraging on mudbank to NE
	Oystercatcher	<i>Haematopus ostralegus</i>	10	Foraging on mudbank to NE
	Dunlin	<i>Calidris alpina</i>	30	Foraging on mudbank to NE

Visit No.	2			
Surveyors	AR, FB, HS			
Date	20.12.23			
Time	10.15			
Weather	Dry, WF4, 70% cloud			
Temperature	9 °C			
Location	Species	Scientific Name	No.	Notes
Point 1				
0 – 50m	Redshank	<i>Tringa totanus</i>	13	Foraging near edge of water
	Little egret	<i>Egretta garzetta</i>	1	Flew in from west and landed in the water
	Greenshank	<i>Tringa nebularia</i>	1	Foraging near edge of water
	Brent geese	<i>Branta bernicla</i>	50	In channel
	Herring gull	<i>Larus argentatus</i>	1	In channel
	Black-headed Gull	<i>Chroicocephalus ridibundus</i>	10	Flew in from north and landed in the water
	Curlew	<i>Numenius Arquata</i>	1	Foraging near edge of water
	Mallard	<i>Anas platyrhynchos</i>	3	In channel
50-100m	Brent geese	<i>Branta bernicla</i>	180	Foraging amongst seaweed
	Redshank	<i>Tringa totanus</i>	150	Foraging
Point 2				
0-50m	Redshank	<i>Tringa totanus</i>	5	Foraging near edge of water
	Kestrel	<i>Falco Tinnunculus</i>	1	Flew in from west, landed on pole and flew away
	Brent geese	<i>Branta bernicla</i>	15	Foraging on bank to the north
	Oystercatcher	<i>Haematopus ostralegus</i>	5	Foraging near edge of water
	Curlew	<i>Numenius Arquata</i>	1	Foraging near edge of water
50 – 100m	Red breasted magansar	<i>Mergus serrator</i>	4	In channel
	Great crested grebe	<i>Podiceps cristatus</i>	1	In channel
	Little egret	<i>Egretta garzetta</i>	1	In channel
	Brent geese	<i>Branta bernicla</i>	200	In channel
	Goosander	<i>Mergus merganser</i>	4	In channel
Point 3				
0 – 50m	N/A	N/A	N/A	
50 – 100m	Turnstone	<i>Arenaria Interpres</i>	1	Foraging at edge of channel
	Grey plover	<i>Pluvialis Squatarola</i>	250	Foraging on mudflat
	Redshank	<i>Tringa totanus</i>	5	Foraging on mudflat
	Oystercatcher	<i>Haematopus ostralegus</i>	50	Foraging on mudflat
	Curlew	<i>Numenius Arquata</i>	3	Foraging at edge of channel
	Greater black-backed gull	<i>Larus marinus</i>	1	In channel
	Red breasted magansar	<i>Mergus serrator</i>	1	In channel

Visit No.	3			
Surveyors	CO, WM, EH			
Date	18/01/24			
Time	10:00			
Weather	Sunny and Cold			
Temperature	1°C			
Location	Species	Scientific Name	No.	Notes
Point 1				
0 - 50m	Redshank	<i>Tringa totanus</i>	2	Foraging on edge of channel
	Mallard	<i>Anas platyrhynchos</i>	7	Foraging on edge of channel
	Carrion crow	<i>Corvus corone</i>	1	Foraging in seaweed on site
50 - 100m	Mallard	<i>Anas platyrhynchos</i>	2	In channel
	Carrion crow	<i>Corvus corone</i>	1	Foraging on bank
100m +	Curlew	<i>Numenius Arquata</i>	1	Foraging on mudflats to north
	Redshank	<i>Tringa totanus</i>	1	Foraging on mudflats to north
	Herring gull	<i>Larus argentatus</i>	1	Loafing to NE
	Teal	<i>Anas crecca</i>	9	In channel to W
	Buzzard	<i>Buteo buteo</i>	1	Flying over to north
	Mallard	<i>Anas platyrhynchos</i>	12	In channel to W
Point 2				
0 - 50m	Oystercatcher	<i>Haematopus Ostralegus</i>	1	Foraging at edge of channel
	Redshank	<i>Tringa totanus</i>	1	Foraging at edge of channel
50-100m	Oystercatcher	<i>Haematopus Ostralegus</i>	1	Foraging IN channel to NE
	Teal	<i>Anas crecca</i>	4	Swimming in channel
	Black-headed gull	<i>Chroicocephalus ridibundus</i>	2	Flying east
100m+	Herring Gull	<i>Larus argentatus</i>	1	Foraging on mudflat to N
	Carrion crow	<i>Corvus corone</i>	1	Foraging on mudflat to N
	Redshank	<i>Tringa totanus</i>	2	Foraging on mudflat to N
	Curlew	<i>Numenius Arquata</i>	1	Foraging on mudflat to N
	Carrion crow	<i>Corvus corone</i>	20	Foraging on mudflat to N
	Grey plover	<i>Pluvialis Squatarola</i>	1	Foraging on mudflat to N
Point 3				
0 - 50m	Curlew	<i>Numenius Arquata</i>	2	Foraging in saltmarsh
	Redshank	<i>Tringa totanus</i>	4	Foraging in saltmarsh
50-100m	Dunlin	<i>Calidris alpina</i>	60	Foraging on mudflat
	Oystercatcher	<i>Haematopus Ostralegus</i>	1	Foraging at edge of channel
	Redshank	<i>Tringa totanus</i>	1	Foraging at edge of channel
100m+	Redshank	<i>Tringa totanus</i>	1	Foraging at edge of channel
	Shelduck	<i>Tadorna tadorna</i>	4	Roosting at waters edge
	Oystercatcher	<i>Haematopus Ostralegus</i>	1	Foraging in channel
	Curlew	<i>Numenius Arquata</i>	1	Foraging on mudflat to N

Appendix B – Site Photographs taken 24/11/23



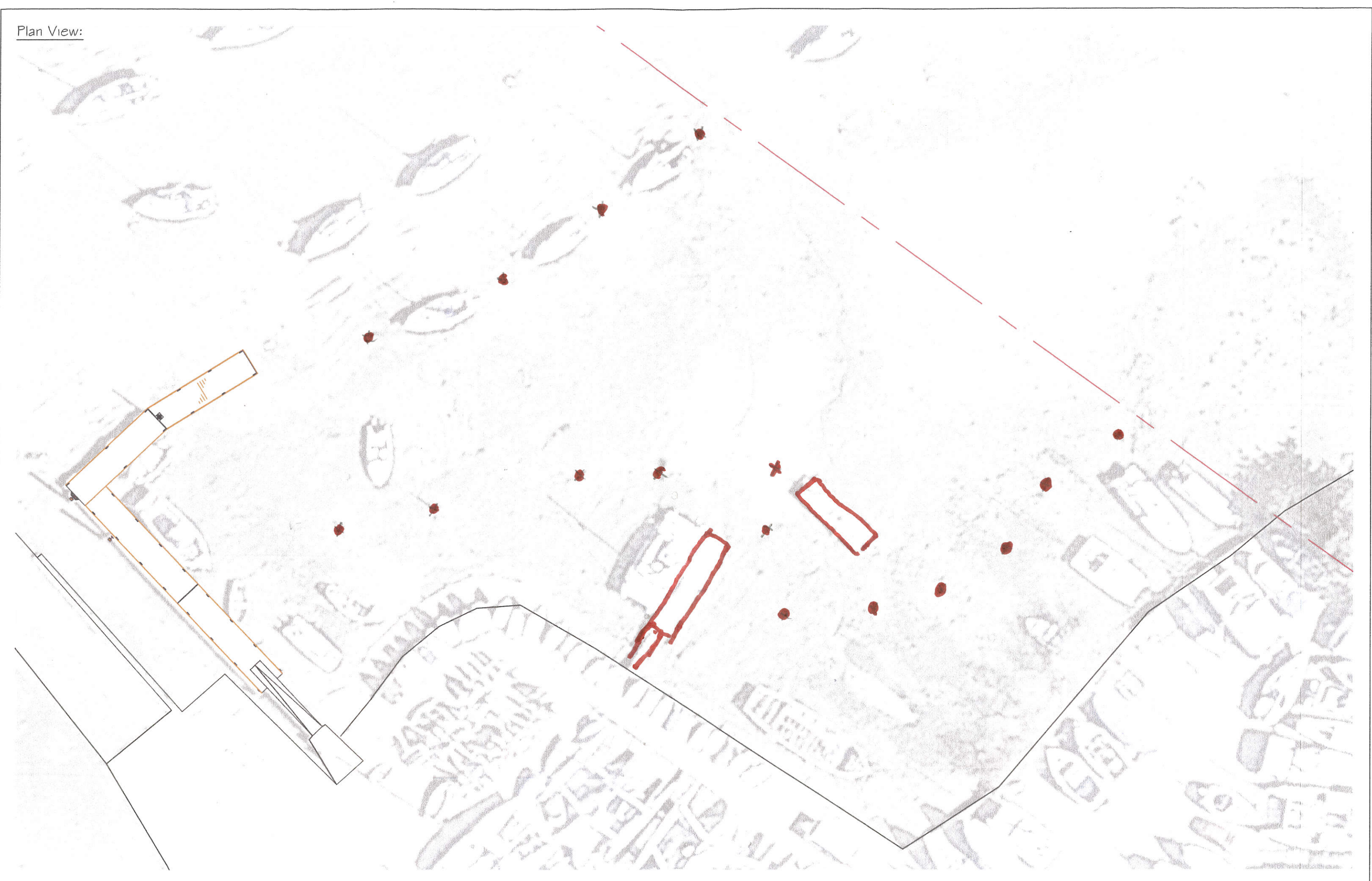
Image 01 – View along the existing pontoon at the location where new pontoon shall attach.



Image 02 – View of area proposed for new pontoon, with extensive algae and seaweed present.

Appendix B – Location of Pontoons and Anchor Blocks to be Removed

Plan View:



CLIENT Wilson's Boatyard Hayling Island	DRAWING. Sketches	DRAWN BY RF	SCALE 1:300 @ A3	DATE 13/02/24	 Solent Marine Ltd.		REV	BY	DATE	DESCRIPTION
	DRAWING NO./REV SOL-3720-SK01-000	APPROVED BY MS	TYPE Schematic							
Solent Marine Ltd. Mill Rythe Lane, Hayling Island, Hampshire, PO11 0QG			Tel: 02392 466 666		Email: Projects@solentmarine.com		Website: www.solentmarine.com		Copyright © Solent Marine Ltd.	

Appendix C - Legislation & Planning Context

Conservation of Habitats and Species Regulations (as amended) 2017

Under the *Conservation of Habitats and Species Regulations (as amended) 2017* the UK is committed to take special measures to maintain the distribution and abundance of certain priority habitats and species. In particular it is required to designate the most suitable sites as Special Areas of Conservation (SACs).

Within the regulations, the UK has a duty, in exercising their obligations under the *Habitats Directive* to: “*take account of economic, social and cultural requirements and local characteristics.*”

Under the *Conservation of Habitats and Species Regulations (as amended) 2017* the UK is also required to take special measures to preserve and conserve the habitats of certain rare species of birds and regularly occurring migratory birds. It is required to designate the most suitable areas of such habitats as *Special Protection Areas (SPAs)*. These designations are designed to protect wild birds, and to provide sufficient diversity of natural habitats for all bird species so as to maintain populations at an ecologically sound level.

The protection achieved through the designation of SACs and SPAs requires the taking of appropriate steps to avoid the deterioration of natural habitats and to avoid the disturbance of protected species for which these sites have been originally designated, on the basis that the potential disturbance could be significant in relation to the objectives of the Regulations. It is required that a project proposal not associated with the ecological management or conservation objectives of the designated site which could potentially have a predicated significant effect upon the designated area; either in itself or in combination with other project proposals; should be scrutinised through an appropriate assessment of the project proposal; considering the affect / impact upon the designated area, in view of the area's established conservation objectives.

Where an appropriate assessment has been undertaken for the project proposal; the competent local authority may approve the project proposal where it has been assessed that it would not adversely impact the integrity or the conservation objectives of the designated area. Where an adverse impact has been highlighted upon the integrity and conservation objectives of the designated area *Article 6(4)* outlines the means by which a project proposal may still be permitted proceed where it can be clearly demonstrated that there are no suitable alternatives and where there are over-riding reasons of public

interest for the project proposal to go forward. Where a project proposal is approved to proceed on the basis of over-riding public interest and where there is an adverse effect under the directive of *Article 6(4)*; mitigation and compensatory measures must be proposed and put forward to ensure that the overall integrity and conservation objectives of the *Natura 2000* individual designated sites and network are protected.

The Regulations aims to protect the integrity and conservation objectives of a network of sites in the UK that have rare or important priority habitats and protected species in order to protect biodiversity. Competent local authorities are required to ensure that they protect the integrity and the conservation objectives of these networks of designated sites from all their activities that they regulate and cause no adverse impact on any of the *Natura 2000* sites by approving project proposals. *Regulation 63* of the *Regulations* requires that:

“63(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which; a.) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives.”;

“63(3) The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.”;

“63(5) In the light of the conclusions of the assessment, and subject to Regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).”;

“63(6) In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.”

Regulation 63 of the Regulations defines an approval process in distinct stages. The initial assessment is to assess whether the project proposal is likely to have a significant effect or impact on the European site in question; the secondary assessment (*if applicable*) is to determine whether the project will affect the integrity of the protected site (*Appropriate Assessment*). The specific details of the *Regulations* have been clarified through some individual case law and the following judgements have been made; ‘*Waddenzee*’; ‘*Sweetman Case*’; and ‘*People over Wind*’ as additional background legislation. These individual case law judgements have been summarised briefly below;

‘Waddenzee Case’

The ‘*Waddenzee*’ case; the *European Court of Justice* asserted the trigger for ‘*Appropriate Assessment*’. It judged that an appropriate assessment would be required for a project proposal where there is a highlighted risk that it would have a significant effect on the integrity and conservation objectives of the *Special Protection Area* and the need for the appropriate assessment should be provided on a precautionary basis. The judgement asserts at *Paragraph 3(a)* that:

“...any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site’s conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually, or in combination with other plans or projects.”

The ‘*Waddenzee*’ judgement asserts that the specific test of ‘*likely significant effect*’ should be assessed in line with the European site’s conservation objectives. The judgement states at *Paragraph 3(b)* that: “*where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site’s conservation objectives, it must be considered likely to have a significant effect on that site.*”

Paragraph 4 of the judgement defines the necessity for the appropriate assessment to be based upon objective scientific information: “*...an appropriate assessment...implies that, prior to its approval, all the aspects of the plan or project which can, by themselves or in combination with other plans or projects, affect the site’s conservation objectives, must be identified in the light of the best scientific knowledge in the field. The competent*

national authorities, taking account of the appropriate assessment of the implications...for the site concerned in the light of the site's conservation objectives, are to authorise such an activity only if they have made certain that it will not adversely affect the integrity of that site. That is the case where no reasonable scientific doubt remains as to the absence of such effects."

'Sweetman Case'

Consideration of potential impacts surrounding *The Habitats Regulations* is defined by the 'Sweetman' judgement. The case judgement published by the Advocate General assessed in detail the test of 'likely significant effect' within Paragraphs 50 and 51. The Court of Justice of the European Union aligned with the Advocate General's assessment and assertion concluded within the following statement:

"50. The test which that expert assessment must determine is whether the plan or project in question has 'an adverse effect on the integrity of the site', since that is the basis on which the competent national authorities must reach their decision. The threshold at this (the second) stage is noticeably higher than that laid down at the first stage. That is because the question (to use more simple terminology) is not 'should we bother to check' (the question at the first stage) but rather 'what will happen to the site if this plan or project goes ahead; and is that consistent with "maintaining or restoring the favourable conservation status" of the habitat or species concerned'... and;

"51. It is plain, however, that the threshold laid down at this stage of Article 6(3) may not be set too high, since the assessment must be undertaken having rigorous regard to the precautionary principle. That principle applies where there is uncertainty as to the existence or extent of risks. The competent national authorities may grant authorisation to a plan or project only if they are convinced that it will not adversely affect the integrity of the site concerned. If doubt remains as to the absence of adverse effects, they must refuse authorisation."

The Court of Justice of the European Union aligned with the Advocate General's assessment and assertion concluded within the following statement:

"40. Authorisation for a plan or project, as referred to in Article 6(3) of the Habitats Directive, may therefore be given only on condition that the competent authorities – once all aspects of the plan or project have been identified which can, by themselves or in

combination with other plans or projects, affect the conservation objectives of the site concerned, and in the light of the best scientific knowledge in the field – are certain that the plan or project will not have lasting adverse effects on the integrity of that site. That is so where no reasonable scientific doubt remains as to the absence of such effects.”

‘People Over Wind Case’

Guidance for consideration of the tests at *Regulation 63* is provided through the case judgment provided for the ‘*People Over Wind Case*’ (Case C-323/17); published by the CJEU on 12 July 2018 which ruled that when considering the test at *Regulation 63(1)* the following must apply;

“Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”

In conclusion, any avoidance or mitigation measures which forms an integral part of a project proposal cannot be included at this first stage of the scoping test (*assessment of the ‘likely significant effect’*) and can only be assessed within the *Appropriate Assessment* stage. Therefore, all projects that could have a likely significant effect upon a designated site or habitat need to be assessed through appropriate assessment irrespective of the scheme mitigation measures proposed. This case judgement overrides domestic case law which has previously confirmed that it is acceptable to consider mitigation measures at the ‘*likely significant effect*’ stage.

Other Published Guidance

Guidance for the use of key terminology and objectives outlined within relevant European and UK legislation to highlighted European designated sites is provided within publications by the European Commission and UK organisations; JNCC and Natural England. This guidance is described below.

Managing Natura 2000 Sites (European Commission, 2000)

'Managing Natura 2000 Sites' outlines the undertakings of *'Article 6; Habitats Directive 92/43/CEE'*; published by the European Commission in 2000 and provides guidelines to European Member States for the objectives of *Article 6; Habitats Directive*. *Section 2.3.3* asserts that the conservation objectives and mitigation measures outlined must correspond to the ecological requirements of the protected habitats and species present for which the site is designated and that these prescriptions "*involve all the ecological needs necessary to ensure their favourable conservation status*".

Section 3.5 defines deterioration and disturbance of habitats or species and states; "*Deterioration or disturbance is assessed against the conservation status of species and habitats concerned. At a site level, the maintenance of the favourable conservation status has to be evaluated against the initial conditions provided in the Natura 2000 standard data forms when the site was proposed for selection or designation, according to the contribution of the site to the ecological coherence of the network. This notion should be interpreted in a dynamic way according to the evolution of the conservation status of the habitat or the species.*"

Section 4.4.1 defines a potential '*significant*' effect that should consider the conservation objectives of the site and more baseline information. *Section 4.4.1* states; "*In this regard, the conservation objectives of a site as well as prior or baseline information about it can be very important in more precisely identifying conservation sensitivities.*"

Section 4.5.3 defines the requirements of the European Member States to provide specific scientific information in order to include a designated site within the *Natura 2000 Network*. This information is standardised and provided in a format provide and outlined by the *European Commission (The Natura 2000 Standard Data Form)*. The connection between *The Natura 2000 Standard Data Form* and the definition of the sites' conservation value and objectives are defined in *Section 4.5.3* of the guidance where it is stated: "*The information provided according to the standard data form established by the Commission forms the basis for a Member State's establishment of the site's conservation objectives.*"

Where an assessment is undertaken of the likely impact of a project proposal upon a designated site, the '*integrity of the site*' is defined at *Section 4.6.3* as: "... *the coherence*

of the site's ecological structure and function, across the whole area, or the habitats, complex of habitats and / or populations of species for which the site is or will be classified." It is clear that the assessment as to the implications of a project proposal upon the integrity of a site should be focused only upon an assessment which is aligned with the sites' defined conservation objectives; *"The integrity of the site involves its ecological functions. The decision as to whether it is adversely affected should focus on and be limited to the site's conservation objectives."*

Section 5 considers Article 6(4) of the Habitats Directive which has been superseded now by other guidance issued by the European Commission entitled *"Guidance document on Article 6(4) of the Habitats Directive 92/43/EEC"* (2007). This document summarised below for context.

Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites - Methodological Guidance on The Provisions of Article 6(3) And (4) of The Habitats Directive 92/43/EEC (European Commission, 2001)

This document, published by the European Commission in 2001, gives guidance on carrying out and reviewing those assessments required under Article 6(3) and (4) of the Habitats Directive. It is provided as supplementary guidance and does not over-ride or replace any of that set out within *Managing Natura 2000 (European Commission 2000)* which as stated at page 6 of the document, *"is the starting point for the interpretation of the key terms and phrases contained in the Habitats Directive"*. The guidance provided is not mandatory and it is clearly set out that its use is *"optional and flexible"* and that it is for *"Member States to determine the procedural requirements deriving from the directive"*.

The guidance sets out the key stages in following the tests contained within the Habitats Directive where stages one and two are relevant. Stage one is the screening stage assessing the likelihood of a plan / project resulting in a significant effect upon the European site. The second comprises the appropriate assessment.

Section 3.2.4 is concerned with Appropriate Assessment and the assessment against the conservation objectives of the European Site. Box 9 provides a list of five example conservation objectives for differing broad habitat types. One such example, that for a coastal site, taken from Box 9 is provided below: *"to maintain the status of the European*

features of this coastal site in favourable condition, allowing for natural change. Features include coastal shingle vegetation and lagoons (within a candidate special area of conservation (SAC), which is also a SPA)."

Internal Guidance to Decisions on 'Site Integrity': A Framework for Provision of Advice to Competent Authorities (English Nature, 2004)

Natural England (formerly English Nature) has produced an internal guidance document on the provision of advice to competent authorities regarding the concept of 'site integrity' in undertaking an appropriate assessment.

This guidance sets out a definition for integrity. It states that integrity is considered at the site level and gives the following definition, as taken from *Planning Policy Guidance 9 (PPG9)*: *"The coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and / or levels of populations of the species for which it was classified"*.

Integrity is further defined within *Section 3.0* where it is stated that; *"In a dynamic context 'integrity' can be considered as a site having a sense of resilience and ability to evolve in ways that are favourable to conservation."* The need to maintain, or restore the site to, favourable conservation status is dealt with in the final paragraph of *Section 3.0*. Natural England quotes guidance issued jointly by the Environment Agency, English Nature and Countryside Council for Wales.

The guidance provides a checklist within *Section 4.1*; for assessing the likelihood of an adverse effect on integrity occurring as a result of the proposed plan / project. It is stated that if the answer to all of the questions posed within the checklist is "yes" then it is reasonable to conclude that there will be no adverse effect upon integrity. In the event that one or more of the answers is no, then the guidance suggests that a series of further site-specific factors, listed at 4.2 – 4.7 of the guidance must be considered in detail.

Common Standards Monitoring (JNCC, 2004)

Common Standards Monitoring is a means by which condition objectives for habitats, species, or other features of designated sites (such as *Sites of Special Scientific Interest – SSSIs, and SPAs*) are set based on key attributes of the features.

*The Joint Nature Conservation Committee (JNCC) and the Country Conservation Agencies (Natural England) developed guidance on the setting and assessing of condition objectives, as required under *The Birds and Habitats Directives* and set out a framework for this in 1999. This framework is provided in the form of *Common Standards Monitoring (CSM)* guidance which comprises a suite of documents including an “*Introduction to the Guidance Manual on Common Standards Monitoring*” and several species / habitat specific documents, including those for lowland heathland, birds, reptiles and invertebrates. The *Introduction to the Guidance Manual* covers various relevant concepts and terms. It also provides a background to the setting of conservation objectives and sets out the desired approach to setting targets, monitoring, management and reporting on conservation measures in designated sites.*

The Guidance Manual and CSM guidance for individual site attributes and its bird interest set out specific criteria regarding the identification of interest features, targets and methods of assessment. There is in-built flexibility and allowances for ‘*judgements to be made*’ when assessing, for example, favourable condition.

It is understood that Natural England applies the *Common Standards Monitoring* approach to European designated sites through an assessment of the SSSI unit condition. This is undertaken on a cycle of approximately six years. The assessment does not relate to the Conservation Objectives of the European site but provides a tool for tailoring future management of the SSSI such that favourable condition of the interest features can be maintained or restored as appropriate.

This document, published by the European Commission in 2007, is intended to provide clarification on key terms / concepts as referred to within “*Managing Natura 2000 Sites*” and replaces the section on Article 6(4) within that earlier document.

Guidance Document on Article 6(4) of the ‘Habitats Directive’ (European Commission, 2007)

The above guidance document covers in particular the concepts of Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensation Measures, Overall Coherence and the Opinion of the Commission.

With regard to ensuring the quality of an appropriate assessment, and to define exactly what needs to be compensated, it is stated at Section 1.3 that: *“Assessment procedures of plans or projects likely to affect Natura 2000 sites should guarantee full consideration of all elements contributing to the site integrity and to the overall coherence of the network, both in the definition of the baseline conditions and in the stages leading to identification of potential impacts, mitigation measures, and residual impacts. These determine what has to be compensated, both in quality and quantity.”*

The need to use information contained within the *Natura Standard Data Form*, in tandem with the sites conservation objectives when undertaking an appropriate assessment is specifically referred to.

This document, published by the European Commission in 2007, is intended to provide clarification on key terms / concepts as referred to within *“Managing Natura 2000 Sites”* and replaces the section on *Article 6(4)* within that earlier document.

Section 1.3.2 gives guidance on the application of Article 6(4) in respect of reasons of overriding public importance and Section 1.4.1 gives guidance on the application of Article 6(4) in respect of compensatory measures.

Natura Standard Data Forms

A standard reporting format has been developed for Natura 2000 sites to ensure that the relevant site selection information is reported and stored in a consistent manner which can be easily made available.

A standard reporting form for SPAs and SACs was developed by the European Commission and published in 1996. The form is used for all sites designated or proposed to be designated as SPAs and SACs under the relevant Directives, with the information to be stored on a central database.

Article 4 of the Habitats Directive provides the legal basis for providing the data. Article 4 states that information shall include a map of the site, its name, location, extent and the data resulting from application of the criteria specified in Annex III and that this shall be provided in a format established by the Commission. Under *Article 4 (Paragraph 3) of the Birds Directive*; Member States are required to provide the Commission with all

relevant information to enable it to take any appropriate steps in order to protect relevant species in areas where the Directive applies.

Whilst it is the relevant country agency (*Natural England*) that is responsible for designating a site, it is the JNCC who are responsible for collating the lists of European and international designated sites, together with relevant supporting information. *The Nature 2000 Data Forms* for SPAs and SACs are therefore made available by the JNCC.

Within the explanatory notes for *Natura Standard Data Forms* (European Commission 1996) the following “*main objectives*” of the Natura Data Form / Database are given: “*to provide the necessary information to enable the Commission, in partnership with the Member States, to co-ordinate measures to create a coherent NATURA 2000 network and to evaluate its effectiveness for the conservation of Annex I habitats and for the habitats of species listed in Annex II of Council Directive 92/43/EEC as well as the habitats of Annex I bird species and other migratory bird species covered by Council Directive 79/409/EEC.*”; and;

“*to provide information which will assist the Commission in other decision-making capacities to ensure that the NATURA 2000 network is fully considered in other policy areas and sectors of the Commission's activities in particular regional, agricultural, energy, transport and tourism policies.*”; and;

“*to assist the Commission and the relevant committees in choosing actions for funding under LIFE and other financial instruments where data relevant to the conservation of sites, such as ownership and management practice, are likely to facilitate the decision-making process.*” And;

“*to provide a useful forum for the exchange and sharing of information on habitats and species of Community interest to the benefit of all Member States.*”

The formal European Site Conservation Objectives for SPAs and SACs are published by Natural England.