

**DEED OF ALLOCATION (NITRATE
OFFSETTING)
AT
LAND AT KINGSCROFT FARM,
ADJACENT TO RIDGWAY AND
MARPLES WAY, HAVANT**

Albion Water Limited

Foreman Homes Limited

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THIS DEED is made the 7th day of May Two thousand and Twenty Five

BETWEEN

- 1) **ALBION WATER LIMITED** (Company Registration Number 03102176) a private limited company incorporated in England and Wales whose registered office is at Goodwood House, Blackbrook Park Avenue, Taunton, Somerset, United Kingdom, TA1 2PX (the "**Owner**"); and
- 2) **FOREMAN HOMES LIMITED** (Company Registration Number 03313213) of Yarmouth House, 1300 Parkway Solent Business Park, Whiteley, Fareham, Hampshire, England PO15 7AE (the "**Developer**");

Together "**the Parties**"

WHEREAS:

- (A) The Owner owns the freehold interest in the Site and is registered as proprietor with Title Absolute at the Land Registry free from encumbrances other than those matters contained or referred to in the Property and Charges Register of Title Numbers HP393305, HP715017, HP718283 and HP734223 at the date of this Deed.
- (B) The Site benefits from the Knowle Farm Planning Permission which authorises the provision of a wetlands habitat which will strip nitrates, phosphates and microplastics to mitigate against the eutrophication of the Solent.
- (C) The Owner has entered into the Section 106 Agreement and is in the process of negotiating the terms of the Section 33 Agreement which together secure the long term use of the Site for nitrate mitigation purposes and which facilitate the Allocation and ongoing monitoring of the Site in order to provide a nitrate offsetting solution for the benefit of offsite developments.
- (D) The Owner and Developer entered into an Allocation Agreement for an initial Allocation of 95.51 kg/Tn/yr. The Owner has agreed to Allocate a further portion of the Site's Capacity to the Developer in order to mitigate the impact of the Development on nitrate levels in the Solent catchment in return for the Commuted Sum.

NOW THIS DEED WITNESSETH:

1 DEFINITIONS

1.1 The following words and phrases shall have unless the context otherwise requires bear the following meanings:

"Allocation" means that a portion of the Mitigation Land providing a Capacity of not less than the Required Capacity has been designated pursuant to this Deed for the purposes of mitigating the impact of the Development on nitrate levels in the Solent catchment by the submission of a Capacity Monitoring Report by the Owner to Winchester City Council and Havant Borough Council in accordance with the Section 106 Agreement and the Section 33 Agreement and "Allocated" and "Allocated" shall be construed accordingly

"Application" means either:

- the application for planning permission submitted to Havant Borough Council for the Development and allocated reference number APP/22/00669 including any variation or re-submission of such application and/or
- such other planning application as nominated by the Developer within the jurisdiction of Winchester City Council or Havant Borough Council or such other application as nominated by the Developer and agreed by the Owner (acting reasonably);

"Capacity" means an amount (expressed in kg/TN/yr) of nitrates to be removed from the Solent as a consequence of Nitrate Mitigation

"Capacity Monitoring Report" has the same meaning as in the Section 106 Agreement

"Commuted Sum" means £2,500 x the amount of the Required Capacity required by the Developer pursuant to clause 4.2 plus VAT;

"Development" means the development of up to 120 residential dwellings (C3 Use), with access from Meyrick Road, the provision of open space, landscaping and other associated works including demolition of existing buildings on site or such other permission as permitted pursuant to an Application;

"Expiry Date" means the date that is eighteen months from the date of this Deed (or such alternative date as may be agreed by the parties in writing)

"Knowle Farm Development" means the development authorised by the Knowle Farm Planning Permission

"Knowle Farm Planning Permission" means the planning permission dated 24 November 2022 to use the Site to develop a wetlands habitat granted pursuant to the planning application granted by Winchester City Council with reference number **22/00701/FUL**

"Legal Fee" means a sum to be calculated by the following formula:

Total local authority legal fees + total Burges Salmon (Albion) legal fees + VAT
/
855
x
the Required Capacity
PROVIDED THAT such fees shall not exceed £1,500 (VAT inclusive).

"Mitigation Land" means an area within the Site to be specified by reference to Plan 1 and having a Capacity of not less than the Required Capacity which is to be dedicated committed and allocated towards mitigating the impact of the Development on nitrate levels in the Solent catchment

"Nitrate Mitigation" means mitigation measures designed to mitigate against the effects of increased nitrate levels in the Solent in accordance with Natural England requirements at the date of the Section 106 Agreement;

"Operation and Management Plan" means the operation and management plan agreed between the Owner and Winchester City Council in the discharge of condition 4 of the Knowle Farm Planning Permission;

"Plan 1" means the plan showing the Mitigation Land shaded green, dark green and striped orange on drawing number 5R-2740D-101 appended to this Deed at Appendix 1;

"Planning Agreement" means an agreement or undertaking with the relevant planning authority or any other competent authority made under:

- section 106 of the Town and Country Planning Act 1990;
- section 111 of the Local Government Act 1972;
- sections 38, 184 or 278 of the Highways Act 1980;
- section 33 of the Local Government (Miscellaneous Provisions) Act 1982;
- section 98, 104 or 106 of the Water Industry Act 1991; or
- section 1 of the Localism Act 2011.

"Planning Permission" means the planning permission for the Development to be issued pursuant to the Application;

"Relevant Event" means any of the following events:

- a change in the law; or
- a decision of a Court, tribunal, Secretary of State, or other decision maker with competence; or
- a change in Natural England's custom or practice; or
- a change in scientific opinion based on evidence; or
- a change in industry practices or in the generally accepted calculation methods for the type or extent of land required to achieve Nitrate Mitigation;

that is accepted in writing by both Natural England and Winchester City Council and results in any of the following:

- off-site nitrate mitigation not being required in relation to the Development; or
- Nitrate Mitigation not being required; or
- the Knowle Farm Development not being considered to be an effective form of Nitrate Mitigation; or
- the Knowle Farm Development not being required for Nitrate Mitigation;

"Required Capacity" means 15.76 Kg/TN/yr;

"Reserve Fee" means the non-refundable sum of £3,940 (Three Thousand Nine Hundred and Forty Pounds) + VAT to be paid by the Developer to the Owner which for the avoidance of doubt shall form part of the Commuted Sum;

"Satisfactory Planning Permission" means a Planning Permission which the Developer confirms in writing to the Owner is acceptable;

"Winchester City Council" means Winchester City Council acting in its capacity as local planning authority

"Section 33 Agreement" means the agreement expected to be entered into pursuant to Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 between (1) Havant Borough Council (2) Albion Water Limited and (3) Wessex Water Limited in connection with the Knowle Farm Development

"Section 106 Agreement" means the agreement dated 15 May 2024 entered into pursuant to Section 106 of the Town and Country Planning Act 1990 between (1) Winchester City Council (2) Albion Water Limited and (3) Wessex Water Limited in connection with the Knowle Farm Development in the form appended to this Deed at Appendix 2

"Site" means the land at Unit 1, Knowle Farm, Mayles Lane, Knowle, Fareham, Hampshire PO17 5PN shown edged blue on Plan 1;

"Site Capacity" means the total Capacity of the Site following the completion of the Knowle Farm Development which is estimated to be approximately 855 Kg/TN/yr;

"Site Plan" means the Plan showing the Site edged red titled "Albion Sewage Treatment Works" appended to this Deed at Appendix 1;

"Solent" means the strait that separates the Isle of Wight from the mainland of England;

"VAT" value added tax of any equivalent tax chargeable in the UK.

"Working Days" any Monday, Tuesday, Wednesday, Thursday and Friday except bank or public holidays in England and except any day between 25 December and 02 January (inclusive) in each year;

2 INTERPRETATION

- 2.1 The clause headings in this Deed are for reference only and do not affect its construction or interpretation.
- 2.2 References to clauses and Schedules are to the clauses and Schedules of this Deed, unless stated otherwise.
- 2.3 A reference to a paragraph is to the paragraph of the Schedule in which the reference is made, unless stated otherwise.
- 2.4 Words importing one gender include any other genders and words importing the singular include the plural and vice versa.
- 2.5 A reference to a person includes a reference to a firm, company, authority, board, department or other body and vice versa.
- 2.6 Unless this Deed states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations,

directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it.

- 2.7 References to the Site include any part of it.
- 2.8 References to "including" means "including, without limitation".
- 2.9 Any covenant not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.10 Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly or against each of them individually.
- 2.11 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Deed shall be unaffected.

3 COMMENCEMENT

- 3.1 This Deed will take effect on the date of this Deed.

4 OBLIGATIONS OF THE DEVELOPER

- 4.1 The Developer shall pay the Reserve Fee to the Owner on the date of this Deed.
- 4.2 Within seven weeks of the date of grant of the Planning Permission the Developer shall confirm in writing to the Owner whether the Planning Permission is a Satisfactory Planning Permission and at the same time confirm the amount of the Required Capacity which it requires (which shall be the number required pursuant to a Satisfactory Planning Permission) provided that the Owner shall be under no obligation to sell more than the Required Capacity.
- 4.3 The Developer shall pay the Commuted Sum to the Owner when the Developer confirms the receipt of a Satisfactory Planning Permission pursuant to clause 4.2 above or (at the discretion of the Developer) prior to the receipt of a Satisfactory Planning Permission.
- 4.4 The Developer shall pay the Legal Fee to the Owner within 14 days of receipt of a written request enclosing evidence of the fees incurred and any such request may relate to either the whole or part of the total Legal Fee.
- 4.5 The Developer shall pay VAT on the Reserve Fee and Commuted Sum subject to receipt from the Owner of a valid VAT invoice.

5 OBLIGATIONS OF THE OWNER

- 5.1 Following receipt of the Reserve Fee the Owner covenants to reserve the Required Capacity out of the total Site Capacity for the Developer until the earlier of:

-
- (a) the Expiry Date; and
 - (b) the date on which the entirety of the Required Capacity has been Allocated to the Developer.
 - 5.2 The Owner covenants to Allocate part of the Mitigation Land in order to provide the Required Capacity of Nitrate Mitigation for the Development pursuant to the Satisfactory Planning Permission and to confirm such Allocation in writing to the Developer within 5 Working Days of receipt of the Commuted Sum.
 - 5.3 Following receipt of the Commuted Sum the Owner thereafter covenants to maintain the Mitigation Land in accordance with the Operation and Management Plan for the lifetime of the Development.
 - 5.4 The Owner shall refund the Reserve Fee to the Developer within three (3) Working Days if:
 - (a) the Developer terminates this Agreement pursuant to clauses 9.4 (b) or 9.4 (c) ; or
 - (b) The Developer does not obtain a Satisfactory Planning Permission by the Expiry Date; and the Owner notifies the Developer in writing that it has been able to sell the Required Capacity of the total Site Capacity identified at clause 5.1 to an alternative purchaser for the same or greater value.
 - 5.5 If a Planning Agreement is required by the relevant local planning authority or any other competent authority as a pre-condition to the grant of Satisfactory Planning Permission the Owner shall, if required, enter into the Planning Agreement provided that:
 - (a) the terms of the Planning Agreement which relate to or seek to bind land which is within the Owner's ownership and/or occupation are acceptable to the Owner (acting reasonably and having regard to the delivery of the Nitrate Mitigation scheme and the Allocation pursuant to this Deed);
 - (b) the Developer pays the Owner's (reasonable and properly incurred) legal fees in connection with the Planning Agreement;
 - (c) any liabilities on the Owner under the Planning Agreement are conditional upon the implementation of the Planning Permission; and
 - (d) the Owner will not be liable for a breach of a covenant contained in the Planning Agreement after the Owner has parted with all its interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

6 VARIATION

- 6.1 In the event Winchester City Council requests a variation to this Deed on reasonable terms in order to make the Knowle Farm Planning Permission or any Application acceptable in planning terms the Owner and the Developer shall (acting reasonably) consider such request and, if agreed, the Owner and the Developer shall as soon as reasonably practicable enter into a deed of variation to vary this Deed.

7 NOTICES

- 7.1 Any notice, consent, demand or any other communication served under this Deed will be effective only if in writing and delivered by hand or sent by first class post, pre-paid or recorded delivery.
- 7.2 Any notice, consent, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Deed or to such other address as one party may notify in writing to the others at any time as its address for service.

8 DETERMINATION OF DISPUTES

- 8.1 Subject to clause 8.7, if any dispute arises relating to or arising out of the terms of this Deed, either party may give to the other written notice requiring the dispute to be determined under this clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 8.2 For the purposes of this clause 8 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.
- 8.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4.
- 8.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the Developer cannot agree the identity of the organisation, then the Specialist

is to be nominated by the President or next most senior available officer of the Law Society.

8.5 The Specialist is to act as an independent expert and:

- (a) each party may make written representations within ten (10) Working Days of his appointment and will copy the written representations to the other party;
- (b) each party is to have a further ten (10) Working Days to make written comments on the other's representations and will copy the written comments to the other party;
- (c) the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
- (d) the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
- (e) the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
- (f) the Specialist is to use all reasonable endeavours to publish his decision within thirty (30) Working Days of his appointment.

8.6 Responsibility for the costs of referring a dispute to a Specialist under this clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

8.7 This clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Deed which will be subject to the jurisdiction of the courts.

9 TERMINATION OF THIS DEED

9.1 In the event that the Owner has not received the Commuted Sum on or prior to the Expiry Date the Owner shall thereafter be released from its obligations in this Deed.

9.2 If any part of the Required Capacity has been allocated to the Developer in accordance with clause 5.2 on or before the Expiry Date this Deed will come to an end and the obligations in this deed will immediately terminate on the earlier of:

- (a) the end of the lifetime of the Development;

-
- (b) the occurrence of a Relevant Event.
- 9.3 Without affecting any other right or remedy available to it, any party may terminate this Deed with immediate effect by giving notice to the other parties if a Relevant Event occurs.
- 9.4 Without affecting any other right or remedy available to it,
- (a) the Owner may terminate this Deed with immediate effect by giving notice to the Developer if the Developer is in breach of any of its obligations in this Deed and has failed to rectify the breach within a reasonable time after receiving notice to rectify from the Owner;
 - (b) the Developer may terminate this Deed with immediate effect by giving notice to the Owner if the Owner is in breach of any of its obligations in this Deed and the Owner failed to rectify the breach within a reasonable time after receiving notice to rectify from the Developer; and
 - (c) The Developer may terminate this Deed with immediate effect if the Section 33 Agreement has not been completed by midnight on the date sixty (60) Working Days from the date of this Deed by giving such notice in writing to the Owner (which for the avoidance of doubt may be given at any after the trigger for termination has occurred pursuant to this clause) but cannot terminate pursuant to this provision if the Commuted Sum has been paid to the Owner.
- 9.5 If this Deed is terminated in accordance with the provisions of Clause 9.2 or Clause 9.3 or Clause 9.4 then:
- (a) the Owner may proceed to allocate the Required Capacity to a third party;
 - (b) the Owner may use the Mitigation Land as they see fit in their absolute discretion;
 - (c) Neither party shall have any further rights or obligations under this Deed save for:
 - (i) the rights of either party in respect of any earlier breach of this Deed; and
 - (ii) the obligations in the clauses referred to in clause 9.5;
 - (iii) (subject to clause 5.4) any sums paid to the Owner by the Developer under the terms of this Deed shall not be refunded.
- 9.6 Clause 9 shall continue in force notwithstanding the termination of this contract under clause 9.1 or clause 9.2 or clause 9.3 or clause 9.4.

10 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 10.1 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it provided that the exclusion of the said Act shall not prevent all or any future successors in title to any of the parties to this Deed from being able to benefit from or to enforce any of the provisions of this Deed.

11 COUNTERPARTS

- 11.1 This Deed may be executed in any number of counterparts each of which when executed and delivered shall constitute an original of this Deed but all the counterparts shall together constitute the same deed. No counterpart shall be effective until each party has executed at least one counterpart.

12 JURISDICTION

- 12.1 Subject to the provisions of clause 8 this Deed shall be governed by the laws of England and Wales and the Courts of England shall have sole jurisdiction in respect of the construction of this Deed and as to the respective rights and liabilities of the parties.

Executed as a deed by **ALBION WATER LIMITED** acting by a director, in the presence of:

DocuSigned by:
[Redacted Signature]
C408633B662A126

[SIGNATURE OF WITNESS]

DocuSigned by:
[Redacted Signature]
1B7F64F639944EC
[SIGNATURE OF DIRECTOR]
Director

Name of Witness
[IN BLOCK CAPITALS]

Address of Witness

Occupation of Witness

Richard Averley
.....
Clearwater House, Castlemills,
.....
Biddisham, BS26 2RE
.....
Sales Director
.....

Signed as a Deed by [Stephen Ball]
as attorney for **FOREMAN HOMES LIMITED** under a power of attorney dated 16 January 2025 in the presence of:
)
)
)
)
)
)
)

DocuSigned by:
[Redacted Signature]

Signature

Witness Signature:

Signed by:
[Redacted Signature]

Witness Name:

Daniel Lilley

Address:

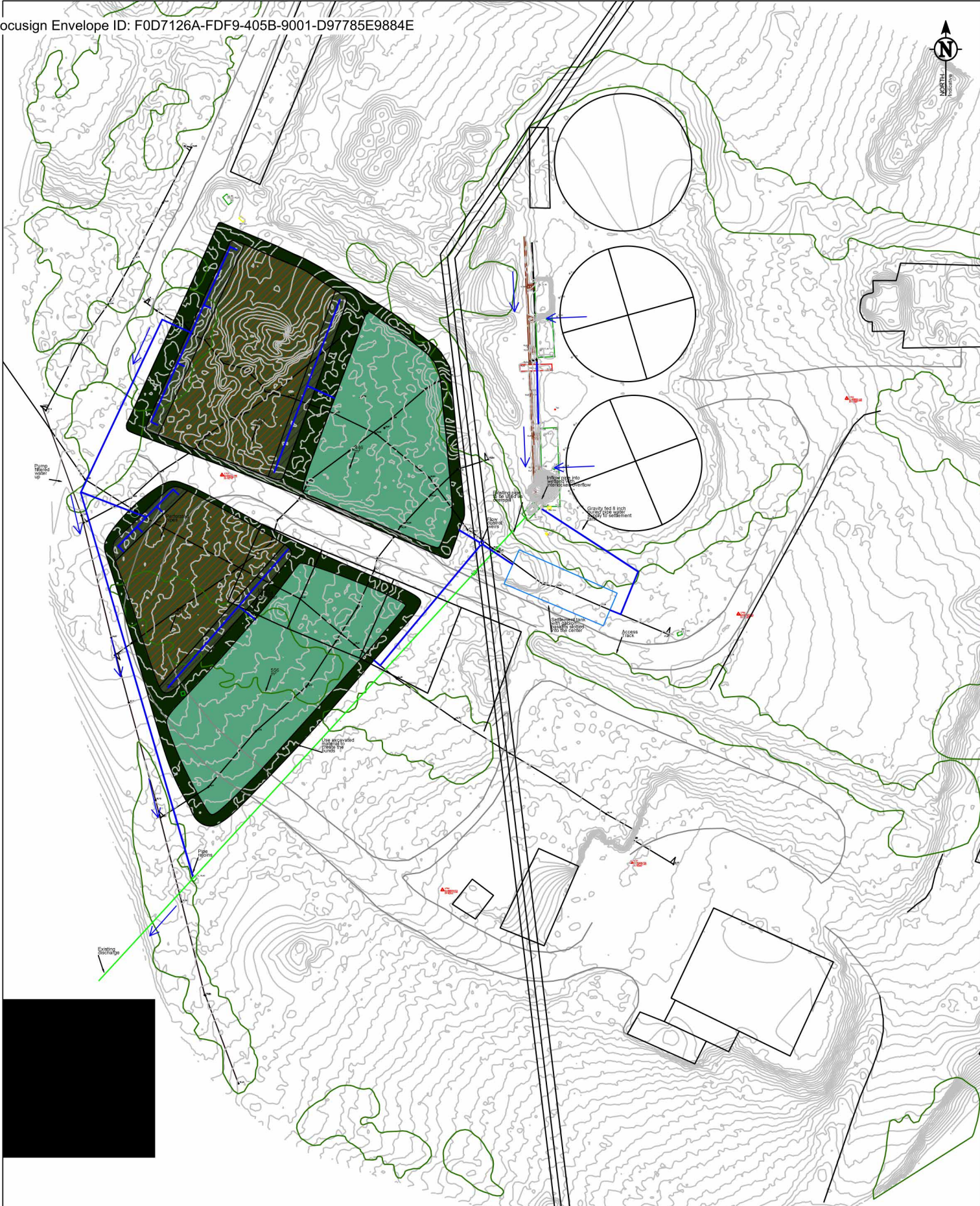
102 High Street
Godalming, Surrey, GU7 1DS

Occupation:

Paralegal

APPENDIX 1

Plans



Key:

	Water		20-40mm Gravel
	Bed		10-20mm Gravel
	Infill		Geotextile
	Gravel		
	Existing Bed		
	Flow Pipes		
	Existing Outfall Pipes		
	Settlement Tank		

Plan 1

- Utilities:**
- Electric power lines, conduit and cables
 - Telcommunication, alarm or signal lines
 - Gas, oil, steam, petroleum or other flammable material
 - Sewage and drainage lines
 - Drinking water
 - Reclaimed water, irrigation and slurry lines
 - Temporary survey markings and unknown facilities

General notes:
• All dimensions shown are in metres unless otherwise stated and levels in metres to ordnance datum.

- Utility services investigation status:**
- ☐ Type D: Desk study
 - ☒ Type C: Desk study and site reconnaissance
 - ☐ Type B: Desk study with site reconnaissance and utility detection survey
 - ☐ Type A: Desk study with site reconnaissance, utility detection survey and trial holes

NOT FOR CONSTRUCTION

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1	21/01/2022	FOR COMMENT	TK	DMA	TD
Ver.	Ver. Date	Status	Drawn	Check'd	Apprv'd

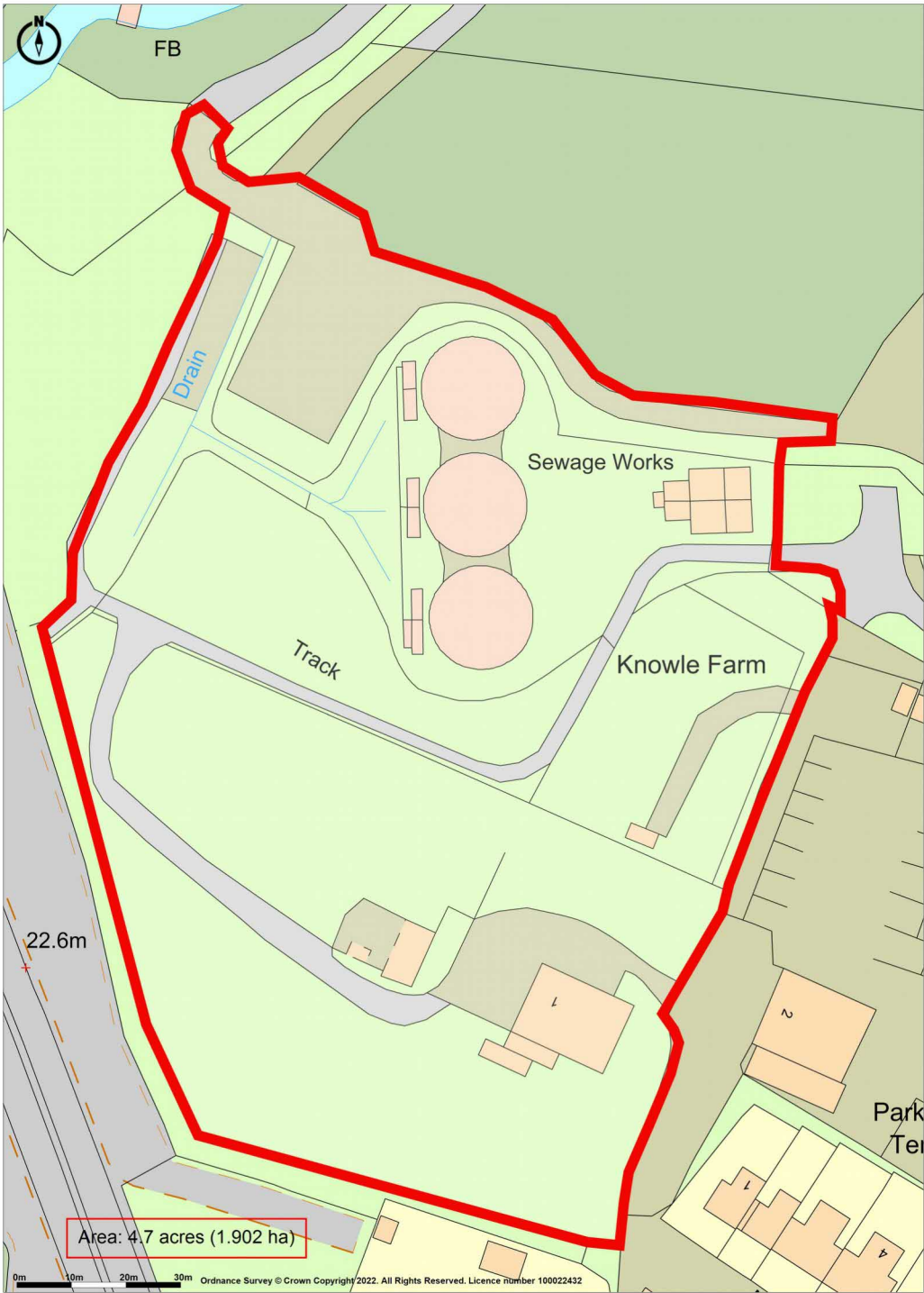
FiveRivers

Hangar 5A
Thruxton Airfield
Andover
Hampshire
SP11 8PN

Tel: 01722 783041
www.five-rivers.com

Client	Albion Water
Project	2740D - Knowle Wetland
Title	Planview
Drawing number	5R-2740D-101
Scale	1:500 @ A3

Albion Sewage Treatment Works



APPENDIX 2

Section 106 Agreement

Dated

15th May

2024

- (1) WINCHESTER CITY COUNCIL
- (2) ALBION WATER LIMITED
- (3) WESSEX WATER LIMITED

SECTION 106 AGREEMENT

**Land at Unit 1, Knowle Farm, Mayles Lane,
Knowle, Fareham, Hampshire, PO17 5PN**

Ref: MT12/MB06
Burgess Salmon LLP
www.burgess-salmon.com
Tel: +44 (0)117 939 2000
Fax: +44 (0)117 902 4400

**Burgess
Salmon**

THIS AGREEMENT is made on

15th May

2024

BETWEEN:

- (1) **WINCHESTER CITY COUNCIL** of City Offices, Colebrook Street, Winchester, Hampshire, SO23 9LJ (the “**Council**”);
- (2) **ALBION WATER LIMITED** (Company Registration Number 03102176) a private limited company incorporated in England and Wales whose registered office is at of 3 Filers Way, Weston-Super-Mare, England, BS24 7JP (the “**Owner**”); and
- (3) **WESSEX WATER LIMITED** (Company Registration Number 02366633) a private limited company incorporated in England and Wales whose registered office is Wessex Water, Operations Centre, Claverton Down Road, Claverton Down, Bath BA2 7WW (the “**Mortgagee**”)

Introduction

- (A) The Council is the Local Planning Authority for the purposes of the 1990 Act for the area in which the Mitigation Land is situated.
- (B) The Owner is the registered freehold owner of the Mitigation Land which forms part of the land that is registered at the Land Registry under Title Numbers HP393305, HP715017 and HP718283 subject to the entries disclosed in the registered title
- (C) The Mortgagee has a legal charge over the Site which is registered in the Charges Register of Title Numbers HP393305, HP715017 and HP718283.
- (D) The Owner and the Council agree that the Mitigation Land can provide Nitrate Mitigation to mitigate the impact of Qualifying Schemes in the Catchment Area

NOW THIS DEED WITNESSES as follows:

1. **Definitions**

- 1.1. For the purposes of this Agreement, the following expressions shall have the following meanings, unless the context requires otherwise:

“1990 Act”	means the Town and Country Planning Act 1990 (as amended);
“Agricultural Uses”	means in respect of the Mitigation Land:

	• use for horticulture, fruit growing, seed growing (including the growing of cereal crops); • use for the breeding and keeping of livestock; • use as grazing land; • use a market garden or nursery grounds;
"Allocation"	means a portion of the Capacity is dedicated to provide Nitrate Mitigation for a Qualifying Scheme and "Allocate" and "Allocated" shall be construed accordingly;
"Allocation Agreement"	means an agreement substantially in the form set out in Appendix 1 to be entered into by the Owner and a developer(s) of a Qualifying Scheme setting out the terms on which Capacity shall be Allocated to provide Nitrate Mitigation for such Qualifying Scheme in consideration for an Allocation Fee;
"Allocation Fee"	Means a sum calculated at a rate of pounds (£s) per Kg/TN/yr as shall be determined by the Owner on a case by case basis and specified in each Allocation Agreement;
"BCIS Index"	means the All In Tender Price index produced quarterly by the Building Cost information Service of the Royal Institution of Chartered Surveyors;
"Capacity Monitoring Report"	means a report in substantially the form appended at Schedule 4 of this Agreement to be produced by the Owner upon the completion of each Allocation Agreement and the Allocation of Nitrate Capacity to record the existence of such Allocation Agreement and the Allocation of Nitrate Capacity to a Qualifying Scheme and the quantum of any Remaining Nitrate Capacity
"Catchment Area"	the fluvial catchment of the River Solent.
"Commencement of Qualifying Scheme"	means the date on which any material operation (as defined in section 56(4) of the 1990 Act) forming part of the Qualifying Scheme begins to be carried out and

	similar expressions such as "Commence Qualifying Scheme" and "Qualifying Scheme has Commenced" shall be construed accordingly;
"Commencement Notice"	means a notice served on the Council confirming that the Owner is ceasing use of the Mitigation Land for Agricultural Uses and specifying the date on which that use will cease and the Development will commence;
"Compliance Notice"	means a notice which may be served by the Council pursuant to Paragraph 4 of Schedule 2;
"Development"	means the implantation and use of the Site as a wetlands habitat in accordance with the Planning Permission;
"European Designated Sites"	means collectively the Solent and River Itchen European protected sites;
"First Occupation Date"	means the date on which the Qualifying Scheme is first Occupied;
"Further Monitoring Contribution"	means £2,500 (TWO THOUSAND FIVE HUNDRED POUNDS) Index Linked to be paid by the Owner to the Council pursuant to Schedule 2 as a contribution towards the Council's costs of monitoring compliance with the Owner Obligations from the 21 st year following service of the Commencement Notice to the end of the Perpetuity Period;
"Index Linked"	means that the Initial Monitoring Contribution and the Further Monitoring Contribution are to be increased from the date of this Agreement to the date of payment by reference to the BCIS Index applying the following formula: $D = A \times C/B$ where: A = the Initial Monitoring Contribution or the Further Monitoring Contribution (as the case may be) in pounds sterling;

	B = the BCIS Index figure last published at the date of this Agreement; C = the BCIS Index figure last published at the date that A is payable; and D = the quantum of money expressed in pounds sterling required to be paid to the Council PROVIDED THAT if the BCIS Index ceases to be compiled and published the said formula shall be applied (so far as it concerns periods after the BCIS index has ceased to be compiled and published) by reference to such other index or publication as may be agreed from time to time with the Council;
"Initial Monitoring Contribution"	means £3,500 (THREE THOUSAND FIVE HUNDRED POUNDS) to be paid by the Owner to the Council pursuant to Schedule 2 as a contribution towards the Council's costs of monitoring compliance with the Owner Obligations for the first 20 years following service of the Commencement Notice;
"Mitigation Land"	means the land owned by the Owner at Unit 1, Knowle Farm, Mayles Lane, Knowle, Fareham, Hampshire PO17 5PN as shown shaded green, dark green and striped orange on Plan 1 which has been deemed suitable for permanent removal from nitrate producing uses to alternative uses with lower nitrate loading;
"Nitrate Capacity"	means up to 855 Kg/TN/yr to be removed from the Solent by the Wetland Scheme or such revised figure as the Council shall from time to time approve pursuant to paragraph 7 of Schedule 2;
"Nitrate Mitigation"	means mitigation against the impact of a Qualifying Scheme on nitrate levels in the Catchment Area;
"Occupation"	means occupation of the Qualifying Scheme pursuant to the Planning Permission except occupation for the purposes of construction or fitting out or for security or for

	marketing and "Occupy", "Occupier" and "Occupied" shall be construed accordingly;
"Owner Obligations"	means the obligations given to the Council by Owner as set out in Schedule 2;
"Parties"	means collectively the Council, Owner and the Mortgagee;
"Permitted Uses"	means in respect of the Mitigation Land; • the harvesting and removal of any existing crop in the ground at the First Occupation Date provided no additional fertiliser inputs are applied; • the planting of grass sward; and • the use and management of the wetlands habitat in accordance with the Wetlands Management Plan and the Planning Permission;
"Perpetuity"	means 125 (one hundred and twenty five) years from the date on which any Qualifying Scheme to which any Capacity is Allocated is first occupied and "Perpetuity Period" shall be construed accordingly;
"Plan 1"	means the plan showing the Mitigation Land shaded green, dark green and striped orange on drawing number 5R-2740D-101 appended to this Deed at Schedule 1;
"Qualifying Scheme"	means any development of land which requires Nitrate Mitigation and whose foul waters are treated by a Package Treatment Works or Waste Water Treatment Works that outfall into the Catchment Area or other waste water treatment works as agreed in writing by Natural England
"Planning Permission"	means the planning permission issued by the Council with reference 22/00701/FUL dated 24 November 2022 in relation to the Development of the Site

"Remaining Nitrate Capacity"	the remainder of the Nitrate Capacity following an Allocation of Nitrate Capacity to a Developer pursuant to an Allocation Agreement
"Site"	means the land at Unit 1, Knowle Farm, Mayles Lane, Knowle, Fareham, Hampshire PO17 5PN part of which is registered at the HM Land Registry at Title Numbers HP393305, HP715017 and HP718283 shown edged red on the Site Plan
"Site Plan"	means the plan showing the Site edged red titled "Albion Sewage Treatment Works" appended to this Deed at attached at Schedule 1
"Wetlands Management Plan"	means the document dated 11 August 2023 appended to this Deed at Schedule 4 or any revision or replacement thereof as shall from time to time be approved in writing by the Council pursuant to this Deed which contains details of the implementation and management of the Wetlands Scheme;
"Wetlands Scheme"	means the cessation of the use of the Mitigation Land for Agricultural Uses and the implementation of the Wetlands Management Plan;
"Working Day"	means Monday to Friday inclusive excluding Bank or public holidays.

2. Construction of this Agreement

- 2.1. Where reference is made to any clause, paragraph, schedule or recital, such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Agreement.
- 2.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4. Where more than one person is obliged to observe or perform an obligation, the obligation can be enforced against all such persons jointly and against each individually unless there is an express provision otherwise.

- 2.5. Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validly from it.
- 2.6. References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party, and references to any local authority shall include the successors to its various statutory functions.
- 2.7. Any covenant in this Agreement, whereby a party is not to do any act or thing, shall be deemed to include an obligation not to permit or suffer such act or thing to be done.
- 2.8. The clause headings contained in this Agreement are indicative of the meaning and intent of the clauses to which they respectively refer, and are intended to assist in the interpretation of this Agreement and may be taken into account accordingly.

3. Legal basis

- 3.1. This Agreement is made as a deed pursuant to the following:

- 3.1.1. Section 106 of the 1990 Act;
- 3.1.2. Section 111 of the Local Government Act 1972;
- 3.1.3. Section 1 of the Localism Act 2011; and
- 3.1.4. all other enabling powers

and has been entered into by the Council pursuant to those powers.

- 3.2. The obligations, covenants and undertakings on the part of the Owner in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act which bind the Owner's interest in the Mitigation Land. Subject to clause 8 the obligations, covenants and undertakings on the part of the Owner are entered into with the intent that they are enforceable by the Council not only against the Owner but against any successors in title or assigns of the Owner as if that person had been the original covenanting party in respect of the interest for the time being held by it AND so far as the obligations, covenants and undertakings in this Agreement are given by or to the Council they are entered into under the relevant powers referred to in Clause 3.1 and those obligations, covenants and undertakings are enforceable by or against the Council.

4. Conditionality

- 4.1. This Agreement shall come into force on the date hereof.

5. Owner's Covenants

Owner so as to bind the Mitigation Land will observe and perform the Owner Obligations

6. The Council's Covenants

The Council covenants with the Owner that it will observe and perform the planning obligations as set out in Schedule 3.

7. General

- 7.1. No provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this Agreement, except that the application of that Act shall not prevent all or

any of the future successors in title or to the statutory functions of any of the parties to this Agreement from being able to benefit from or to enforce any of the obligations in this Agreement.

- 7.2. The Owner agrees that this Agreement shall be registrable as a local land charge by the Council against the Mitigation Land.
- 7.3. Where the agreement, approval, consent or expression of satisfaction is required by one party from another party under the terms of this Agreement, such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed, and (if given) shall be given in writing (and shall be of no effect unless given in writing).
- 7.4. Any such agreement, approval, consent or expression of satisfaction shall unless otherwise stated in this Agreement be given on behalf of the Council by the Corporate Lead of Regulatory or Service Head Built Environment or other appropriate manager or officer with relevant delegated or nominated power within the Council and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered address (as appropriate) of the relevant party.
- 7.5. The Council will upon the written request of the Owner at any time after the obligations of the Owner under this Agreement have been fulfilled issue written confirmation of the same, and thereafter cancel all related entries in the Register of Local Land Charges
- 7.6. Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid, illegal or unenforceable, then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

8. Limitation of Liability

- 8.1. No person shall be liable for any breach of any of the planning obligations after it shall have parted with its entire interest in the Mitigation Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 8.2. This Agreement shall not be enforceable against:
 - 8.2.1. any statutory undertaker holding an estate or interest in the Mitigation Land nor against plant equipment conduits or structures located there for its operational purposes; nor
 - 8.2.2. anyone whose only interest in the Mitigation Land or any part of it is in the nature of the benefit of an easement or covenant, or as the owner of the sub-soil of any highway within the Mitigation Land.

9. Disputes

- 9.1. In the event of any dispute or difference arising between the parties to this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares. A person appointed pursuant to this clause shall act as an independent expert and not an

arbitrator. It shall be a term of appointment that a timetable for determination of the dispute shall be fixed at the outset of the matter provided that such timetable shall provide that:

9.1.1. Each party to the dispute must submit its first representations to the person appointed under clause 9.1 above within 28 days of the person appointed writing to the parties requesting such representations; and

9.1.2. Once the parties to the dispute have received the first representations that each has submitted to the person appointed under clause 10.1.1 above, they shall have a further 14 days to submit to the person appointed their response to these first representations.

9.2. The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief; injunction; specific performance; payment of any sum; damages; any other means of enforcing this Agreement and consequential and interim orders and relief.

9.3. This clause 10 does not apply to disputes in relation to matters of law which will be subject to the jurisdiction of the courts.

9.4. This clause 10 does not apply to any dispute which may arise in relation to any matter which is expressly to be agreed or approved or determined by any party in its absolute discretion pursuant to this Agreement or in relation to any failure or delay by such a party in agreeing or approving or determining any such matter.

10. Notices

10.1. Any notice, consent, demand or any other communication served under this Deed will be effective only if in writing and delivered by hand or sent by first class post, pre-paid or recorded delivery.

10.2. Any notice, consent, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Deed or to such other address as one party may notify in writing to the others at any time as its address for service.

11. Mortgagee's Consent

11.1. The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Mitigation Land shall be bound by the Obligations contained in this Agreement and that the security of its legal charge over the Mitigation Land shall take effect subject to this Agreement PROVIDED THAT the Mortgagee shall otherwise have no liability under this Agreement unless it takes possession of the Mitigation Land in which case it too will be bound by the obligations as if it was a person deriving title from the Owner.

12. Waiver

No waiver (whether express or implied) by any party to this Agreement of any breach or default in performing or observing any of the provisions of this Agreement by any other party shall constitute a continuing waiver, and no such waiver shall prevent the party granting it (or implied to have done so) from enforcing any of the relevant provisions or from acting upon any subsequent breach or default.

13. Severability

Each clause, sub-clause, schedule or paragraph shall be separate, distinct and severable from each other to the extent only that if any clause, sub-clause, schedule or paragraph becomes or is invalid because of a change of circumstances or any other unforeseen reasons or if any one or more of such clause, sub-clause, schedule or paragraph shall be held by the Courts to be void for any reason whatsoever but would be valid if severed or any wording was deleted or any time period reduced or scope of activities or area covered diminished then any modifications necessary to ensure such clause, sub-clause, schedule or paragraph be valid shall apply without prejudice to any other clause, Sub-clause, schedule or paragraph contained herein.

14. Costs

The Owner covenants that on or before completion of this Agreement it will pay to the Council its reasonable and properly incurred legal and administrative costs and disbursements of preparing and completing this Agreement.

15. Delivery

The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

16. Jurisdiction and Legal Effect

This Agreement is subject to and will construed in all respects in accordance with English law.

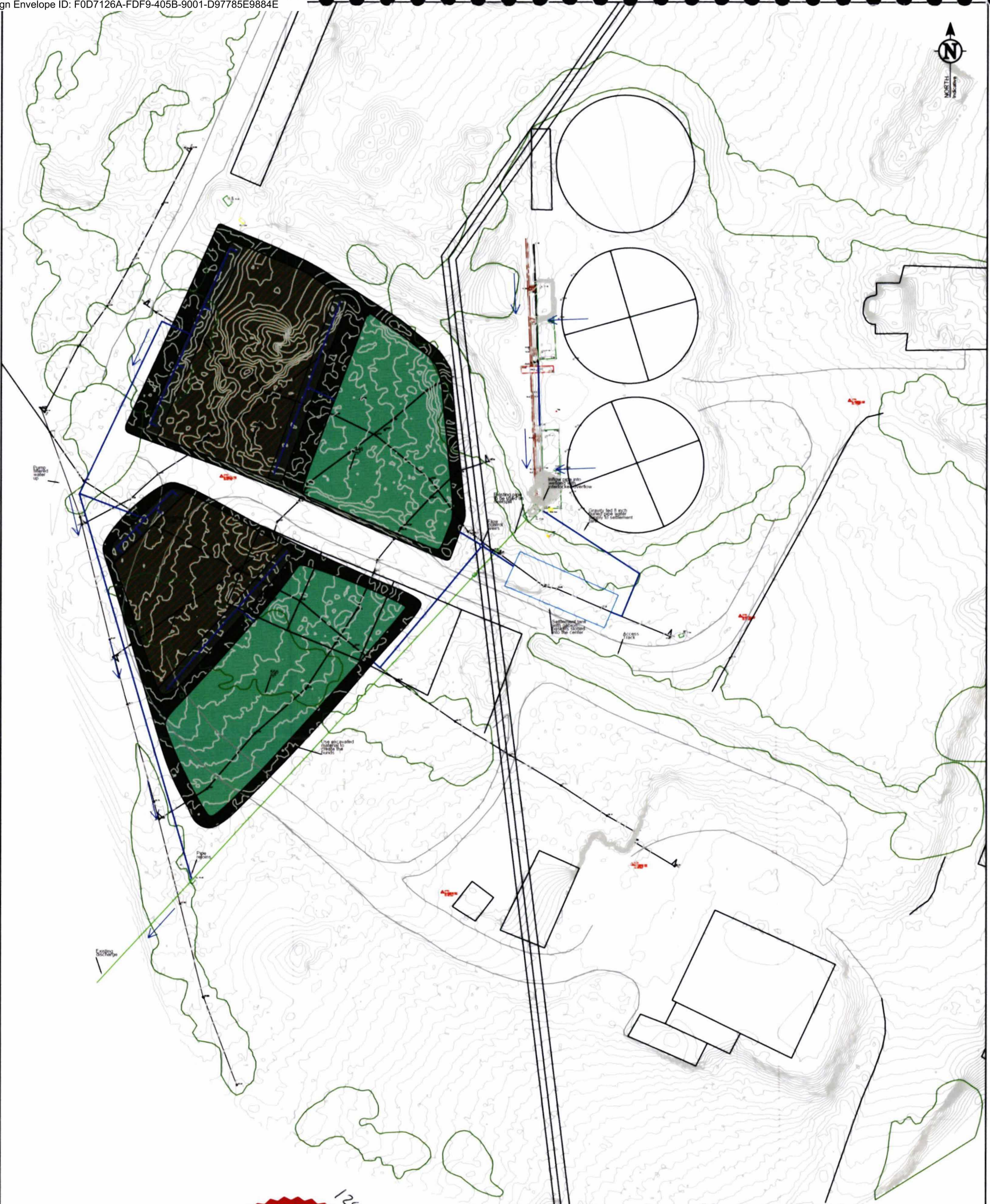
17. Counterparts and Completion

17.1. This Agreement may be executed in any number of separate counterparts, each of which when executed and delivered shall be an original, and such counterparts taken together shall constitute one and the same Agreement.

17.2. This Agreement shall not be effective until each party has executed and delivered one counterpart in the manner prescribed in clause 17.1 above.

SCHEDULE 1

Plan 1 - Mitigation Land and Site Plan



Key:

- Water
- Bed
- Infill
- Gravel
- Existing Bed
- Flow Pipes
- Existing Outfall Pipes
- Settlement Tank

20-40mm Gravel

10-20mm Gravel

Geotextile

Utilities:

- Electric power lines, conduit and cables
- Telecommunication, alarm or signal lines
- Gas, oil, steam, petroleum or other flammable material
- Sewage and drainage lines
- Drinking water
- Reclaimed water, irrigation and slurry lines
- Temporary survey markings and unknown facilities

General notes:

All dimensions shown are in metres unless otherwise stated and levels in metres to ordnance datum.

Utility services investigation status:

- ☐ Type D: Desk study
- ☒ Type C: Desk study with site reconnaissance
- ☒ Type B: Desk study with site reconnaissance and utility detection survey
- ☐ Type A: Desk study with site reconnaissance, utility detection survey and trial holes

NOT FOR CONSTRUCTION

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1	21/01/2022	FOR COMMENT	TK	DMA	TD
Ver	Ver	Date	Status	Drawn	Check'd

FiveRivers

Hangar 5A
Thruxton Airfield
Andover
Hampshire
SP11 8PN

Tel: 01722 783041
www.five-rivers.com

ISO 9001
ISO 14001

Client

Albion Water

Project

2740D - Knowle Wetland

Title

Planview

Drawing number

5R-2740D-101

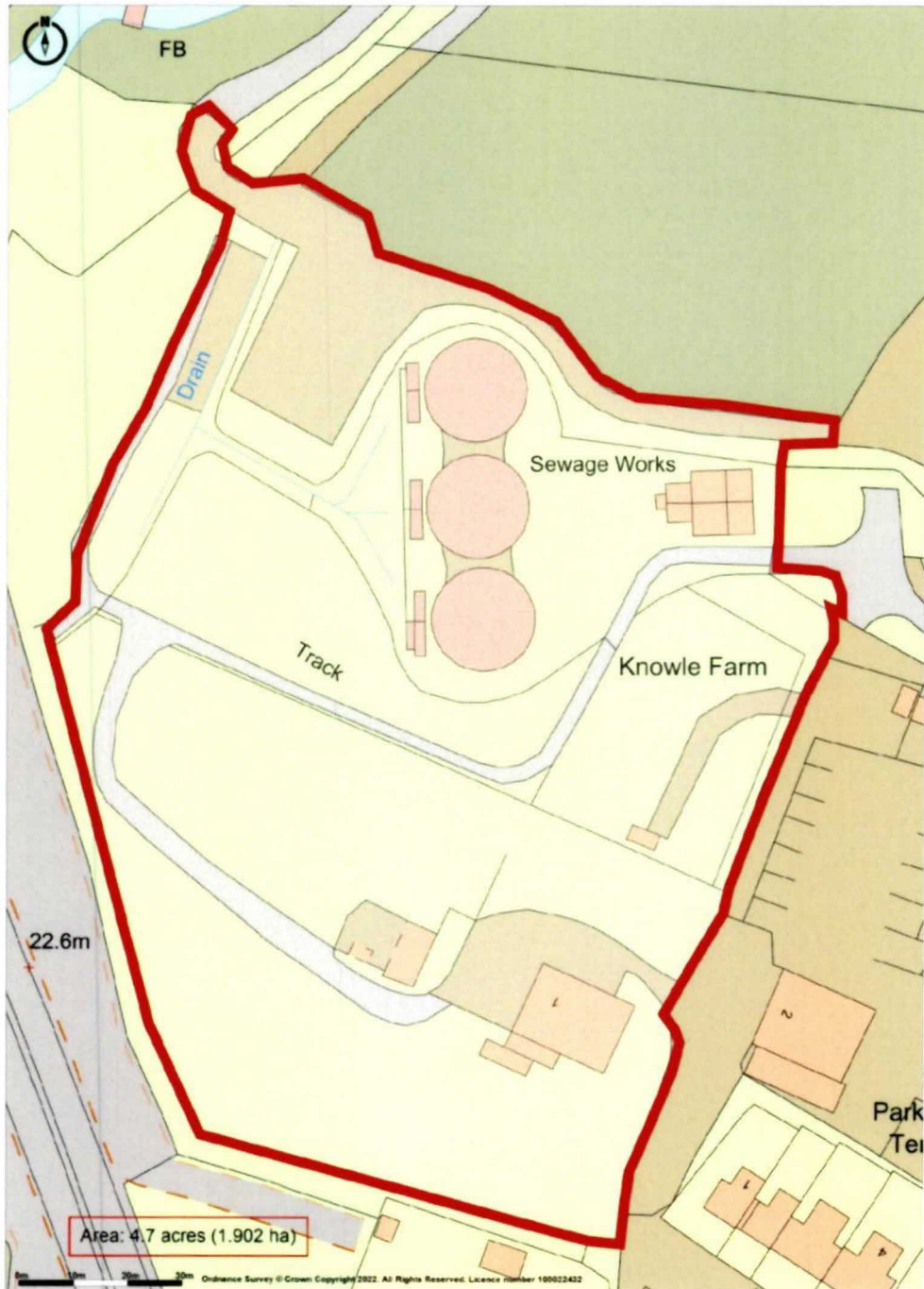
Scale

1:500 @ A3

Plan 1

12521
26

Albion Sewage Treatment Works



Promap
LANDMARK INFORMATION

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Licence number 100022432.
Plotted Scale - 1:1250. Paper Size - A4

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SCHEDULE 2

Owner Covenants

The Owner covenants with the Council so as to bind the Mitigation Land as follows:

1. Approval of Wetland Management Plan

1.1. The Owner may at any time prepare and submit a revised or replacement Wetland Management Plan to the Council for approval including (for avoidance of doubt) to make provision for:

1.1.1. The use or management of the Mitigation Land in a manner consistent with its function as a Nitrate Mitigation; and/or

1.1.2. To take account of any relevant changes in law or guidance;

PROVIDED THAT any such revised Wetland Management Plan shall be unacceptable if it prevents the continued function of the Mitigation Land for Nitrate Mitigation or would prejudice any existing Allocation of Capacity

2. Prohibition of Agricultural Uses

2.1. To serve the Commencement Notice on the Council prior to Allocating any Capacity

2.2 Following service of a Commencement Notice on the Council, the Owner shall

2.2.1 cease using the Mitigation Land for any Agricultural Uses save for the Permitted Uses by the date specified in the Commencement Notice;

2.2.2 Not use the Mitigation Land for any Agricultural Uses (save for avoidance of doubt any Permitted Uses) during the Perpetuity Period;

2.2.3 implement the requirements of the Wetland Management Plan subject to any amendments that may be agreed in writing with the Council from time to time;

3. Monitoring Contribution

3.1 To pay to the Council the Initial Monitoring Contribution within 15 Working Days following service of the Commencement Notice

3.2 To pay to the Council the Further Monitoring Contribution on the twenty first (21st) anniversary of service of the Commencement Notice

4. Allocation of Credit

4.1 Not to Allocate any Nitrate Capacity other than pursuant to an Allocation Agreement;

4.2 Not to enter into any Allocation Agreement unless the Remaining Nitrate Capacity is sufficient to fulfil the requirements of such Allocation Agreement;

4.3 To submit to the Council within 20 Working Days after entering into an Allocation Agreement:

4.3.1 a copy of such Allocation Agreement; and

4.3.2 a Capacity Monitoring Report

- 4.4 To notify the Council of the receipt of any Allocation Fee made pursuant to any Allocation Agreement and/or the termination of any Allocation Agreement within 5 working days of receipt of such a payment or termination such notice to be accompanied by an updated Capacity Monitoring Report
- 4.5 To notify the Council of the date on which any Nitrate Capacity is Allocated to a Qualifying Scheme pursuant to an Allocation Agreement within 5 Working Days of such Allocation such notice to be accompanied by an updated Capacity Monitoring Report

5. Right of Access for the Council to Inspect the Mitigation Land

- 5.1 From the date specified in the Commencement Notice until the end of the Perpetuity Period the Owner shall at all reasonable times (following reasonable notice given in accordance with paragraph 2 of Schedule 3) allow the Council, its agents and contractors with or without workmen and equipment to inspect the Mitigation Land to monitor compliance with the obligations under Paragraph 2 above or with any Compliance Notice served pursuant to Paragraph 6 below.

6. Step-in Rights

- 6.1 If following a visit to the Mitigation Land pursuant to Paragraph 4 above the Council gives notice to Owner that it is not satisfied that Owner is complying with its obligations under this Schedule to its reasonable satisfaction then:
 - 6.1.1 the Council may serve the Owner with a Compliance Notice setting out the Council's explanation why Owner is not complying with its obligations under this Schedule and the steps that Owner should take or refrain from taking in order to comply with those obligations and a reasonable time limit for compliance which shall not in any event be less than 20 Working Days.
 - 6.1.2 If Owner does not agree that there is any default on its part or does not agree with the steps contained in or the time allowed in the Compliance Notice, Owner may request that the matter be referred to for determination under clause 9. The decision of the expert appointed pursuant to clause 9 shall be binding on Owner and on the Council.
 - 6.1.3 Where Owner does not challenge the Compliance Notice or if the expert determines in favour of the Council (as appropriate) and Owner does not comply with the requirements of a Compliance Notice within the reasonable time limits specified the Council may elect at its sole discretion:
 - 6.1.3.1 To permit Owner a further period for compliance; or
 - 6.1.3.2 To step-in and undertake the requirements set out in the Compliance Notice and Owner shall pay to the Council within 10 Working Days of a demand from the Council its reasonably and properly incurred costs of undertaking the requirements set out in the Compliance Notice PROVIDED THAT the Council shall be obliged to provide a full break down of the

time spent and cost incurred in undertaking such requirements.

- 6.1.4 Should the Council elect to permit a further period for compliance pursuant to paragraph 6.1, at the end of that period if the requirements of the Compliance Notice have not been met to its reasonable satisfaction the Council may step-in and undertake the requirements set out in the Compliance Notice and the provisions of paragraph 6.1.3.2 apply regarding its costs.

7 Recalculation of Nitrate Capacity

- 7.1 If at any time after the date of this Agreement a new methodology for calculating nitrogen load from land is prescribed by Natural England which is applicable to the Mitigation Land the Owner shall:
- 7.1.1 Produce a written calculation of the Nitrate Capacity on the basis of such new methodology and submit the same to the Council for approval
- 7.1.2 Upon receipt from the Council of written notice of approval of any calculation submitted pursuant to paragraph 7.1.1:
- 7.1.2.1 (subject to paragraph 7.2) the Nitrate Capacity of the Mitigation Land shall be deemed for the purposes of this Agreement to be the amounts so approved; and
- 7.1.2.2 the Owner shall submit to the Council an updated Capacity Monitoring Report indicating the amount of Remaining Nitrate Capacity on the basis of the approved calculation.
- 7.2 For avoidance of doubt any calculation of Nitrate Capacity carried out and approved pursuant to paragraph 6.2 shall not invalidate any Allocation made prior to the date on which the Owner is notified by the Council pursuant to paragraph 6.1.2 that such calculation is approved.
- 7.3 The Owner shall (unless otherwise agreed in writing by the Council) maintain a reserve of 2.5% of the total Nitrate Capacity for a period of 3 years from the date of the Commencement Notice subject to review and approval by the Council at the end of that period.
- 7.4 The Owner will report in writing to the Council in order to demonstrate the operational effectiveness of the Scheme, the Management Plan and the Allocation of Nitrate Capacity under this Agreement every five years from the date of this Agreement.

SCHEDULE 3
Council Covenants

The Council covenants and agrees with Owner as follows:

1. Not to unreasonably withhold or delay giving its written approval to the Wetland Management Plan or any revised or replacement Wetland Management Plan submitted by the Owner to the Council pursuant to Schedule 2;
2. To give not less than five Working Days' notice to Owner of its intention to access the Mitigation Land for the purposes of inspection pursuant to Paragraph 5 of Schedule 2 or to ascertain compliance with the requirements of any Compliance Notice or for the purposes of exercising its step-in rights under Paragraph 6 of Schedule 2;
3. If the Council exercises its powers under paragraphs 6.1.3.2 of Schedule 2 the Council shall give Owner a written summary of the works undertaken by the Council together with a costs breakdown;
4. The Owner shall be at liberty to enter into any Allocation Agreement in relation to a Qualifying Scheme at the Owner's full discretion;
5. The existence at any time of any Remaining Nitrate Capacity shall not be taken into account by the Council in the determination of any application for planning permission by the Council without prior written confirmation from the Owner that the Owner has entered into an Allocation Agreement and/or received a Allocation Fee in respect of such an application for planning permission; and
6. Not to unreasonably withhold or delay giving its written approval to any calculation of Nitrate Capacity submitted by the Owner to the Council pursuant to Schedule 2.

SCHEDULE 4
Capacity Monitoring Report

A. Site	B. Developer	C. Description of Development	D. Planning Reference	E. Local Planning Authority	F. Date of Allocation Agreement	G. Reserved Nitrate Capacity (Kg/TN/yr)	H. Allocated Nitrate Capacity (Kg/TN/yr)	I. Remaining Nitrate Capacity
TBC								
TBC								
TBC								
TOTALS								

SCHEDULE 5
Wetland Management Plan

OPERATION AND MAINTENANCE PLAN

Knowle Wetlands, Knowle WRC

Ian May, Technical Director
ian.may@albionwater.co.uk
11th August 2023



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Executive Summary

A horizontal subsurface flow constructed wetland (horizontal subsurface flow CW) is a large gravel and sand-filled basin that is planted with wetland vegetation. It is used for secondary or tertiary treatment of wastewater.

Horizontal flow CW are relatively inexpensive to build where land is affordable and can be maintained by the local community as no high-tech spare parts, electrical energy or chemicals are required.

The proposed wetland at Knowle will be installed tertiary to the existing wastewater treatment plant, which comprises primary settlement followed by biological filtration and humus solids separation.

As the treated effluent from the existing wastewater treatment plant flows horizontally through the wetland basins, the filter material will remove particulate matter, and microorganisms will degrade the organic pollutants and remove nutrients such as phosphorus and nitrogen.

The effluent from the wetland will then be discharged via an outfall to the River Meon, adjacent to the site.

This Operation and Maintenance (O&M) plan outlines the tasks and procedures necessary to ensure the wetland functions effectively and efficiently over time.

Introduction

Constructed wetlands are treatment facilities for household wastewater, and/or biodegradable municipal or industrial wastewater. They can be used as a tertiary treatment system for polishing after activated sludge or trickling filter plants.

The filter media within the wetlands acts as a filter for removing suspended solids, a fixed surface upon which bacteria can attach, and a base for the vegetation. Although facultative and anaerobic bacteria degrade most organics, the vegetation transfers a small amount of oxygen to the root zone so that aerobic bacteria can colonize the area and degrade organics as well. The plant roots play an important role in maintaining the permeability of the filter.

The plants grown in the wetland may be used for composting or biogas production. Effluents, if they correspond to the WHO guidelines (see also WHO 2006: Guidelines for the safe use of wastewater excreta and greywater Volume I, Volume II, Volume III and Volume IV) may be used for fertigation.

Wetlands are classified according to the water flow regime as:

- Free water surface constructed wetlands (FWS).
- Vertical flow constructed wetlands (VF).
- Horizontal flow (HF), this is the type proposed for Knowle.

CW are relatively inexpensive to build where land is affordable and can be maintained without specialist knowledge as no high-tech spare parts, electrical energy or chemicals are required.

Purpose of the O&M plan.

The purpose of this Operations and Maintenance (O&M) plan is to outline the strategies, procedures, and responsibilities required to ensure the long-term effectiveness, functionality, and sustainability of the proposed wetland system.

The O&M plan is essential to ensure that the wetland continues to perform its intended functions efficiently and effectively over time, with eight key aims:

1. **Preservation of Treatment Efficiency:** Constructed wetlands rely on natural processes to remove pollutants and improve water quality. Regular maintenance activities such as vegetation management, sediment removal, and monitoring, help prevent the accumulation of debris and pollutants that can hinder the wetland's treatment efficiency.
2. **Prevention of System Failure:** Without proper maintenance, constructed wetlands can become clogged, overloaded, or otherwise compromised, leading to reduced performance or system failure.
3. **Protection of Ecosystem Health:** Constructed wetlands contain diverse plant and animal communities that contribute to biodiversity. Regular monitoring and maintenance activities help protect the health and integrity of these ecosystems, preventing invasive species, habitat degradation, and other ecological disruption.
4. **Compliance with Regulations:** Constructed wetlands are subject to regulatory requirements that require regular monitoring and maintenance to ensure compliance with water quality standards.
5. **Cost Savings:** Regular maintenance can prevent major problems that would require costly repairs or replacement. Investing in routine maintenance as outlined in the O&M plan can save money over the long term by extending the lifespan of the constructed wetland system.
6. **Data Collection and Analysis:** Any constructed wetland requires the collection of data on water quality, vegetation health, and other relevant parameters. This data helps assess the performance of the wetland, identify trends, and make informed decisions about necessary adjustments or improvements.
7. **Continuity and Accountability:** The O&M plan specifies roles and responsibilities for the different stakeholders involved in the management and maintenance of the constructed wetland. This helps ensure that there is a clear chain of accountability and that necessary tasks are consistently carried out.
8. **Adaptation to Changing Conditions:** Environmental conditions can change over time due to factors like climate variability or urban development. The O&M plan will accommodate changes and updates to the maintenance approach based on evolving conditions.

Design and Construction

The proposed constructed wetland comprises two streams, each with two cells operated in series. The wetlands will be fed with treated effluent from Knowle sewage treatment works.

The design of the plant will be in accordance with WWT design guidelines for wetlands designed for nutrient removal. Key design principles which have been applied are:

- **Simplicity.** Where possible, complex technological approaches have been avoided. A simple approach will prove more reliable in the long term.



- Minimal maintenance requirements. Where possible, the design of the wetlands has been designed to minimise maintenance requirements.
- Use of natural topography. The wetland has been designed to allow flow through the plant to be accomplished by gravity, by utilising the naturally sloping site.
- The wetlands has been designed to accommodate and deal with variations in weather and climate, and to blend in with the local landscape in order to enhance the local environment and improve biodiversity.

Vegetation for the wetlands will be selected based on the following criteria:

- A rapid and relatively constant growth rate.
- High biomass, root density, and depth.
- Ease of propagation.
- Good capacity to absorb or transform pollutants, in particular nitrogen.
- Tolerance of local conditions.
- Ecological value and contribution to biodiversity net gain for the site.

The wetlands will be designed to promote good hydraulic performance, with influent flow being distributed evenly across the inlet to the first cell in each of the two streams. The inlet will be designed to prevent clogging with solids or algal growth and to facilitate maintenance. The inlet to each cell will be designed to promote stilling using appropriate design elements such as weirs or hard landscaping as appropriate.

During construction steps will be taken to ensure that minimal amounts of sediment are allowed to enter the wetland system. The wetland banks will be vegetated as early as possible to prevent any risk of in-wash of both sediments and nutrients. In the post-construction and commissioning phase, sediments will be removed from the system if present.

Maintenance activities at the upstream wastewater treatment plant will focus on ensuring that treatment is effective at reducing the concentration of solids in the wastewater before it enters the wetland.

The wetland will be monitored by operational personnel on a regular basis to check the health of the system. If there are any signs of anaerobic conditions, the affected cell will be rested until conditions improve. The routine maintenance procedures for the wetlands are outlined below/.

Management of sediment

Over time, it is expected that the wetland substrate will become clogged with accumulated solids and bacterial film.

While the maintenance regime outlined below is not anticipated to generate large volumes of sediment, it is anticipated that approximately every fifteen to twenty-five years a more significant cleaning of the wetland cells may be required, which will require significant planning.

This is expected to require cells to be bypassed and taken offline, excavated to remove excess sediment, and replanted if required. To enable treatment to continue, only sections of the cells will be taken out of service at any one time.

Some of the polluting agents in the wastewater will be degraded through biological processes, but many will persist in the settled sediment and will ultimately need to be



removed and disposed off-site. Removed sediment may be classified as hazardous waste and will be dewatered on site before testing, prior to disposal at an appropriate licensed waste facility.

Maintenance of Vegetation

During the first growing season, regular weeding will be completed to prevent the preferred plant species from being outcompeted by weeds.

The maintenance regime outlined below will ensure continued hydraulic conductivity of the substrate, removal of accumulated sludges inlet area of the wetland, management and removal of decaying algae and macrophytes in the wetland, and replacement of moribund areas of vegetation.

The wetlands will not generally be subject to harvesting by removal of plant material as it is considered that the plant litter layer has a role to play in the treatment process by providing thermal insulation for the substrate and a large surface area of particles from decomposed leaves for the adsorption of metals. However some trimming and maintenance will be required to prevent overgrowth.

Wetland Operation and Maintenance Tasks

The following maintenance tasks will be carried out by operations personnel on site.

Weekly:

- Check general condition of inlet and outlet structures. Inspect and remove any rubbish or litter from inlet and inlet flow control devices. Check structures for vegetation growth and remove if required.
- Check for sediment accumulation in inlet forebay area of both streams and clear if excessive levels of sediment have accumulated.
- Check banks for settlement, erosion, scouring, cracking, sloughing, seepage, or rilling.
- Carry out general maintenance of the wetland vegetation and any surrounding landscaped zones including weeding and cutting back of vegetation.
- Remove woody vegetation growth from banks before it becomes established.
- Take spot samples from wetland inlet and outlet, send for laboratory analysis.
- Inspect outfall structure and river downstream of the outfall for any sign of bank erosion, sewage fungus or other adverse environmental impacts. If found, escalate to the Operations Manager and take samples for laboratory analysis.

Monthly:

- Check all flow control structures, weirs, orifices, and outfall pipes for leaks or blockages. Clear and blockages and clean structures of litter or sediment.
- Check emergency overflow routes are clear of blockage, and remove if present.
- Check vegetated areas of the wetland cells for weeds and overgrowth and trim, prune, or remove if required. Paying particular attention to any woody growth and remove.
- Mow grass around banks and surrounding areas, when required. However, these areas will be managed for biodiversity and mowing will be planned appropriately to maximise the value for wildlife.
- Monitor for pest species such as rats and report any problems to the Operations Manager.



- Inspect surface of all wetlands cells for rubbish, leaf fall, etc. and remove as required.
- Check for decaying algae and macrophytes or other moribund areas of vegetation.

Six Monthly:

- Walk the outfall pipeline and check for any evidence of settlement, leaking, or other damage.
- Inspect wetland plants for invasive / nuisance species and remove if found.
- Trim wetland plants if required to prevent overgrowth.

Annually:

- Check and exercise all valves, lubricate if required.

Responsible Parties

The routine operation and maintenance tasks will be carried out by the site Operator. In the event of issues with the wetlands requiring more complex rectification, the Operations Manager will be called to assist. In the event of any emergencies or operational problems, the Environment Agency will be informed.

Site Operator: Name (Number)
 Operations Manager: Name (Number)
 Environment Agency: Name (Number)

Troubleshooting / Emergency Response

The following procedures will be used to manage operational problems or emergencies. Generally it is expected that the Operator will respond to problems in the first instance, and the Operations Manager will provide additional support if required.

Flooding

If the wetland is found to have flooded, the outlet riser openings will be checked for blockage and cleared if necessary. If flooding remains a problem, it may be necessary to utilise temporary pumps to clear the wetland and prevent drowning of the vegetation. Surface water will be passed back to the sewage treatment works (STW) recirculation pumping station, and returned to the STW for further treatment.

The wetlands will be located outside the flood zone for the adjacent River Meon, therefore overland flooding is not expected. In the event of severe flooding, replanting of the wetlands will be carried out if required.

Dessication

If the wetland is found to be unusually dry, the outlet riser and drain valves will be checked, and closed if necessary to retain water in the cells to prevent the substrate from drying out. Dry weather conditions may present an opportunity to carry out routine maintenance activities which require access onto the wetlands. Desiccation is not anticipated to be a frequent problem since the upstream STW will pass forward flows even during dry weather.



Poor Effluent Quality

The effluent from the wetlands will be frequently tested through a programme of sampling. In the event of a clear deterioration of effluent quality (e.g. the appearance of sewage fungus in the wetlands or around the outfall), the performance of the wetlands will be assessed in greater detail by the Operator and Operations Manager. If there is an adverse impact on the environment, the Environment Agency will be informed by the Operations Manager.

Reporting and record keeping

The wetlands will be checked and maintained by the works Operator according to the maintenance task schedule outlined above. Task completion will be recorded and details of maintenance activities recorded and stored on site.

Samples from the wetlands inlet and outlet will be collected on a regular basis and analysed at an accredited analytical laboratory.

Budget

The estimated annual budget for operation and maintenance of the wetland is TBC. The budget will be funded from the sale of nutrient credits.

Training

All personnel involved in operation and maintenance of the wetlands will be given appropriate training, and all training will be recorded in a training register which will be held on site.

Where third party contractors are required to carry out work on the wetlands, Albion Water, as the owner of the site, will assess their competency to complete the assigned tasks prior to engagement.

Legal and Regulatory Compliance

Following this Operation and Maintenance system will ensure compliance with all regulatory and legal requirements.

Sustainability

The wetlands will be designed, operated and maintained to enhance the biodiversity of the site at Knowle. The site will require no electrical energy to operate and will significantly improve the removal of nutrients from the Knowle STW discharge to the River Meon.

Review and Updates

This operation and maintenance manual will be reviewed and updated annually, or as required, with any changes documented as part of the ISO document management process.

Appendices

TBC Supporting documents:

- maps,
- technical specifications,
- relevant studies.

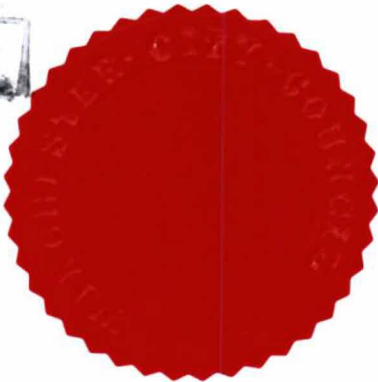
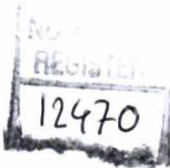
IN WITNESS whereof the Parties hereto have executed this Agreement by deed on the day and year first before written

The Common Seal of)

WINCHESTER CITY COUNCIL)

was affixed to this deed in the)

presence of:)



.....

(Signature of Member)

.....

(Signature of Member)

EXECUTED AS A DEED BY

ALBION WATER LIMITED

in the presence of:

[Redacted]

[Redacted]

(Full name of witness)

Director

[Redacted]

(Signature of witness)

[Redacted]

Address

[Redacted]

Occupation

EXECUTED AS A DEED BY

WESSEX WATER LIMITED

in the presence of:

[Redacted]

[Redacted]

(Full name of witness)

Director

[Redacted]

(Signature of witness)

[Redacted]

.....

.....

Address

[Redacted]

Occupation

[Redacted]

Appendix 1
Allocation Agreement

**DEED OF ALLOCATION (NITRATE
OFFSETTING)**
AT
[DEVELOPER'S SITE]

Albion Water Limited

[Developer]

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THIS DEED is made the day of

Two thousand and [REDACTED]

BETWEEN

- 1) **ALBION WATER LIMITED** (Company Registration Number 03102176) a private limited company incorporated in England and Wales whose registered office is at of 3 Filers Way, Weston-Super-Mare, England, BS24 7JP (the "**Owner**"); and
- 2) **[DEVELOPER]** (Company registration number: [REDACTED]) of [REDACTED] (the "**Developer**");

Together "**the Parties**"

WHEREAS:

- (A) The Owner is the registered freehold owner of the Mitigation Land which forms part of the land that is registered at the Land Registry under Title Numbers HP393305, HP715017 and HP718283 subject to the entries disclosed in the registered title.
- (B) The Site benefits from the Knowle Farm Planning Permission which authorises the provision of a wetlands habitat which will strip nitrates, phosphates and microplastics to mitigate against the eutrophication of the Solent.
- (C) The Owner has entered into the Section 106 Agreement and the Section 33 Agreement which together secure the long term use of the Site for nitrate mitigation purposes and which facilitate the Allocation and ongoing monitoring of the Site in order to provide a nitrate offsetting solution for the benefit of offsite developments.
- (D) The Owner has agreed to Allocate a portion of the Site's Capacity to the Developer in order to mitigate the impact of the Development on nitrate levels in the Solent catchment in return for the Commuted Sum.

NOW THIS DEED WITNESSETH:

1 DEFINITIONS

1.1 The following words and phrases shall have unless the context otherwise requires bear the following meanings:

"Allocation" means that a portion of the Mitigation Land providing a Capacity of not less than the Required Capacity has been designated pursuant to this Deed for the purposes of mitigating the impact of the Development on nitrate levels in the Solent catchment by the submission of a Capacity Monitoring Report by the Owner to Winchester City Council and the Council in accordance with the Section 106 Agreement and the Section 33 Agreement and "Allocated" and "Allocated" shall be construed accordingly

"Application" means either:

- the application for planning permission submitted to [Local Planning Authority] for the Development and allocated reference number [] and/or
- such other planning application as agreed in writing between the Developer and the Owner;

"Capacity" means an amount (expressed in kg/TN/yr) of nitrates to be removed from the Solent as a consequence of Nitrate Mitigation

"Capacity Monitoring Report" has the same meaning as in the Section 106 Agreement

"Commuted Sum" means [insert sum + VAT]

"Development" means the development of [insert details of Developer's application]

"Expiry Date" means the date that is three months from the date of this Deed (or such alternative date as may be agreed by the parties in writing)

"Knowle Farm Development" means the development authorised by the Knowle Farm Planning Permission

"Knowle Farm Planning Permission" means the planning permission dated 24 November 2022 to use the Site to develop a wetlands habitat granted pursuant to the planning application granted by Winchester City Council with reference number **22/00701/FUL**

"Legal Fee" means a sum to be calculated by the following formula:

[Total local authority legal fees + total Burges Salmon (Albion) legal fees + VAT]

/

855

x

the Required Capacity

"Mitigation Land" means an area within the Site to be specified by reference to Plan 1 and having a Capacity of not less than the Required Capacity part of which is to be dedicated committed and allocated towards mitigating the impact of the Development on nitrate levels in the Solent catchment

"Nitrate Mitigation" means mitigation measures designed to mitigate against the effects of increased nitrate levels in the Solent in accordance with Natural England requirements at the date of the Section 106 Agreement;

"Occupation" means occupation of the Development for the purposes permitted by the Satisfactory Planning Permission but not occupation for the purposes of construction, fitting out or decoration for marketing or display purposes or in connection with security operations and "Occupy" and "Occupied" shall be construed accordingly;

"Operation and Management Plan" means the management plan agreed between the Owner and Winchester City Council in the discharge of condition 4 of the Knowle Farm Planning Permission

"Plan 1" means the plan showing the Mitigation Land shaded green, dark green and striped orange on drawing number 5R-2740D-101 appended to this Deed at Appendix 1;

"Planning Agreement" means an agreement or undertaking with the relevant planning authority or any other competent authority made under:

- section 106 of the Town and Country Planning Act 1990;

- section 111 of the Local Government Act 1972;
- sections 38, 184 or 278 of the Highways Act 1980;
- section 33 of the Local Government (Miscellaneous Provisions) Act 1982;
- section 98, 104 or 106 of the Water Industry Act 1991; or
- section 1 of the Localism Act 2011.

"Planning Permission" means the planning permission for the Development to be issued pursuant to the Application [or] [the planning permission granted on date for the Development pursuant to the Application];

"Relevant Event" means any of the following events:

- a change in the law; or
- a decision of a Court, tribunal, Secretary of State, or other decision maker with competence; or
- a change in Natural England's custom or practice; or
- a change in scientific opinion based on evidence; or
- a change in industry practices or in the generally accepted calculation methods for the type or extent of land required to achieve Nitrate Mitigation;

that is accepted in writing by both Natural England and Winchester City Council and results in any of the following:

- off-site nitrate mitigation not being required in relation to the Development; or
- Nitrate Mitigation not being required; or
- the Knowle Farm Development not being considered to be an effective form of Nitrate Mitigation; or
- neither the Knowle Farm Development not being required for Nitrate Mitigation;

"Required Capacity" means []

"Reserve Fee" means the non-refundable sum of £[10% of the Commuted Sum + VAT] to be paid by the Developer to the Owner;

"Satisfactory Planning Permission" means a Planning Permission which the Developer confirms in writing to the Owner is acceptable [drafting note: not necessary if Planning Permission is in place]

"Winchester City Council" means Winchester City Council acting in its capacity as local planning authority

"Section 33 Agreement" means the agreement dated [] entered into pursuant to Section 33 of the Local Government (Miscellaneous Provisions Act 1982 between (1) [local planning authority] and (2) Albion Water Limited in connection with the Knowle Farm Development in the form appended to this Deed at Appendix 3

"Section 106 Agreement" means the agreement dated [] entered into pursuant to Section 106 of the Town and Country Planning Act 1990 between (1) Winchester City Council and (2) Albion Water Limited in connection with the Knowle Farm Development in the form appended to this Deed at Appendix 2

"Site" means the land at Unit 1, Knowle Farm, Mayles Lane, Knowle, Fareham, Hampshire PO17 5PN shown edged red on the Site Plan;

"Site Capacity" means the total Capacity of the Site following the completion of the Knowle Farm Development which is estimated to be approximately 855 Kg/TN/yr;

"Site Plan" means the Plan showing the Site edged red titled "Albion Sewage Treatment Works" appended to this Deed at Appendix 1;

"Solent" means the strait that separates the Isle of Wight from the mainland of England;

"Working Days" any Monday, Tuesday, Wednesday, Thursday and Friday except bank or public holidays and except any day between 25 December and 02 January (inclusive) in each year;

2 INTERPRETATION

- 2.1 The clause headings in this Deed are for reference only and do not affect its construction or interpretation.
- 2.2 References to clauses and Schedules are to the clauses and Schedules of this Deed, unless stated otherwise.
- 2.3 A reference to a paragraph is to the paragraph of the Schedule in which the reference is made, unless stated otherwise.
- 2.4 Words importing one gender include any other genders and words importing the singular include the plural and vice versa.
- 2.5 A reference to a person includes a reference to a firm, company, authority, board, department or other body and vice versa.
- 2.6 Unless this Deed states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations, directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it.
- 2.7 References to the Site include any part of it.
- 2.8 References to "including" means "including, without limitation"
- 2.9 Any covenant not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.10 Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly or against each of them individually
- 2.11 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Deed shall be unaffected.

3 COMMENCEMENT

- 3.1 This Deed will take effect on the date of this Deed.

4 OBLIGATIONS OF THE DEVELOPER

- 4.1 The Developer shall pay the Reserve Fee to the Owner on the date of this Deed.
- 4.2 [Within one month of the date of grant of the Planning Permission the Developer shall confirm in writing to the Owner whether the Planning Permission is a Satisfactory Planning Permission].

4.3 The Developer shall pay the Commuted Sum to the Owner when the Developer confirms the receipt of a Satisfactory Planning Permission pursuant to clause 4.2 above. **[or if Planning Permission is in place] [The Developer shall pay the Commuted Sum to the Owner on the date of this Deed]**

4.4 The Developer shall pay the Legal Fee to the Owner on the date of this Deed.

5 OBLIGATIONS OF THE OWNER

5.1 Following receipt of the Reserve Fee the Owner covenants to reserve **[]** kg/TN/yr out of the total Site Capacity for the Developer until the earlier of:

- (a) the Expiry Date; and
- (b) the date on which the entirety of the Required Capacity has been Allocated to the Developer.

5.2 The Owner covenants to Allocate part of the Mitigation Land in order to provide the Required Capacity of Nitrate Mitigation for the Development pursuant to the Satisfactory Planning Permission and to confirm such Allocation in writing to the Developer and Winchester City Council within 5 Working Days of receipt of the Commuted Sum.

5.3 Following receipt of the Commuted Sum the Owner thereafter covenants to maintain the Mitigation Land in accordance with the Operation and Management Plan and Section 106 Agreement for the lifetime of the Development.

5.4 The Owner shall refund the Reserve Fee to the Developer if:

- (a) The Developer does not obtain a Satisfactory Planning Permission; and
- (b) The Owner notifies the Developer in writing that it has been able to sell the reserved **[]** kg/TN/yr of the total Site Capacity identified at clause 5.1 to an alternative purchaser for the same value.

5.5 If a Planning Agreement is required by the relevant local planning authority or any other competent authority as a pre-condition to the grant of Satisfactory Planning Permission the Owner shall, if required, enter into the Planning Agreement provided that:

5.6 the terms of the Planning Agreement which relate to or seek to bind land which is within the Owner's ownership and/or occupation are acceptable to the Owner (acting reasonably and having regard to the delivery of the Nitrate Mitigation scheme and the Allocation pursuant to this Deed);

- (a) the Developer pays the Owner's (reasonable and properly incurred) legal fees in connection with the Planning Agreement ;

- (b) any liabilities on the Owner under the Planning Agreement are conditional upon the implementation of the Planning Permission; and
- (c) the Owner will not be liable for a breach of a covenant contained in the Planning Agreement after the Owner has parted with all its interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

6 VARIATION

- 6.1 In the event Winchester City Council requests a variation to this Deed on reasonable terms in order to make the Knowle Farm Planning Permission or any Application acceptable in planning terms the Owner and the Developer shall (acting reasonably) consider such request and, if agreed, the Owner and the Developer shall as soon as reasonably practicable enter into a deed of variation to vary this Deed.

7 NOTICES

- 7.1 Any notice, consent, demand or any other communication served under this Deed will be effective only if in writing and delivered by hand or sent by first class post, pre-paid or recorded delivery.
- 7.2 Any notice, consent, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Deed or to such other address as one party may notify in writing to the others at any time as its address for service.

8 DETERMINATION OF DISPUTES

- 8.1 Subject to clause 8.7, if any dispute arises relating to or arising out of the terms of this Deed, either party may give to the other written notice requiring the dispute to be determined under this clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 8.2 For the purposes of this clause 8 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.
- 8.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4.
- 8.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to

take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the Developer cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society

8.5 The Specialist is to act as an independent expert and:

- (a) each party may make written representations within ten (10) Working Days of his appointment and will copy the written representations to the other party;
- (b) each party is to have a further ten (10) Working Days to make written comments on the other's representations and will copy the written comments to the other party;
- (c) the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
- (d) the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
- (e) the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
- (f) the Specialist is to use all reasonable endeavours to publish his decision within thirty (30) Working Days of his appointment.

8.6 Responsibility for the costs of referring a dispute to a Specialist under this clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

8.7 This clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Deed which will be subject to the jurisdiction of the courts.

9 TERMINATION OF THIS DEED

9.1 In the event that the Owner has not received the Commuted Sum on or prior to the Expiry Date the Owner shall thereafter be released from its obligations in this Deed.

9.2 If any part of the Capacity reserved for the Developer under clause 5.1 has been allocated to the Developer in accordance with clause 5.2 on or before the Expiry Date this Deed will come to an end and the obligations in this deed will immediately terminate on the earlier of:

- (a) the end of the lifetime of the Development;
- (b) the occurrence of a Relevant Event.

9.3 Without affecting any other right or remedy available to it, any party may terminate this Deed with immediate effect by giving notice to the other parties if a Relevant Event occurs.

9.4 Without affecting any other right or remedy available to it,

(a) the Owner may terminate this Deed with immediate effect by giving notice to the Developer if the Developer is in breach of any of its obligations in this Deed and has failed to rectify the breach within a reasonable time after receiving notice to rectify from the Owner; and

(b) the Developer may terminate this Deed with immediate effect by giving notice to the Owner if the Owner is in breach of any of its obligations in this Deed and the Owner failed to rectify the breach within a reasonable time after receiving notice to rectify from the Developer.

9.5 If this Deed is terminated in accordance with the provisions of Clause 9.2 or Clause 9.3 or Clause 9.4 then:

(a) the Owner may proceed to allocate the Required Capacity to a third party;

(b) the Owner may use the Mitigation Land as they see fit in their absolute discretion;

(c) Neither party shall have any further rights or obligations under this Deed save for:

(i) the rights of either party in respect of any earlier breach of this Deed; and

(ii) the obligations in the clauses referred to in 9.5;

(iii) any sums paid to the Owner by the Developer under the terms of this Deed shall not be refunded.

9.6 Clause 9 shall continue in force notwithstanding the termination of this contract under clause 9.1 or clause 9.2.

10 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

10.1 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it provided that the exclusion of the said Act shall not prevent all or any future successors in title to any of the parties to this Deed from being able to benefit from or to enforce any of the provisions of this Deed.

11 COUNTERPARTS

11.1 This Deed may be executed in any number of counterparts each of which when executed and delivered shall constitute an original of this Deed but all the counterparts shall together constitute the same deed. No counterpart shall be effective until each party has executed at least one counterpart.

12 JURISDICTION

- 12.1 Subject to the provisions of clause 8 this Deed shall be governed by the laws of England and Wales and the Courts of England shall have sole jurisdiction in respect of the construction of this Deed and as to the respective rights and liabilities of the parties.

Executed as a deed by **ALBION WATER LIMITED** acting by a director, in the presence of:

.....	
.....	[SIGNATURE OF DIRECTOR]
[SIGNATURE OF WITNESS]	Director

Name of Witness
[IN BLOCK CAPITALS]

Address of Witness
.....

Occupation of Witness
.....

[Developer execution clause]
.....

APPENDIX 1

Plans

APPENDIX 2

Section 106 Agreement

APPENDIX 3

Section 33 Agreement

Certificate Of Completion

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Source Envelope:

Document Pages: 65

Signatures: 8

Envelope Originator:

Certificate Pages: 3

Initials: 0

Douglas Haycock

AutoNav: Enabled

One Glass Wharf

Envelopeld Stamping: Enabled

Bristol, Bristol BS2 0ZX

Time Zone: (UTC) Dublin, Edinburgh, Lisbon, London

Douglas.Haycock@burges-salmon.com

IP Address: 213.104.114.114

Record Tracking

Status: Original

Holder: Douglas Haycock

Location: DocuSign

4/15/2025 2:42:57 PM

Douglas.Haycock@burges-salmon.com

Signer Events

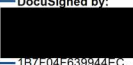
Adam Shore

adam.shore@sdslimited.com

Director

Security Level: Email, Account Authentication
(None)

Signature

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Company Name: Burges Salmon LLP

Douglas Haycock

douglas.haycock@burges-salmon.com

Security Level: Email, Account Authentication
(None)

Completed

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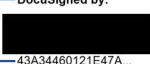
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Stephen Ball

stephen@marshallsllp.com

Marshalls Solicitors LLP

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Accepted: 5/2/2025 10:23:45 AM

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Company Name: Burges Salmon LLP

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

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Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

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Witness Events	Signature	Timestamp
Daniel Lilley daniel@marshallsllp.com Paralegal 102 High Street, Godalming, Surrey, GU7 1DS Witness for Stephen Ball (stephen@marshallsllp.com) Security Level: Electronic Record and Signature Disclosure: Accepted: 5/2/2025 2:39:45 PM ID: bfa0227b-86d1-426f-b74b-7717df40485c Company Name: Burges Salmon LLP	Signed by:  Signature Adoption: Pre-selected Style Using IP Address: 62.232.204.122	Sent: 5/2/2025 2:39:15 PM Viewed: 5/2/2025 2:39:45 PM Signed: 5/2/2025 2:43:07 PM
Richard Averley richard.averley@sdslimited.com Sales and Marketing Director SDS Limited Sales Director Clearwater House, Castlemills, Biddisham, BS26 2RE Witness for Adam Shore (adam.shore@sdslimited.com) Security Level: Electronic Record and Signature Disclosure: Accepted: 4/15/2025 4:58:40 PM ID: cd925ee3-b9e3-4580-b52c-218d97f81528 Company Name: Burges Salmon LLP	DocuSigned by:  Signature Adoption: Pre-selected Style Using IP Address: 62.169.149.235	Sent: 4/15/2025 3:37:00 PM Viewed: 4/15/2025 4:58:40 PM Signed: 4/15/2025 5:00:47 PM
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Completed	Security Checked	5/7/2025 2:59:37 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

Please see attached agreed form document(s) for execution. Please follow the prompts and complete the actions as noted.

If you have not been advised by Burges Salmon LLP in this transaction and the electronic signature process, please note that this email does not constitute advice on the contents of the document(s) or in relation to the transaction. If you have any queries about the document(s) or if you require any clarification, please contact your solicitor immediately before you sign the document(s).