

North Solent Shoreline Management Plan

Information Note
for landowners, planners and developers
on privately owned coastal defences

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Aim of Note

There is a significantly high proportion of privately owned land and privately maintained defences within the Solent. These defences provide a range of flood protection benefits to coastal communities, heritage sites, agricultural land and environmentally important habitats, sites and features. Private landowners within the Solent region therefore, have a key role in the way the shoreline is managed. Third party funded ownership and maintenance of defences have been very important factors that have been acknowledged during the appraisal of both the proposed policies and have been considered when determining the final SMP policies.

Consultation and discussions with landowners and stakeholders have identified serious concerns relating to the perception and potential consequences of the SMP policies in terms of current and future planning applications and defence management, and uncertainty regarding availability of public funding (from Flood and Coastal Defence Grant In Aid); there are also questions relating to possible liability if defences are maintained on some frontages and not in others and the potential increased risk of tidal flooding.

This information note aims to provide general advice for landowners, developers and planners by summarising key information relating to the SMP on the coastal planning process, SMP policies and coastal planning issues, which were either not addressed in sufficient detail within the Defra SMP guidance or which required further clarification as issues were identified and raised during consultations and discussions with landowners, stakeholders and planners during the development of the SMP.

Role of the Local Planning Authority;

- to provide detailed information and advice with respect to specific planning policies and plans relevant to the coastline
- to assist with any coastal defence planning queries
- to check whether any proposed coastal defence works constitute 'development' or 'engineering works' to ensure planning permission is sought well in advance of any works commencing.

Key Messages of the North Solent SMP

- 1 Understanding the geography of the coast. This includes:
 - an assessment of historic trends and future predictions of natural coastal processes, such as waves, tides, movement of sand, shingle and mud, and sea level rise
 - an assessment of the performance and condition of existing flood and coastal defences
 - determining coastal flood and erosion risks to coastal communities, property, heritage features, and the natural environment
 - identifying the increasing coastal flood and erosion risk if defences fail or are not maintained, which may result in loss of property, heritage, coastal access, designated habitats, etc. and a decline in property value
 - developing sustainable defence policies for future coastal management over the next 100 years

- 2 SMP's do not guarantee or secure public funding to implement any proposed policy or any capital works (improvements to existing defences or additional defences) or for maintenance of existing defences
- 3 SMP's help determine aspirational national funding requirements for the long-term sustainable management of coastal flood and erosion risks
- 4 SMPs are not legally enforceable but are used by Planners and Development Control Officers to assist with decision making for proposed development on or near the coast. Each planning application will be considered on its individual merits on a case-by-case basis against various constraints, opportunities, development plan and policies that apply. Please note that planning permissions are not determined solely by the SMP coastal defence policy.
- 5 Private landowners have certain permissive development rights to protect their property and to continue to maintain existing coastal and flood defences. Landowners wanting to maintain their coastal defences are advised to contact their Local Planning Authority before undertaking any works. These rights apply and remain irrespective of the SMP policies.
- 6 For planning applications where construction of additional defences or improvements to existing defences are proposed, the applicant is required to obtain all relevant permissions, including planning permission, consent from Natural England, Environment Agency and Crown Estate, before carrying out any works. If the work falls within the definition of "coast protection work" ("construction, alteration, improvement, repair, maintenance, demolition or removal for the purpose of the protection of any land") then consent will be required from the coast protection authority. If works include any alteration to a flood defence structure (any structure which prevents inundation from the sea or river) or are close to such structure, Flood Risk Management consent is required from the Environment Agency (see Appendix for contact details of the Client Steering Group organisations). These consents predate any SMP.
- 7 Landowners are at liberty to defend their property or to discontinue maintenance of their coast protection or flood defence works or even remove them, as they see fit. However, alteration to Flood Defence Works requires consent from the Environment Agency and physical works may well require planning permission. Landowners are encouraged to inform their Local Authority in advance of withdrawing or cessation of maintenance of defences. This will enable the implications associated with withdrawal of maintenance, e.g. increased flood risk to properties and landholdings, damage to or loss of environmentally important sites, etc., to be assessed.

1 What is Flood and Coastal Erosion Risk Management?

There are a number of stages involved in achieving the aims of the government department with a flood and coastal erosion risk management remit, Department for Environment, Food and Rural Affairs (Defra). The key stages are the development of:

1. Shoreline Management Plans for shorelines and Catchment Flood Management Plans for river catchments
2. Flood and Coastal Erosion Risk Management Strategies (formerly termed Coastal Defence Strategies)
3. Scheme Design

Each stage requires an understanding of coastal processes, coastal defence needs, environmental considerations, planning issues and current and future land use, but at an appropriate level of detail. The assessment of flood and erosion risks is an integral part of the appraisal process at each stage to ensure that decisions taken at that time are robust, and based on an awareness of the consequences and appropriate mitigation measures.

The guidelines for the development of a **Shoreline Management Plan (SMP)** are set out by the Defra. An SMP is a non-statutory plan that:

- evaluates, at a high strategic level, the known risks to people, property and the built and natural environment from the sea and coastal processes over the next 100 years;
- presents a policy framework to address these risks to people and the developed, historic and natural environment in a technically feasible, environmentally acceptable and economically sustainable manner; and
- develops coastal defence policies of management intent for each section of coast for the short-term (0-20 years), medium-term (20-50 years) and long-term (50-100 years).
- provide details on a wide range of coastal issues, and assists local authorities to formulate planning strategies and control future development of the shoreline.
- aid government to determine future national funding requirements for flood and coastal erosion risk management.

An SMP does not aim to provide details with regard to the implementation of the defence or management works.

Flood and Coastal Erosion Risk Management Strategies (produced by the Environment Agency and maritime Local Authorities and previously termed Coastal Defence Strategies) cover a shorter length of coast, and aim to identify appropriate schemes that implement the SMP policies. The economic and environmental assessments and research are to a greater level of detail to identify preferred approaches for implementing or reviewing the SMP policies.

Site-specific coastal protection and flood defence **Schemes** are detailed programmes of work designed to reduce and manage the flood and coastal erosion risks to people and assets. Schemes must be technically and economically sound

and sustainable, and environmentally acceptable and conform to government guidelines, licences and procedures.

Stages in the Defra Flood and Coastal Erosion Risk Management Appraisal Process (after FCDPAG4 Approaches to Risk).

Stage	SMP	Strategy	Scheme
Aim	To identify policies to manage risks.	To identify appropriate scheme types to implement policies.	To identify the nature of works to implement preferred scheme.
Delivers	Broad-brush assessment of risks, opportunities and constraints, areas of uncertainty.	Preferred approach (i.e. scheme type) including economic and environmental decisions.	Comparison of different implementation options for preferred scheme type.
Output	Generic policies (e.g. hold the line, advance the line etc.)	Type of scheme (e.g. beach recharge, seawall, setback embankment etc.)	Type of works (e.g. revetment, wall, recycling etc.)
Outcome	Improved undertaking of the longer term sustainable management for the coast.	Sets out management measures that will provide the optimum approach to flood and erosion management for a specified area.	Reduced flood and erosion risk to people and assets (natural and man-made).

Source: Defra, Shoreline Management Plan Guidance. Volume 1 Aims and Requirements (March, 2006). Flood & Coastal Defence Project Appraisal Guidance 4, Approaches to Risk.

Flood and coastal defence legislation in England and Wales is permissive i.e. there is no statutory duty to protect people or property. It does not award any right to protection from flooding or coastal erosion or any right to any particular standard of protection where defences are provided.

Maritime Local Authorities have certain permissive powers to undertake works to defend the coastline from erosion by the sea (coast protection) and to protect low-lying land from flooding (flood defence).

The Environment Agency has permissive powers to undertake works to protect low-lying land from flooding (flood defence) and to manage flood risk.

2 North Solent Shoreline Management Plan

The North Solent SMP shoreline covers some 386km between Selsey Bill and Hurst Spit, and includes Chichester, Langstone and Portsmouth Harbours, Southampton Water and the tidal extent of the main rivers. Compared to other SMPs being developed around the UK, the North Solent SMP is unique in that:

- over 60% of the shoreline is privately owned and the majority of which has privately maintained defences
- 76% of the shoreline is defended with structures and/or beach management activities
- 80% of shoreline has a European or International nature conservation designation as Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and or Ramsar sites (most of these sites are also designated as Site of Special Scientific Interest (SSSI) under UK legislation)
- the majority of the existing defences have National, European and International nature conservation designated site(s) landward and seaward of the line of defence
- the majority of the North Solent is developed with residential, commercial, industrial and agricultural development

The North Solent SMP is being developed and formally adopted or endorsed by a partnership of local, regional and national authorities and agencies that have various responsibilities and powers for managing the coast, which comprise:

	Coastal Protection Authority	Local Planning Authority
New Forest District Council (Lead Authority)	Yes	Yes
Southampton City Council	Yes	Yes
Eastleigh Borough Council	Yes	Yes
Fareham Borough Council	Yes	Yes
Gosport Borough Council	Yes	Yes
Portsmouth City Council	Yes	Yes
Havant Borough Council	Yes	Yes
Chichester District Council	Yes	Yes
Test Valley Borough Council	Not currently. In future likely to become CPAs due to future coastal change	Yes
Winchester City Council		Yes
Environment Agency	Strategic Overview for Flood and Coastal Erosion Risk Management	
Natural England	No	No
Hampshire County Council	No	For Minerals and Waste Management and County Council developments
West Sussex County Council	No	
New Forest National Park Authority	No	Yes
Chichester Harbour Conservancy	No	No

3 Shoreline Management Plans and the Planning System

Before any application or works are initiated, the potential applicant should contact their Local Planning Authority to check whether Planning Permission is required. Within the North Solent SMP area the Planning Authorities are the Maritime Local Authorities (District, City and Borough Councils) or New Forest National Park Authority.

In general, planning permission would not be needed for works of maintenance or minor works required to enable continued use of existing structures while they are structurally sound. However, new construction works, or works of improvement (such as increasing the height, width or length of the defences), demolition or removal of defences will almost certainly require planning permission and may require various other consents and licences depending upon the type, location and timing of the proposed works.

If planning permission is required, applicants are encouraged to visit the Planning Portal website (www.planningportal.gov.uk) or the planning advice pages on the relevant Local Planning Authority website to check the list of national and local requirements to accompany any submission. Following submission of the application, the Planning Authority's registration team will process the submission and identify whether all the required information has been provided before it is registered. A Case Officer will be assigned who will be responsible for consultations and identifying requirements (for example, site-specific Strategic Flood Risk Assessment, Environmental Impact Assessment, Appropriate Assessment) and will consider whether or not to permit the application and any necessary conditions. The costs of providing the required information to support any application falls on the applicant, as does the application fee itself.

Each planning application will be considered on a case-by-case basis to identify the relevant policies, planning considerations and related advice and constraints. There may be conditions attached to any planning approval clarifying specific details, such as design and construction details, materials, etc.

Planning operates independently of other legislation and various consents may well also be required from the Marine Management Organisation (MMO), which administers a range of statutory controls that apply to marine works, including all construction, coastal defences, dredging and the disposal of waste materials at sea in waters around England for which responsibility is vested in the Secretary of State for Environment, Food and Rural Affairs. Consents may include Food and Environment Protection Act (FEPA) licence, Coast Protection Act 1949 Section 34 Consent, Land Drainage Consent, Environmental Impact Assessment (EIA), Appropriate Assessment (AA), etc. In addition to the controls which the MMO administers, a developer may require a variety of other consents. (see www.marinemanagement.org.uk)

An applicant can apply for various consents in combination. This offers benefits to applicants by reducing the burden of duplicate application and providing a single point of contact for enquiries. This approach also enables joint consultation with the nature conservation bodies and other interested parties and a more holistic

assessment of proposed projects. However, if an applicant wishes to apply for separate consents this is also possible.

Flood risk will be taken into account at all stages in the planning process to avoid inappropriate development in areas at current or future risk from flooding, and to direct development away from areas of highest risk in accordance with the sequential test (outlined in national Planning Policy Statement 25). In general, development should not worsen tidal flood risk elsewhere. Flood protection measures should avoid or where not feasible, minimise damage to nature conservation and biodiversity interests or enhance biodiversity where possible. The use of surface materials which increase surface water run-off will be discouraged.

New and improved coast protection and flood defence works may be permitted where there is a significant potential loss or inundation of land posing a threat to life, built-up areas, important amenity land or the best and most versatile agricultural land, provided that the local planning authority is satisfied that these proposals have had regard to their effects on a wide range of factors, such as:

- nature conservation and geological interests;
- the appearance of the coast as viewed from land and sea,
- the quality of scheme design and its relationship to its surroundings;
- designated Conservation Areas;
- features of historic and archaeological value on- and off-shore;
- public access to the shore (existing and potential to create new access opportunities);
- coastal recreational uses;
- impact on highway safety from construction processes
- impacts on residential amenity
- impacts on hydrology and coastal processes such as sediment transport rates, volumes and direction locally and on neighbouring frontages e.g. extension of defences may reduce sediment transport and cause erosion downdrift or increase risk of beach breaching and flooding of hinterland
- environmental impacts of the construction process;
- areas identified as potentially at risk from flooding/inundation, erosion or coastal landslip over the next 100 years

Planning applications will be considered on a site by site basis. Planning and Development Control Officers will consider the relevant and applicable statutory plans and planning policies and will have regard to the non-statutory SMP. The Local Planning Authority will seek the advice of statutory consultees, such as the Environment Agency (e.g. flood risk, etc.), Coastal Protection Authority (shoreline erosion and coastal processes, etc.), Natural England (environmental issues, European and national nature conservation designations, etc.), and their views will be taken into account when considering a planning application. Therefore, planning permissions will not be determined solely by the SMP coastal defence policy.

Statutory plan and planning policies are the main considerations when determining planning applications, but regard will be given to the SMP during the consideration process. Having regard to the SMP, Local Development Frameworks are required to

define Coastal Change Management Areas, where new development will be subject to varying degrees of restriction. The relevant local planning authority should be consulted to ascertain the relevant operative development plan policies. It is important to note that SMPs do not take into account future development aspirations.

The planning process should recognise that the coast is a dynamic place requiring adaptive solutions for uses and development.

The non-statutory SMP is part of the evidence base to guide the spatial location of development and add detail to statutory plan and planning policies, and other documents such as site-specific Strategic Flood Risk Assessments (SFRAs). These plans identify current infrastructure potentially at risk from erosion and/or tidal flooding, now and over next 100 years, where current defences reduce risks, and raise awareness of the rising risk over time if defences are not maintained or strengthened/raised in future and where limited financial resources are either not available or unlikely to be secured. This may impact on future viability of development through evidence for insurance risk.

The SMP and planning system needs to honestly identify areas at risk and, where appropriate, state whether works to continue to maintain or defend areas currently defended are eligible for public funding and the likelihood of public funding. For example:

- as is currently the case, no public funding is available for the maintenance of privately owned and maintained defences where they only protect land and property of a single landowner.
- where defences provide protection to multiple landowners for the public good. a public authority (Maritime Local Authority or the Environment Agency) may consider providing new or enhanced defences, or on rare occasions assist with funding. In such circumstances, financial contributions will be sought from the beneficiaries of the works.
- funding to Maritime Local Authorities and the Environment Agency for new or enhanced defences is allocated on a nationally prioritised basis. In many locations there is a low likelihood of national funding being available.

4 SMP Policies

When considering what is the most effective way of managing the coastline at an SMP scale there are four Defra-defined policy options that may be assigned.

Policy	Definition
Hold the Line	<p>Maintain or upgrade standard of protection provided by defences. This policy should cover those situations where work or operations are carried out in front of the existing defences (such as beach recharge, rebuilding the toe of a structure, building offshore breakwaters, etc.) to improve or maintain the standard of protection provided by the existing defence line. This policy also involves operations to the back of existing defences (such as building secondary floodwalls) where they form an essential part of maintaining the current coastal defence system.</p> <p>A policy of HTL does not mean that public funding is secured or guaranteed. Nor should it be assumed that it is safe to develop behind existing defences or additional defences are promoted.</p>
Advance the Line	Construct new defences seaward of existing defences. Use of this policy should be limited to those policy units where significant land reclamation is considered
Managed Realignment	<p>Allowing the shoreline to move backwards or forwards, with management to control or limit movement (such as reducing erosion or building new defences on the landward side of the original defences).</p> <p>A policy of MR does not mean that public funding is secured or guaranteed.</p>
No Active Intervention	<p>Not to invest in providing or maintaining defences</p> <p>A policy of NAI does not prevent the continued maintenance of existing defences to enable continued use of existing structures while they are structurally sound</p>
<p>Note: All the policies above will need to be supported by monitoring and must (when put into practice) take account of existing health and safety legislation.</p>	

The North Solent shoreline has been sub-divided into 62 lengths of shoreline. Due to the coastal processes, the potential flood and/or erosion risks and the assets, development, land use and other key pertinent features, each length of shoreline is considered discrete from adjacent frontages. Each of these shoreline lengths is termed a Policy Unit. Each Policy Unit has three time periods (epochs) attached to it:

- short-term (0-20 years)
- medium-term (20-50 years)
- long-term (50-100 years)

A single SMP policy has then been determined and applied per epoch for each Policy Unit, in order to achieve a long-term vision for the North Solent coastline. Each Policy Unit is supported with a statement on the likelihood and source of Flood and Coastal Defence Grant In Aid funding (i.e. public funding), along with other necessary caveat or supporting statements to aid clarification.

Policies may change over time and over the period of the SMP, depending on the associated potential risks in the area, sea level rise, or it may be technically unfeasible, economically unviable or affordable or environmentally unsustainable to continue to defend. An example of a policy scenario for a policy unit is shown below:

Policy Unit	Policy Option per Epoch		
	0 – 20 years	20-50 years	50-100 years
5C15 Calshot Spit	Hold the Line	Hold the Line	No Active Intervention

There are a number of locations within defined Policy Unit frontages that require a different but localised management approach. These relatively short lengths have been identified as localised policy options or caveats to the overarching policy, rather than as individual and separate Policy Units. For example:

- Within a Policy Unit that may have an overarching requirement for a Hold the Line policy, there may also be potential opportunities for localised managed realignment to increase flood storage capacity or habitat creation.
- A frontage may have policy drivers for proposing No Active Intervention, but there may be short lengths or specific infrastructure that would need to be protected or defended, or property-level defences may be required in the future, as coastal processes or shoreline position evolves.

A Managed Realignment policy may be proposed for a number of reasons, such as flood storage capacity, improved coastal processes, economic viability (i.e. shorter lengths of secondary defences), or for environmental reasons to meet the legal obligation to maintain the extent of coastal wildlife habitat in the face of sea level rise, such as inter-tidal habitat creation for offsetting coastal squeeze.

Within the North Solent there are a number of sites where managed realignment could be considered but the resulting development of intertidal saltmarsh and mudflats in front of the defences, would result in the loss of coastal grazing marsh behind the defences. Managed Realignment at these sites can only be progressed once the legally required compensatory habitats have been created. Therefore, existing defences need to be maintained until compensation habitat has been created elsewhere.

Recent environmental advice indicates that coastal grazing marsh habitats take in excess of 20 years to be recreated depending on the site-specific features and their function (e.g. roost and feeding sites) that would be affected by a realignment of the defences. Further more-detailed studies will be required to confirm the future management of these sites due to the uncertainty of realignment or timing of realignment.

5 Third Party Defences

Third party funded maintenance of defences has been a very important factor that has been taken into account in determining SMP policies. Land ownership for private, Local Authority, County Councils etc. was also considered an important factor in determining the final SMP policies. Due to the significantly high proportion of privately owned shorelines and maintained defences, there was considerable concern from private landowners, planners and stakeholders with regard to the perception and implications of the proposed policies.

The SMP aims to determine policies that would result in sustainable and improved management of the shoreline, when considered at the broad system scale, and has considered the flood risk implications to wider areas and communities if defences, whether maintained by public authority or private owners, failed or were not maintained.

The SMP has attempted to highlight that continued maintenance of private defences which are often in isolation or largely undeveloped frontages may lead to an uncoordinated approach to defence management and not produce effective long term sustainable or affordable solutions. The majority of privately owned defences do not provide benefits that are in the wider public interest so public funding (from flood and coastal defence grant in aid) is not available for their maintenance. The cost of maintenance or improvements to such defences relies on the landowner obtaining the necessary permissions and consents and affordability of the works. This is the case irrespective of SMP policy and is linked with planning legislation already in place.

In the medium to long-term, it may be the case that not all private owners are able to continue to maintain their defences which may result in loss of property, heritage, coastal access, designated habitats, etc or decline in property value. Improvements and additional defences may well have a detrimental impact on coastal processes, increasing tidal flood and erosion risk to adjacent properties, heritage and environmental features and may not achieve the necessary licences and consents to obtain necessary planning permission. The SMP has highlighted this situation but has also sought the defence management intentions of landowners and acknowledges the complexities associated with uncertainties regarding many factors, such as future land use and climate change implications.

5a Rights of Private Landowners

The North Solent SMP has stated that private owners have certain permissive development rights to maintain their existing defences and protect property and, in general, planning permission would not be needed for works of maintenance or minor works required to enable continued use of existing structures while they are structurally sound. These rights apply and remain irrespective of the SMP policies. However, new construction works, or works of improvement (such as increasing the height, width or length of the defences), demolition or removal of defences will almost certainly require planning permission and may require various consents and licences depending upon the type, location and timing of the proposed works.

5b Future defence works proposed by private owners

Whether the SMP policy is Hold the Line or No Active Intervention, if a landowner proposes to make improvements to their existing defences or construct addition defences, such works would be considered engineering works and require planning permission and other consents, as is currently the case. Private landowners must therefore check with the local planning authority whether any proposed sea defence works constitute 'development' or 'engineering works' in advance of any works commencing. (Please see Town and Country Planning Act 1990 for definition of development http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900008_en_1)

5c Private owners and SMP policy of Managed Realignment

For sites where the draft SMP proposed a policy of Managed Realignment on privately owned land or landward of privately managed defences, discussions and consultation with the landowners sought their intentions regarding the future management of their defences. Where the landowner indicated their intention to maintain their defences, this was then reflected in the final SMP policies for these sites, with a policy of Hold the Line (HTL), with a clear statement that no public funding would be available for maintenance costs, as is currently the case. Responses from land owners at other sites were also considered in determining the final SMP policies.

5d Private owners and SMP policy of No Active Intervention

For sites where the SMP proposed a policy of No Active Intervention on privately owned land or covers a frontage that includes privately managed defences, the private owner's right to maintain their existing defences continues. Discussions and consultation with landowners indicated that the majority intend to continue to maintain their defences.

The SMP is one material consideration that planners refer to when forming planning decisions, and future planning applications will be considered on a site by site basis, and not determined solely on the SMP coastal defence policy

5e Legal liabilities associated with privately owned / maintained defences

According to legal advice provided from the Environment Agency, landowners are at liberty to defend their property or to discontinue to maintain their defences or even remove their defences, as they see fit. The Environment Agency does not consider a mere withdrawal of maintenance to be governed by the Conservation of Habitats and Species Regulations, 2010, nor is it likely that failure to maintain would be covered as an "operation" under the Wildlife and Countryside Act. There is one caveat here however. If the defences have as a matter of fact defended other properties then the owners of those other properties may have acquired a "legitimate expectation" that they would continue to be protected. In these circumstances the owner of the defences may be liable for damage suffered by third parties if he simply demolishes them without notice. If however he gives reasonable notice to other landowners that he intends to cease defending (it has been suggested to the Environment Agency by counsel that reasonable notice may be two to three years)

then this would enable the other landowners to take such steps as they can to protect their property and he would no longer have any liability once the defences are removed or maintenance is discontinued.

5f Private owners and European nature conservation designated sites

The greatest risk to sites designated for their international nature conservation importance i.e. Special Areas of Conservation (SAC) and Special Protection Areas (SPA) occurs in coastal situations where sea level is rising and existing or new flood defences prevent the natural inland movement of these habitats. As a result of sea level rise, designated intertidal habitats (saltmarsh and mudflat) in front of flood defences become squeezed (gradually lost over time) against a hard flood defence line whilst freshwater habitats behind a defence may get deteriorated by increasing saline incursion. In such circumstances, there is a legal requirement to create new habitats to compensate for those damaged or lost and this is known as 'compensation habitat'.

Where proposed coastal defence works are within or adjacent to an European nature conservation designated site (e.g. SPA, SAC or Ramsar), an Appropriate Assessment (AA) on the likely impact of the works on the designated site will be required in order to comply with the Habitats and Birds Directives, to identify future habitat creation needs to ensure no net loss of SAC and SPA habitat. The AA aims to ascertain that that the SMP will not have an adverse effect on the integrity of the European sites, either alone or in combination with each other and also with other plans and projects, and to quantify any adverse effect arising from the plan, including mitigation measures to offset adverse impacts on the sites within the same designated sites. Where this is not possible, replacement habitats are required to be created in sustainable sites as close to the site of damage as possible; these are termed compensatory habitats.

Land owners will not be obliged to provide compensatory habitat for coastal squeeze losses that are already being provided through the Regional Habitat Creation Programme (see 7a below). Land owners may be able to avoid any additional adverse effect through the design of their proposed works, either by avoiding an increased footprint into the intertidal area or by a modest realignment of their defences within their own landholding, away from the intertidal area. Each proposal would be assessed and considered on a case-by-case basis by the local planning authority.

5g Publicly funded maintenance of private defences to protect coastal grazing marsh

Where a private defence protects a European-designated habitat (such as coastal grazing marsh) and that defence deteriorates to the extent of damaging the habitat behind, then a competent authority under the Conservation of Habitats and Species Regulations, 2010, would have a duty to take action to prevent further deterioration of the site.

A competent authority could be the Environment Agency, the Local Authority or Natural England. The action could include exercising permissive powers to maintain

or improve the defence which is protecting the habitat. Works in these circumstances would normally be eligible for public flood and coastal erosion risk management (FCERM) funding as a legal obligation rather than be required to satisfy benefit/cost criteria, but the works must still be cost effective.

All works are subject to adequate funding availability. Where European-designated habitat exists both in front and behind defences, and one or other is likely to be damaged, Natural England's advice would be sought in determining the most appropriate course of action.

We would wish to avoid investing public funds in maintaining defences and habitats in unsustainable locations. The Regional Habitat Creation Programme will therefore use the outputs of the SMP to identify where transitional habitats (such as coastal grazing marsh) are at risk and seek to establish replacement habitats in more sustainable locations. This will allow a transition to a more sustainable coastline whilst meeting the obligations set out in the Habitats and Birds Directives.

6 Higher Level Stewardship

Incentive schemes exist to support landowners who may wish to create new coastal habitat on their land through Managed Realignment, such as Higher Level Stewardship (HLS).

Natural England states: 'Coastal squeeze is the prevention of the migration of intertidal habitats inland by the presence of hard defences in response to sea level rise. Sea level rise and the consequential risk of a net loss of internationally and nationally designated site intertidal habitats and the species which they support is a key issue. Coastal squeeze may arise from maintenance, improvement or retention to existing sea defences to protect existing development as well as possible additional requirements arising from new developments.

Options exist within the Higher Level Stewardship (HLS) scheme to create new intertidal and saline habitat through the breach of coastal defences such as sea walls.

In an HLS scheme, the landowner receives payment from the government in return for committing to create, improve or maintain valuable habitats. Various options and payments are available following site visits and discussions, depending on the importance of the habitat, and the habitat type. In the case of breaching a sea wall, significant payments of up to £500 ha / yr (HP8) may be available where detailed site specific management plans are drawn up and implemented.

Acceptance of an HLS application is dependent on various factors, including whether a SSSI is present on the land, if the land is within an area being targeted for HLS, and if the application scores highly on other criteria'.

Please contact the Natural England Coastal Team for further information. Contact details: Claire Lambert, Coastal Advisor: Claire.Lambert@naturalengland.org.uk
For further details with regard to HLS please contact or visit www.naturalengland.org.uk

7 Regional Habitat Creation Programme

The Regional Habitat Creation Programme (RHCP), which is co-ordinated by the Environment Agency, aims to provide strategic delivery of compensatory and replacement habitats as identified through Appropriate Assessments undertaken for all Flood & Coastal Erosion Risk Management Plans, including SMPs and projects that will/may potentially affect European designated nature conservation sites.

The Solent is an environmentally important region with a wide variety of vulnerable habitat types and species. Approximately 80% of the shoreline is covered by one, or more International and European level nature conservation designations. This results in a complex and unique combination of factors that need to be considered and taken into account when determining sustainable policies on a dynamic shoreline. Managed Realignment may be proposed for some shorelines to meet the legal obligation to maintain the extent of coastal wildlife habitat in the face of sea level rise. Sites important for wildlife habitat often also have important amenity and landscape value too.

7a The Regional Habitat Creation Programme & privately maintained defences

The RHCP will also deliver the necessary compensatory habitats required to offset the losses due to coastal squeeze caused by the continued maintenance of existing third party defences, or works to existing defences that do not result in additional habitat loss, as identified in the Appropriate Assessment for the SMP, Scheme or planning application.

Third parties will, however, be responsible for providing suitable habitat compensation for any increased habitat losses due to lateral extension of defences and any direct impacts of their proposed works (e.g. increased footprint of the structure) on a designated site.

The RHCP is looking for opportunities to create habitat within the Solent through Managed Realignment. This offers interested landowners the potential for joint schemes with the Environment Agency, where the Environment Agency fund the engineering works necessary to create the habitat, which may include an improved flood defence, and the landowner becomes eligible for Higher Level Stewardship payments through Natural England. The landowner would need to enter into a legal agreement to ensure that the land is not reclaimed at a later date so that the habitat is secured in perpetuity.

Alternatively, the Environment Agency may be prepared to buy the affected land outright. Prices would normally be based on the market value for the particular type of land. As the Regional Habitat Creation Programme aims to ensure that the habitat needs in the Solent are balanced over the 100 years of the SMP, the Programme team would be interested in discussing potential opportunities with landowners, even if they are only likely to be implemented in the medium or long term. Please contact the Regional Habitat Creation Programme for further information. Contact details: Ruth Jolley, Regional Habitat Creation Programme Manager: ruth.jolley@environment-agency.gov.uk

Annex 1 Contact Details of the Client Steering Group Organisations**Chichester District Council**

East Pallant House
East Pallant
Chichester
West Sussex
PO19 1TY
Tel. 01243 785166
www.chichester.gov.uk

Chichester Harbour Conservancy

The Harbour Office
Itchenor
Chichester
West Sussex
PO20 7AW
Tel. 01243 512301
www.conservancy.co.uk

Eastleigh Borough Council

Civic Offices
Leigh Road
Eastleigh
Hampshire
SO50 9YN
Tel. 023 8068 8000
www.eastleigh.gov.uk

Environment Agency

Solent and South Downs Area Offices
Colvedene Court
Wessex Way
Colden Common
Winchester
Hampshire
SO21 1WP
Tel. 08708 506 506
www.environment-agency.gov.uk/contactus

Fareham Borough Council

Civic Offices
Civic Way
Fareham
Hampshire
PO16 7EP
Tel. 01329 236100
www.fareham.gov.uk

Gosport Borough Council

Town Hall
High Street
Gosport
Hampshire
PO12 1EB
Tel. 023 9258 4242
www.gosport.gov.uk

Hampshire County Council

Environment Department
The Castle
Winchester
Hampshire
SO23 8UE
Tel. 0845 603 5638
www.hampshire.gov.uk

Havant Borough Council

Civic Offices
Civic Centre Road
Havant
Hampshire
PO9 2AX
Tel. 023 9247 4174
www.havant.gov.uk

Natural England

Hampshire and Isle of Wight Team
3 Southampton Road
Lyndhurst
Hampshire
SO43 7BU
Tel. 0845 600 3078
www.naturalengland.org.uk

New Forest District Council

Town Hall
Avenue Road
Lymington
Hampshire
SO41 9ZG
Tel. 023 8028 5000
www.newforest.gov.uk

New Forest National Park

Authority
South Efford House
Milford Road
Everton
Lymington
SO41 0JD
Tel. 01590 646600
www.newforestnpa.gov.uk

Portsmouth City Council

Civic Offices
Guildhall Square
Portsmouth
Hampshire
PO1 2BG
023 9282 2251
www.portsmouth.gov.uk

Southampton City Council

Civic Centre
Southampton
Hampshire
SO14 7 LY
Tel. 023 8083 3000
www.southampton.gov.uk

Test Valley Borough Council

Duttons Road
Romsey
Hampshire
SO51 8XG
Tel. 01794 527700
www.testvalley.gov.uk

West Sussex County Council

The Grange
Tower Street
Chichester
West Sussex
PO19 1RH
Tel. 01243 777100
www.westsussex.gov.uk

Winchester City Council

Colebrook Street
Winchester
Hampshire
SO23 9LJ
Tel. 01962 840222
www.winchester.gov.uk