

# Generic Appropriate Assessment of Somerset West and Taunton's Interim Phosphate Mitigation Strategy



This document has been prepared by Somerset West and Taunton Council.

Photographs show:

The Somerset Levels and Moors, obtained from the RSPB Source:

<https://www.rspb.org.uk/our-work/conservation/landscape-scale-conservation/sites/somerset-levels-and-moors/>

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## Summary

In August 2020 Natural England issued an Advice Note to Somerset West and Taunton Council cornering the 'unfavourable condition' of the Somerset levels and Moors Ramsar Site. As a result of high levels of phosphates having significant effects on the integrity of the Ramsar site, Natural England advised that certain types of new development, including all new residential development, should be put on hold until such time as it could be demonstrated that it would be 'nutrient neutral' i.e. not add additional phosphates into the existing wastewater treatment system.

There is no statutory duty for Somerset West and Taunton Council, as the Local Authority to intervene to address the phosphate issue. However, since Natural England issued their advice there are currently over one hundred planning applications held in abeyance that cannot be determined without a phosphate solution. This hold on development is having wide-ranging issues on the Council's ability to meet its statutory duties including for example meeting housing targets and supporting post-Covid 19 recovery. In light of this, Somerset West and Taunton Full Council has agreed a series of interim phosphate mitigation measures with the overarching aim of 'unlocking' some phosphate-affected development within the District. This programme of measures is known as the 'Interim Strategy'.

Regulation 63 of the Conservation of Habitats and Species Regulations 2017 ('The Habitats Regulations') requires a competent authority, before deciding to undertake or give consent for a plan or project which (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or project), and (b) is not directly connected with or necessary to the management of that site, to make an 'appropriate assessment' of the implications of the plan or project for that site in view of its conservation objectives.

In their August 2020 advice note, Natural England advised Somerset West and Taunton Council, as the competent authority, that 'before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Assessment proceeding to an appropriate assessment where a likely significant effect cannot be ruled out, even where the development contains pollution mitigation provisions.'

The purpose of this document sets out Somerset West and Taunton Council's approach to Habitats Regulations Assessment (HRA) for projects progressed through the Interim Strategy. It sets out how this proposed approach to HRA will allow the Council to conclude that projects progressed through the Interim Strategy will not adversely affect the integrity of the Ramsar site.

## 1. Introduction

- 1.1. This document sets out how Somerset West and Taunton Council (SWT) will ensure that their interim programme of phosphate mitigation measures<sup>1</sup> complies with the requirements of the Conservation of Habitats and Species Regulations 2017 ('The Habitats Regulations').
- 1.2. On 5 October 2021, SWT Full Council approved a £2 million Supplementary Capital Budget in order to fund a programme of interim mitigation measures to secure phosphate neutral development in perpetuity. More specifically, the measures were approved in order to facilitate the delivery of some new development in the District, particularly new homes, without having an adverse effect on the integrity of the Somerset Levels and Moors Ramsar Site. This interim programme of measures is herein referred to as the 'Interim Strategy'.
- 1.3. In accordance with Natural England guidance, *'where plans or projects will contribute additional nutrients to Habitats sites which are close to or already in unfavourable condition for nutrients, then a robust approach to the Habitats Regulations Assessment of the effects of plans and projects is required'*<sup>2</sup>.
- 1.4. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 ('The Habitats Regulations') requires a competent authority, before deciding to undertake or give consent for a plan or project which (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or project), and (b) is not directly connected with or necessary to the management of that site, to make an 'appropriate assessment' of the implications of the plan or project for that site in view of its conservation objectives<sup>3</sup>.
- 1.5. This document contains information setting out SWT's to Habitats Regulations Assessment (HRA) and Appropriate Assessments therein for projects progressed through the Interim Strategy. It sets out how this proposed approach to HRA will allow the Council to conclude that projects progressed through the Interim Strategy will not adversely affect the integrity of the Ramsar site.
- 1.6. The Council as the competent authority under The Habitats Regulations has consulted Natural England (NE) and has had paid due regard to their advice in preparing this report.
- 1.7. For the avoidance of doubt, whilst background information has been provided for context, this document is focused solely on the phosphates mitigation

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<sup>1</sup> As set out in the SWT Report to Full Council on the 5 October 2021, available at: <https://www.somersetwestandtaunton.gov.uk/media/2894/somerset-levels-and-moors-phosphate-mitigation-report-to-full-council-05-oct-2021.pdf>

<sup>2</sup> Ricardo/Natural England (2022) Nutrient Neutrality Generic Methodology *Issue 1*

<sup>3</sup> See: <https://www.legislation.gov.uk/ukxi/2017/1012/regulation/63/made>

measures being put place as part of the Interim Strategy. It sets out the key phosphate mitigation measures proposed through Interim Strategy and the quantum of nutrient neutral development that can be released as a result. It has been prepared on the basis of best available evidence at the time of writing.

- 1.8. The baseline for the assessment is the condition of the Somerset Levels of Moors at the time that Natural England issued their advice note in August 2020<sup>4</sup>.
- 1.9. Overall it is anticipated that the interim strategy will provide suitable mitigation for approximately 65.3 kg/year of phosphates into the Somerset Levels and Moors, which will generate P credits that can be sold by SWT to allow some nutrient neutral development to proceed within the District. This is explained in more detail throughout this report.
- 1.10. The figures above are based on minimum predicted values, in consideration of the need to take a precautionary approach. The Interim Strategy will be monitored by SWT to confirm whether the minimum values above have been met, exceeded or whether there is a shortfall. If the minimum values are exceeded, additional P credits will be able to be released through the interim strategy. If it is the case that there is a shortfall in required mitigation, SWT understands that further mitigation would be required to fulfil the deficit.

## **2. Background to the Issue and Affected Sites**

### **Phosphates and the Somerset Levels and Moors**

- 2.1. Phosphates are a salt containing the element phosphorus. They occur naturally through the weathering and erosion of rocks, or in agriculture and food production, through the use of fertilisers and food additives, and in animal and human waste. A high level of nutrients in rivers and lakes affects water quality. Increased nutrient loads causes an excess growth of algae in the water, which in turn deteriorates water quality and depletes the oxygen, which plants and animals need to survive. This process is known as eutrophication.
- 2.2. The main source of poor water quality through the Somerset Levels and Moors is diffuse water pollution e.g. agricultural run-off. Within the domain of land-use planning, various types of development within the River Tone catchment have the potential to contribute to elevated phosphorous through foul water discharges from sewage treatment works and package treatment plants.
- 2.3. The Somerset Levels and Moors is one of the largest wetlands in England covering approximately 35,000ha. It is a Ramsar Site and Special Protection

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<sup>4</sup> Available at: <https://www.somersetwestandtaunton.gov.uk/media/2434/natural-england-advice-to-lpas-on-nutrients-in-the-somerset-levels-and-moors.pdf>

Area (SPA) and is comprised of a series of Sites of Special Scientific Interest (SSSI)<sup>5</sup>.

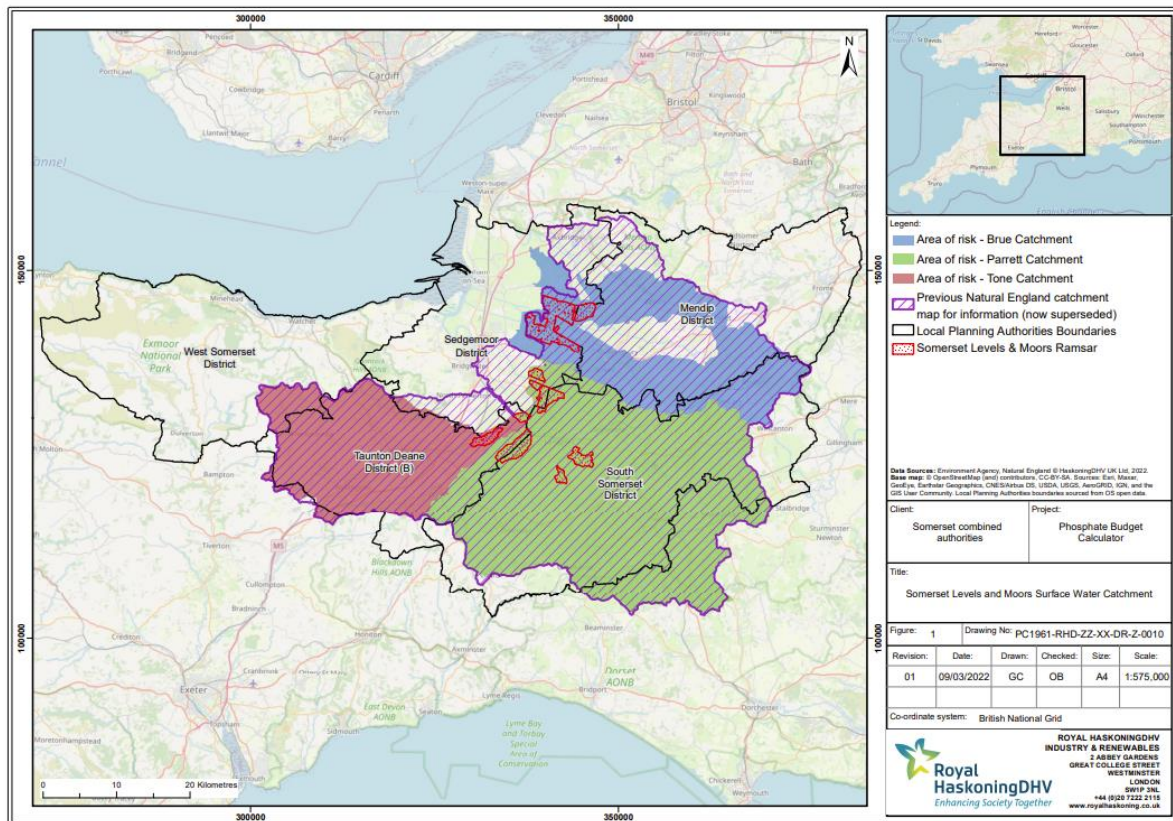
- 2.4. The Ramsar Site broadly covers the same area as the Somerset Levels and Moors SPA. While the SPA is designated for its international waterbird communities, the Ramsar Site is designated for its internationally important wetland features including the floristic and invertebrate diversity and species of its ditches, which is shared as a designated feature of the underpinning Sites of Special Scientific Interest (SSSIs).
- 2.5. Further information on the characteristics of the European Site is provide in Appendix A and further information relating to the unfavourable condition of the Ramsar Site and the underpinning SSSIs designated under the Wildlife & Countryside Act 1981 (as amended) can be found at Annex 1 of the Natural England Advice Note<sup>6</sup>. A map showing the location of the Ramsar Site and the Somerset Levels and Moors Catchment Area is shown in Figure 1 below and at Appendix B.
- 2.6. It should be noted that in their Advice Note to the Somerset Authorities (dated August 2020) Natural England confirmed that 'additional nutrients from typical new developments...are unlikely, either alone or in combination, to have a likely significant effect on the internationally important bird communities for which the site is designated.'
- 2.7. Based on our current understanding, Natural England is satisfied that additional nutrients from typical new developments are unlikely, either alone or in combination, to have a likely significant effect on the internationally important bird communities for which the SPA is designated. On this basis, Natural England is satisfied that the effects of additional nutrients from development on the SPA can normally be screened out of further assessment.
- 2.8. The interest features of the Somerset Levels and Moors Ramsar Site however are considered unfavourable, or at risk, from the effects of eutrophication caused by excessive phosphates. The vast majority of the ditches within the Ramsar Site and the underpinning SSSI's are classified as being in unfavourable condition due to excessive phosphates and the resultant ecological response.
- 2.9. In light of this, effects on the SPA from excessive phosphates have been 'screened out' of further assessment. This document therefore focuses on likely significant effects on the Somerset Levels and Moors Ramsar Site.

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<sup>5</sup> Including: Catcott Edington and Chilton Moors SSSI Curry and Hay Moors SSSI King's Sedgemoor SSSI Moorlinch SSSI Shapwick Heath SSSI Southlake Moor SSSI Tealham and Tatham Moors SSSI West Moor SSSI West Sedgemoor SSSI Westhay Heath SSSI Westhay Moor SSSI Wet Moor SSSI

<sup>6</sup> <https://www.somersetwestandtaunton.gov.uk/media/2434/natural-england-advice-to-lpas-on-nutrients-in-the-somerset-levels-and-moors.pdf>

**Figure 1 Somerset Levels and Moors Surface Water Catchment Area (including extent of Ramsar Site designation and Local Authority Boundaries)**



Source: RoyalHaskoningDHV as part of the Somerset Solutions Report

## Natural England Advice Note

2.10. As briefly mentioned above, On 17 August 2020, in light of a court judgment (known as Dutch N)<sup>7</sup>, all the planning authorities in Somerset received an advice note from NE concerning the unacceptable levels of phosphates in the Somerset Levels and Moors Ramsar Site, reporting that ‘phosphorus levels are frequently 2-3 times higher than the target for total phosphorus set out within the Conservation Objectives underpinning the Ramsar Site<sup>8</sup>.’

2.11. NE has advised that as a result of the unfavourable condition of the Ramsar Site, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Assessment (HRA) proceeding to an appropriate assessment where a likely significant effect cannot be ruled out, even where the development contains pollution mitigation provisions.

<sup>7</sup> (Joined Cases C-293/17 and C-294/17 Coöperatie Mobilisatie for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others)

<sup>8</sup> Natural England (2020) <https://www.somersetwestandtaunton.gov.uk/media/2434/natural-england-advice-to-lpas-on-nutrients-in-the-somerset-levels-and-moors.pdf>



- 2.12. In line with other Local Planning Authorities (LPAs) with nutrient related issues, SWT have advised affected applicants of the need to undertake project-level appropriate assessments for: full planning applications, outline planning applications, reserved matters applications and applications to discharge implementing planning conditions (pre-commencement planning conditions).
- 2.13. This has resulted in planning applications at SWT being held in abeyance until such time as a phosphate solution is found. As of 27 January 2022, our records indicated that there are:
- Approximately 112 planning applications held in abeyance
  - 36 planning applications are on hold as the LPA is unable to discharge pre-commencement conditions
  - This equates to approximately 3,200 dwellings.
- 2.14. This has resulted in a significant halt on the development of new residential development, as well as other development types (e.g. tourist accommodation) within the River Tone catchment area.
- 2.15. This halt to development is having wide-ranging implications on SWT's ability to deliver on wider objectives including:
- Facilitating sustainable development
  - Supporting post-Covid 19 recovery
  - Supporting small and medium-sized businesses (SMEs)
  - Maintaining a 5-year housing land supply (5YHLS) and meeting
  - the housing delivery test (HDT)
  - Meeting other housing duties, including facilitating the delivery of affordable housing.
- 2.16. It is for these reasons that SWT's Interim Strategy has been agreed.
- 2.17. The overarching purpose of the Interim Strategy is to allow some nutrient neutral development to proceed within the District without having an adverse effect on the integrity of the Somerset Levels and Moors Ramsar Site.

### **3. Phosphorous Neutrality Measures Currently in Place**

- 3.1. In response to the receipt of Natural England's advice note as LPAs the four Somerset District Councils and Somerset County Council have been working together to progress possible solutions namely through the Somerset Wide Solutions Report which is discussed further below.

#### ***Somerset Wide Solutions Report***

- 3.2. The Somerset Authorities have been working together to investigate potential medium and long term strategic solutions for the four river catchment areas which feed into the Somerset Levels and Moors<sup>9</sup>. Consultants Royal Haskoning DHV was commissioned by the Somerset Authorities to carry out this work in Spring 2021.
- 3.3. The final Somerset Levels and Moors Phosphate Mitigation Solutions Report ('The Solutions Report') was published in March 2022 and provides Somerset wide framework to work within.
- 3.4. Critically, the Solutions Report also finalised (with agreement from Natural England) the extent of the affected catchment areas in Somerset, and the Somerset Levels Catchment Areas Map can be viewed in Appendix B of this report.

### ***Third Party Solutions***

- 3.5. In addition to the above, SWT anticipates that further solutions will be brought forward by third parties. SWT is aware of potential online trading<sup>10</sup> and continues to engage with such providers in order to be in a position to be able to accept such credits as phosphate mitigation when platforms are actively trading. At the time of writing, SWT is not aware of an online platform that is currently open to trading in the SWT local authority area, and although in principle SWT would accept credits from third party platforms, it is awaiting further legal advice on this matter prior to being able to confirm this position.
- 3.6. Planning applicants are also beginning to come forward with their own on or off-site solutions to ensure their development proposals are phosphate neutral. SWT LPA is supporting such applications through the planning process, in consultation with Natural England.
- 3.7. For the avoidance of doubt, these activities have been presented as background information and fall outside the scope of this document which focuses on the approach to HRA for developments brought forward as part of the SWT Interim Strategy which is presented in more detail from Section 4 below.

## **4. Somerset West and Taunton Interim Strategy**

- 4.1. As set out in paragraph 1.3, SWT is progressing an Interim Strategy in order to facilitate some phosphate neutral development in the district.

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<sup>9</sup>The Tone, Parrett, Axe and Brue

<sup>10</sup> e.g. the Solent Nutrient Market pilot programme, see: <https://www.push.gov.uk/defra-trading-platform/>

- 4.2. The overarching aim of SWT's Interim Strategy is to allow the approval of some phosphate neutral development in the District, ensuring that there will be no adverse impacts on the Somerset Levels and Moors.
- 4.3. The Interim Strategy contains the following actions which SWT will take/have taken to ensure that any planning applications dated from the 17 August 2020 will avoid adverse effects on the Somerset Levels and Moors Ramsar Site:
- In February 2021, the Somerset Authorities published their own phosphate calculator<sup>11</sup>. This is a free online tool which has been approved by NE which enables developers to calculate their phosphate load and helps inform possible nature-based solutions required to unlock their development.
  - The Council's trajectory of housing completions will be used to anticipate the amount of offsetting required and ensure sufficient offsetting is in place before housing becomes occupied.
  - SWT is imposing a condition on all residential permissions to restrict water usage to 110 litres per person per day (this is an immediate measure that has already been implemented)<sup>12</sup>.
  - SWT has completed the recruitment of two officers – a nutrient neutrality officer and a planning officer post, to support the implementation of the interim measures (this is an immediate measure that has already been implemented). The officers are currently assisting in the determination of planning applications for which applicants are proposing their own phosphate mitigation solutions to ensure that suitable measures are put in place to secure nutrient neutrality in perpetuity.
- 4.4. In addition to the above, SWT is also taking a precautionary approach by putting in place effective and proportionate measures to remove, mitigate or offset the phosphate load from proposed development. To do this, it is progressing with strategic interim projects to generate 'Phosphate Credits' (herein referred to as P Credits) which are outlined in more detail in Table 1 below. The mitigation projects have been organised into 3 no. categories focused on upgrading Council-owned assets, land use measures and private sector partnerships.

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<sup>11</sup> Available at: <https://www.somersetwestandtaunton.gov.uk/planning/phosphates-on-the-somerset-levels-and-moors>

<sup>12</sup> N.B. This model condition is based upon current case law (Planning Appeal Ref: APP/A1720/W/21/3272188 - Land to the east of Downend Rd, Portchester, Fareham

**Table 1 Phosphate Credit Mitigation Projects being progressed by SWT**

Category		Measures	Precautionary Timeframe
1	Utilising Council Assets	(a) Implementing a programme for the retrofitting of the Council's own housing stock to improve their water efficiency and create phosphate credits.	Short Term (up to 1 year)
2	Land Use Measures	(a) The development of medium to large-scale strategic project(s), which will mainly comprise new wetlands and possibly woodlands located in the River Tone sub-catchment. In the first place this is likely to involve existing land assets owned by SWT (e.g. Cotford St Luke) as well as exploring and progressing land purchase options.	Medium Term (1-5 years)
		(b) Seeking to secure phosphate credits from schemes / temporary measures / contracts which deliver small scale phosphorous offsetting measures (Small Schemes) e.g. taking land out of intensive agricultural (arable or grass), fallowing land.	Short Term (up to 1 year)
3	Working in partnership with the Private Sector	(b) Fallowing land in locations around Taunton (subject to landowner negotiations)	Short Term (up to 1 year)

- 4.5. A full breakdown of P credit mitigation projects in terms of the total phosphate removed (in kilograms per year) is provided in Appendix C. It should be noted that the Phosphate Budget Calculator does take into account planned improvements to Wastewater Treatment Works up to December 2024.
- 4.6. Overall, the Interim Strategy is anticipated to provide phosphate offsetting equivalent to an approximate 65.3 kg/year to April 2023. It is recognised that this will likely only allow some of the projected growth in SWT to be brought forward.
- 4.7. For the avoidance of doubt, the definition of a P Credit is equivalent to 1 kilogram per year (kg/yr) of removed total phosphate.

## 5. Delivery of the Interim Strategy

### *Delivery Strategy*

- 5.1. The intention is that the Interim Strategy is a rolling programme.
- 5.2. It is anticipated that the first credits to become available will come forward as a result of category 1 projects (utilising council assets) and category 3b projects (fallowing land) given the shorter delivery timescales.

- 5.3. The intention is to utilise the P credits generated from these projects in the short term to enable SWT to set up its P credit programme. Further medium-long projects will be progressed to allow SWT to generate further P credits over a longer timeframe.
- 5.4. P Credits generated through the Interim Strategy will be made available to planning applicants in order of priority. A method for agreeing the prioritisation of applications has been agreed by SWT and more information on this is available within the Report to the Phosphates Planning Sub Committee, dated 10 February 2022<sup>13</sup>.
- 5.5. Planning applications offered SWT generated P credits will be required to confirm the number P credits they require to ensure that their development proposals would be phosphate neutral. This would be done using the established Phosphate Calculator as described in section 4.3. These calculations would be reviewed and approved by SWT's appointed Nutrient Neutrality Officer, as set out in further detail in section 5.11 below. Once this has been approved P credits would be 'reserved' for that development.
- 5.6. The Council will confirm that, upon a developer entering into a Section 106 (S106) agreement and reserving the agreed number of P credits, the Council (as competent authority) is satisfied beyond reasonable scientific doubt that the development will be 'phosphate neutral' in perpetuity and that it will not adversely affect the integrity of the Ramsar Site i.e. that the development satisfies the HRA Regulation 63 test.
- 5.7. In addition to a S106 agreement all applicants will be required to produce a project level Appropriate Assessment to show on an individual project basis that the proposed development will achieve phosphorous neutrality. This will allow SWT, as the Local Planning Authority (LPA) and competent authority under The Habitats Regulations, to carry out an Appropriate Assessment of the implications of the individual development projects to confirm beyond reasonable doubt that there is sufficient mitigation through the P credit system for the project to progress without having an adverse impact on the integrity of the Somerset Levels and Moors Ramsar Site, having regard to its conservation objectives.
- 5.8. The developer will covenant not to implement the development (i.e. start on site) unless and until it has paid the remaining balance to the Council to 'redeem' the P credits required. The development may then be implemented and proceed to completion/occupation.

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<sup>13</sup> See:

<https://democracy.somersetwestandtaunton.gov.uk/documents/s18757/Update%20Report%20on%20Phosphates%20and%20criteria%20process%20for%20allocation%20of%20credits%20to%20support%20the%20determiati.pdf>

5.9. A 20% buffer has been incorporated into phosphorous projections to account for uncertainties inherent in the approach to determining whether development is phosphorous neutral, in line with Natural England guidance<sup>14</sup>. This is already built into the Somerset Phosphate Budget Calculator which has been used to calculate the P credits generated through the Interim Strategy as presented in Appendix C.

5.10. SWT as the Local Planning Authority will engage with the Phosphates Planning Sub Committee through regular meetings to consider the progress of phosphate mitigation against updated housing trajectories and to periodically review the approach to P credit prioritisation to ensure it remains fit for purpose.

### ***Nutrient Neutrality Officer and Phosphates Planning Officer Post***

5.11. As noted in paragraph 4.3, SWT has appointed 2 no. new officers to work as part of the planning service and support ongoing work in relation to phosphate mitigation, namely the Interim Strategy. Their responsibilities are as follows:

- Maintain records and share information with stakeholders and partners.
- Track housing permissions and completions and ensure contracts are in place in a timely way to ensure mitigation measures are on the ground before dwellings are occupied.
- Oversee landowner negotiations, monitoring, compliance of contracts and satisfactory maintenance. The aim is to expand the use of the current Exacom management system which manages the Council's CIL and Sections 106 data in a clear and transparent way.
- Work with partners and landowners to develop proposals for long term habitat creation schemes in the River Tone catchment which will be suitable for in-perpetuity phosphorous mitigation for some development proposals.
- Working with partners to develop proposals for habitat creation schemes to offset additional development coming forward through the next Local Plan Review.

5.12. The appointment of these Officers allows SWT to ensure that HRA processes and associated Appropriate Assessment are evaluated robustly prior to a planning application being determined.

### ***Funding***

5.13. The SWT Full Council on the 5th of October 2021 made an unequivocal commitment to providing mitigation measures including the approval of Capital Budget of £2m for funding interim programme of phosphates measures, to be initially funded by borrowing and agreed that associated debt financing costs are included in the Medium-Term Financial Plan (MTFP) process.

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<sup>14</sup> Ricardo/Natural England (2022) Nutrient Neutrality Generic Methodology *Issue 1*

5.14. In addition, the UK Government recently announced financial support to Local Authorities affected by nutrient neutrality<sup>15</sup>.

5.15. Longer term, the intent is the full cost recovery of capital costs will be secured via contributions from Section 106 agreements as part of the determination of planning applications (as mentioned above) and that additional revenue costs required to maintain the assets/ liabilities will be included as part of these agreements.

5.16. As such there is sufficient financial mechanisms in place to secure the delivery of the Interim Strategy.

## **6. Additional Issues to be Addressed**

6.1. Travel to work data has historically shown high levels of self-containment within SWT (i.e. residents tend to live and work in the same area). Current advice from NE regarding nutrient neutrality indicates that employment can be discounted on the assumption there is no net migration into the catchment for employment purposes and no overnight accommodation.

6.2. Based on SWT analysis approximately 5% of completions are within unsewered areas in the River Tone catchment area. Natural England and the Somerset Ecology Service has agreed interim guidelines and nutrient neutrality principles for small scale thresholds within the Somerset Levels and Moors Ramsar catchment<sup>16</sup>.

6.3. Natural England considers that it is difficult to make robust arguments around generic standardised thresholds for levels of water quality impacts that exclude the risk of likely significant effects (alone and in combination). The exception to this position is in relation to discharges of phosphorus to ground. The interim guidelines set out conditions in which the level of discharge is considered to be so insignificant that the development has a very low likelihood of resulting in significant effects on the Ramsar Site. Where developments meet these conditions they can be 'screened out' of the HRA process and do not need to complete an Appropriate Assessment. This guidance is already being applied to applicable developments within SWT.

## **7. Long term approach – Post March 2023**

7.1. Work carried out by Royal HaskoningDHV as part of the Solutions Report<sup>17</sup> (as described in paragraph 3.2) has confirmed anticipated phosphate loading for Somerset West and Taunton.

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<sup>15</sup> See: <https://www.gov.uk/government/publications/nutrient-pollution-reducing-the-impact-on-protected-sites/nutrient-pollution-reducing-the-impact-on-protected-sites>

<sup>16</sup> See: <https://www.somersetwestandtaunton.gov.uk/media/2586/interim-guidelines-on-small-scale-thresholds.pdf>

<sup>17</sup> See: <https://www.somersetwestandtaunton.gov.uk/media/3232/solutions-report.pdf>

- 7.2. The findings conclude that the total additional phosphate load from the projected housing growth<sup>18</sup> this works out at an average of 100.62kg/year, equating to a cumulative figure for the period 2022-2032 of 1,191.23kg. This includes a 20% buffer in line with Natural England advice.
- 7.3. From April 2023 it is anticipated that a Shadow/Transition Authority for the County of Somerset will come into effect following the decision by the Secretary of State to implement the proposal for a single unitary council for Somerset, incorporating the current district Councils of SWT, Mendip, Sedgemoor and South Somerset<sup>19</sup>. Following its establishment, the new Council will need to ensure that development must continue to be phosphate neutral and will be responsible for agreeing an approach to secure this beyond the SWT Interim Strategy. Specific governance arrangements are being developed, however the projects developed as part of the Interim Strategy will carry into the new authority in order to provide phosphate mitigation in perpetuity.
- 7.4. Beyond Interim Strategy, any further phosphate mitigation solutions developed approach will take account of water company planning, as well as government policy and legislation.

## 8. Conclusion

- 8.1. This document has set out SWT's approach to HRA associated with the agreed Interim Strategy and measures therein.
- 8.2. In summary, SWT is progressing strategic phosphate mitigation projects (e.g. retrofit of Council owned assets and wetland creation) that will allow P credits to be generated.
- 8.3. The Interim Strategy will therefore allow SWT to 'unlock' some phosphate development in the District, up to a threshold of 65.3 kg/year (at present) whilst ensuring that, as the competent authority, there would be no adverse effects on the Somerset Levels and Moors Ramsar site.
- 8.4. The P credits allocated to affected development proposals across the District will allow planning applicants to demonstrate that, subject to an HRA (including Appropriate Assessment), their proposed development would be phosphate neutral in perpetuity.
- 8.5. A critical part of SWT's approach to HRA is that a requirement has been established that **all** affected planning applications (including those utilising SWT generated P Credits as phosphate mitigation) must be subject to a project-level Appropriate Assessment, This process will allow SWT, as the competent

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<sup>18</sup> N.B. These figures relate to projected housing growth that at the time of writing do not have phosphate mitigation measures in place.

<sup>19</sup> See: <https://newsomersetcouncil.org.uk/>



authority, to assess the project-level impacts of proposed development to be certain beyond a reasonable doubt that it would not result in adverse effects on the Somerset Levels and Moors Ramsar site, thereby fulfilling its duties under Regulation 63 of The Habitats Regulations.

***Natural England Response***

- 8.6. In an email dated XX Natural England's (insert name and designation) the following response:

"insert extract"

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## Appendix A

### Qualifying Features of European Sites

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## Somerset Levels and Moors Ramsar Site

Characteristics of the Somerset Levels and Moors Ramsar Site (refer to Information Sheet on Ramsar Wetlands (RIS)<sup>20</sup> and Natural England Advice Note<sup>Error! Bookmark not defined.</sup> for further information)

<b>Name of European Site and its EU Code</b>	Somerset Levels and Moors Ramsar EU Site Code UK11064 (914)
<b>European Site size</b>	6,388 ha
<b>Description of European Site</b>	<p>The Ramsar Site is designated for its internationally important wetland features including the floristic and invertebrate diversity and species of its ditches, which is shared as a designated feature of the underpinning Sites of Special Scientific Interest (SSSIs)<sup>Error! Bookmark not defined.</sup>.</p> <p>The Ramsar site consists of a series of Sites of Special Scientific Interest (SSSI) within the largest area of lowland wet grassland and associated wetland habitat remaining in Britain. It covers about 35,000 ha in the flood plains of the Rivers Axe, Brue, Parrett, Tone and their tributaries.</p> <p>The majority of the site is only a few metres above mean sea level and drains through a large network of ditches, rhynes, drains and rivers. Flooding may affect large areas in winter depending on rainfall and tidal conditions. Parts of the site in the Brue Valley include areas of former raised peat bog which have now been substantially modified by agricultural improvement and peat extraction which has created areas of open water, fen and reedbed.</p> <p>The site attracts internationally important numbers of wildfowl in winter and is one of the most important sites in southern Britain for breeding waders. The network of rhynes and ditches support an outstanding assemblage of aquatic invertebrates, particularly beetles.</p>
<b>Qualifying Features of the European Site</b>	<p><b>Ramsar criteria 2 - A wetland should be considered internationally important if it supports vulnerable, endangered, or critically endangered species or threatened ecological communities.</b></p> <ul style="list-style-type: none"> <li>Supports 17 species of Red Data Book invertebrates. The vascular plants <i>Wolffia arrhiza</i>, <i>Hydrocharis morsus-ranae</i> and <i>Peucedanum palustre</i> are considered vulnerable by the GB Red Book</li> </ul> <p><b>Ramsar criteria 5 - A wetland should be considered internationally important if it regularly supports 20,000 or more waterbirds.</b></p> <ul style="list-style-type: none"> <li>Species with peak counts in winter: 97,155 waterfowl (5 year peak mean 1998/99-2002/2003)</li> </ul> <p><b>Ramsar criteria 6 - A wetland should be considered internationally important if it regularly supports 1% of the individuals in a population of one species or subspecies of waterbird.</b></p> <ul style="list-style-type: none"> <li>Qualifying Species/populations (as identified at designation) Species with peak counts in winter:</li> </ul>

<sup>20</sup> Ramsar Sites Information Service <https://rsis.ramsar.org/ris/914>

	<ul style="list-style-type: none"> <li>- Eurasian teal, <i>Anas crecca</i>, NW Europe 21,231 individuals, representing an average of 4.2% of the population (5 year peak mean 1998/9-2002/3)</li> <li>- Northern lapwing, <i>Vanellus vanellus</i>, Europe - Breeding 36,580 individuals, representing an average of 1.8% of the population (5 year peak mean 1998/9-2002/3)</li> </ul> <ul style="list-style-type: none"> <li>• Species/populations identified subsequent to designation for possible future consideration under criterion 6.</li> </ul> <p>Species with peak counts in winter:</p> <ul style="list-style-type: none"> <li>- Eurasian wigeon, <i>Anas penelope</i>, NW Europe 25,759 individuals, representing an average of 1.7% of the population (5 year peak mean 1998/9-2002/3)</li> <li>- Mute swan, <i>Cygnus olor</i>, Britain 842 individuals, representing an average of 2.6% of the population (5 year peak mean 1998/9-2002/3)</li> <li>- Northern pintail, <i>Anas acuta</i>, NW Europe 927 individuals, representing an average of 1.5% of the population (5 year peak mean 1998/9-2002/3)</li> <li>- Northern shoveler, <i>Anas clypeata</i>, NW &amp; C Europe 1,094 individuals, representing an average of 2.7% of the population (5 year peak mean 1998/9-2002/3)</li> </ul>
<p><b>Vulnerability of the European Site</b></p>	<p>The interest features of the Somerset Levels and Moors Ramsar Site are considered <b>unfavourable</b>, or <b>at risk</b>, from the effects of <b>eutrophication caused by excessive phosphates</b> <small>Error! Bookmark not defined.</small></p> <p>The vast majority of the ditches within the Ramsar Site and the underpinning SSSI's are classified as being in unfavourable condition due to excessive Phosphate and the resultant ecological response <small>Error! Bookmark not defined.</small></p> <p>The hydrological value of the site lies in flood water storage / desynchronisation of flood peaks and maintenance of water quality (removal of nutrients).</p>
<p><b>European Site Conservation Objectives</b> <small>Error! Bookmark not defined.</small></p>	<p>Site specific conservation objectives for Ramsar Sites have not been published. However, the following generic Conservation Objectives for all Ramsar Sites have previously been signed off by Natural England:</p> <p>“With regard to the Ramsar Site and the wetland habitats, individual species and/or groups of species for which the site has been listed (its ‘Qualifying Features’), and subject to natural change;</p> <p>Ensure that the integrity of the [Ramsar] site is maintained or restored as appropriate, and ensure</p> <p>that the site contributes to achieving the wise use of wetlands across the UK, by maintaining or restoring;</p> <ul style="list-style-type: none"> <li>• The extent and distribution of qualifying habitats and habitats of qualifying species</li> <li>• The structure and function of qualifying habitats and habitats of qualifying species</li> <li>• The supporting processes on which qualifying habitats and habitats of qualifying species rely</li> <li>• The populations of each qualifying species, and,</li> <li>• The distribution of each qualifying species within the site.”</li> </ul>

	The conservation objectives for the Ramsar Site are also consistent with the published conservation objectives for the Somerset Levels and Moors SPA (refer to <b>Error! Reference source not found.</b> in <b>Error! Reference source not found.</b> for details).
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## Somerset Levels and Moors SPA

Summary characteristics of the Somerset Levels and Moors SPA (refer to Natural England website ‘European Site Conservation Objectives for Somerset Levels & FA Moors SPA’ for further information <sup>21</sup>)

<b>Name of European Site and its EU Code</b>	Somerset Levels and Moors SPA EU Site Code <b>UK9010031</b> (NB: The boundary of this site coincides with the Somerset Levels and Moors Ramsar Site)
<b>European Site size</b>	6,395 ha
<b>Description of European Site</b>	<p>The Somerset Levels and Moors contain the largest area of lowland wet grassland in England: 21% of the resource. Huge flocks of migratory waterfowl arrive in winter; more than at any other inland site in the UK. Its importance is year-round as it is one of the UK’s most important breeding areas for Lapwing, Curlew, Redshank and Snipe: wading birds that depend on extensively grazed wet grassland. Meadows with more than 60 species in a single field and ditches supporting a unique assemblage of rare invertebrates add to its diversity.</p> <p>The floodplain’s surviving biodiversity is recognised by a series of statutory designations. There are 17 Sites of Special Scientific Interest reflecting the national importance of 7,300 ha for lowland wet grassland, breeding wader populations and aquatic invertebrates. Twelve of the SSSIs, covering almost 6,400 ha, have been classified as important for wintering wildfowl and designated a Special Protection Area under the EC Birds Directive. The tiers of conservation designations are completed by recognition under the Ramsar Convention that the best habitats on the floodplain are notable for rare aquatic invertebrates and wintering waterbirds, making it one of the world’s premier wetlands.</p> <p>The accumulation of designations makes it easy to lose sight of the fact that together they cover only 12% of the area of the floodplain. While they have helped attract limited investment to protect their biodiversity, little attention and few resources are given to the remainder, optimistically known as the “wider wetland”. Much of the area outside the designated sites is a farmed grassland monoculture: too dry at critical times of the year to support wetland wildlife. This does not mean that it will always be of substantially lower value for wildlife. Promoting sustainable flood management and farming practices tailored to a wetland environment would rapidly reverse past losses and provide greater protection for the SPA.</p>

<sup>21</sup> Natural England website ‘European Site Conservation Objectives for Somerset Levels & Moors SPA’ (includes Somerset Levels and Moors SPA Conservation Objectives Supplementary Advice 2019/03/12, Somerset Levels and Moors Conservation Objectives 2019/02/14, and Somerset Levels and Moors SPA Citation 2014/09/26). <http://publications.naturalengland.org.uk/publication/4598158654963712>

<p><b>Qualifying Features of the European Site</b></p>	<p>Qualifying individual species listed in Annex I of the Wild Birds Directive (article 4.1)</p> <p>Non-breeding (overwintering):</p> <ul style="list-style-type: none"> <li>• A037 <i>Cygnus columbianus bewickii</i>; Bewick's swan</li> <li>• A140 <i>Pluvialis apricaria</i>; European golden plover</li> </ul> <p>Qualifying individual species not listed in Annex I of the Wild Birds Directive (article 4.2)</p> <p>Non-breeding (overwintering):</p> <ul style="list-style-type: none"> <li>• A052 <i>Anas crecca</i>; Eurasian teal</li> <li>• A142 <i>Vanellus vanellus</i>; Northern lapwing</li> </ul> <p>Qualifying assemblage of species (Article 4.2)</p> <ul style="list-style-type: none"> <li>• Waterbird assemblage (In addition to the Annex 1 and 2 species above the assemblage included Gadwall <i>Anas strepera</i>, Wigeon <i>Anas penelope</i>, Shoveler <i>Anas clypeata</i>, Pintail <i>Anas acuta</i>, Snipe <i>Gallinago gallinago</i> and Whimbrel <i>Numenius phaeopus</i>)</li> </ul> <p>NB: Since notification there has been a substantial increase in numbers. The representation of species exceeding national and international population thresholds in the assemblage has changed with eight species exceeding the international threshold (Golden Plover <i>Pluvialis apricaria</i>, Teal <i>Anas crecca</i>, Lapwing <i>Vanellus vanellus</i>, Gadwall <i>Anas strepera</i>, Wigeon <i>Anas penelope</i>, Shoveler <i>Anas clypeata</i>, Pintail <i>Anas acuta</i> and Mute Swan <i>Cygnus olor</i>), and five exceeding the national threshold (Bittern <i>Botaurus stellaris</i>, Little Egret <i>Egretta garzetta</i>, Ruff <i>Philomachus pugnax</i> and Green Sandpiper <i>Tringa ochropus</i>).</p> <p>Note: This SPA is ecologically linked to the Severn Estuary SPA with bird species notified as mobile qualifying features using either the inland or coastal European Sites as alternative winter feeding grounds according to the weather conditions</p>
<p><b>Names of component Site of Special Scientific Interest (SSSIs)</b></p>	<p>The SPA is comprised of 12 SSSIs located across the Somerset Levels and Moors floodplain.</p> <ul style="list-style-type: none"> <li>• Catcott Edington and Chilton Moors SSSI</li> <li>• Curry and Hay Moors SSSI</li> <li>• King's Sedgemoor SSSI</li> <li>• Moorlinch SSSI</li> <li>• Shapwick Heath SSSI</li> <li>• Southlake Moor SSSI</li> <li>• Tealham and Tatham Moors SSSI</li> <li>• West Moor SSSI</li> <li>• West Sedgemoor SSSI</li> <li>• Westhay Heath SSSI</li> <li>• Westhay Moor SSSI</li> <li>• Wet Moor SSSI</li> </ul>
<p><b>European Site Conservation Objectives</b></p>	<p>With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;</p>

	<p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;</p> <ul style="list-style-type: none"><li>• The extent and distribution of the habitats of the qualifying features</li><li>• The structure and function of the habitats of the qualifying features</li><li>• The supporting processes on which the habitats of the qualifying features rely</li><li>• The population of each of the qualifying features, and,</li><li>• The distribution of the qualifying features within the site</li></ul>
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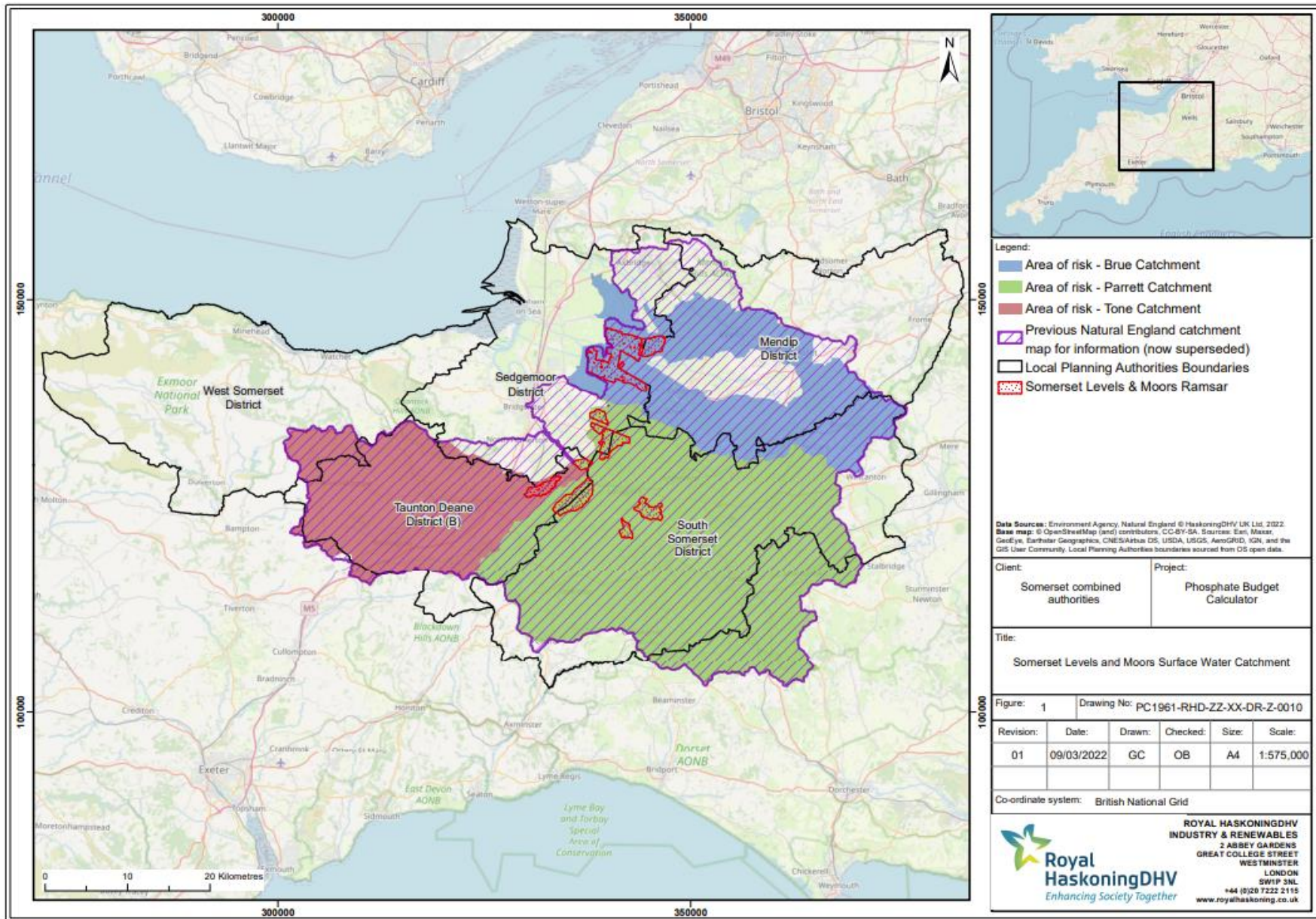
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## Appendix B

### Map of Somerset Levels and Moors Surface Water Catchment

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## Appendix C

### Summary of Strategic Projects being progressed through Interim Strategy

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Category	Measure	Total phosphorus removed (kg/yr)	Housing Equivalent (no. of housing units)		Timescale
			Min. <sup>22</sup>	Max. <sup>23</sup>	
Utilising Council Assets	<b>1a</b> - Implementing a programme for the retrofitting of the Council's own housing stock to improve their water efficiency and create phosphate credits.	16.47 <sup>24</sup>	38	190	Short term (up to 1 year) – Medium term (5 year programme in total)
Land Use Measures	<b>2a</b> - The development of medium to large-scale strategic project(s), which will mainly comprise new wetlands and possibly woodlands located in the River Tone sub-catchment. In the first place this is likely to involve existing land assets owned by SWT (e.g. Cotford St Luke) as well as exploring and progressing land purchase options.	12.87	30	149	Medium term (1-5 years)
	<b>2b</b> - Seeking to secure phosphate credits from schemes / temporary measures / contracts which deliver small scale phosphorous offsetting measures (Small Schemes) e.g. taking land out of intensive agricultural (arable or grass), fallowing land.	1.16 <sup>25</sup>	2	13	Short term (up to 1 year)
Working in partnership with the Private Sector	<b>3a</b> - Fallowing land in locations around Taunton	34.8	87	435	Short term (up to 1 year)
<b>Total</b>		65.3	157	787	

**Cautionary Note:**

The following should be taken into consideration when reading the above table:

- Phosphate loads are estimated on a rate of phosphate produced per dwelling assuming an average occupancy of 2.4 people per dwelling.
- The phosphate load is calculated on the basis that residential development will be built to the highest water efficiency standards provided for.
- The phosphate loads for individual projects have been estimated in line with the environmental permit of the relevant connected Wastewater Treatment works contained with the phosphate calculator, as approved by Natural England

<sup>22</sup> WwWT permit limit of 5 mg/l

<sup>23</sup> WwWT permit limit of 1 mg/l

<sup>24</sup> Based on information received from SWT housing colleagues, December 2021

<sup>25</sup> Option with the lowest mitigation potential

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