



**Somerset**  
Council

# **Nutrient Mitigation Fund: Interim Delivery Strategy**



<b>Organisation</b>	Somerset Council
<b>Title</b>	Local Nutrient Mitigation Fund – Interim Delivery Strategy
<b>Authors</b>	Emmeline Brooks (Phosphates Planning Officer) Paul Browning (Principal Planning Policy Officer) and Kate Murdoch (Area West Service Manager Planning Policy & Implementation)
<b>Owner</b>	Kate Murdoch (Area West Service Manager Planning Policy & Implementation)

## Version History

Revision Date	Author	Version	Description of Revision
01.02.2024	E Brooks	DRAFT 1	
29.02.2024	E Brooks	DRAFT 2	Updates following ABC and KM review
05.03.2024	E Brooks	DRAFT 3	Updates following additional review. Table 5 added.
07.03.2024	E Brooks	Final Draft for Review	Updates to Provisional Capital Allocations following PB/KM review.
12.03.2024	P Browning	Final	Table 3 deleted following KM /PB review

## Document Notification

Approval	Name	Date
	Alison-Blom Cooper	



## Executive Summary and Purpose of this Report

The Government announced in December 2023 that Somerset Council has been awarded £9.6m to progress capital projects via the Local Nutrient Mitigation Fund (LNMF) to deliver nutrient neutrality solutions across the catchment area of the Somerset Levels and Moors Ramsar site. The funding will be recovered via the sale of phosphate credits and recycled to deliver additional nutrient mitigation projects.

This report is an Interim Delivery Strategy outlining how Somerset Council is proposing to use the grant funding awarded by the LNMF across the Somerset Levels and Moors catchment area. It is intended to provide a high-level project plan setting out key interventions that the Council has identified to deliver both temporary and permanent nutrient neutrality solutions through several projects.

The Strategy is based on best available information at the time of writing, however it is proposed that this document will be updated within the next 12 months once further information on the projects, and notably their costs are known.

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## 1. Background

- 1.1 On 17 August 2020, all the local planning authorities in Somerset (at that time the four Districts and County Council), as well as Dorset Council received an advice note from Natural England (NE) 'the NE letter' concerning the unacceptable levels of phosphates in the Somerset Levels and Moors Ramsar site (SL&M).
- 1.2 As a result of the court Judgment (known as Dutch N<sup>1</sup>), NE advised that, in light of the unfavourable condition of the SL&M, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities are required to undertake a Habitats Regulations Assessment (HRA) proceeding to an Appropriate Assessment (AA). The AA must demonstrate that a proposed development would be nutrient neutral in perpetuity before planning permission can be granted.
- 1.3 In light of the above, until such time as alternative solutions are found to improving water quality in the catchment area for the SL&M, Somerset Council, as a competent authority under the Habitats Regulations is not able to grant planning permission to certain proposed developments, unless they are able to demonstrate phosphate neutrality.
- 1.4 The types of development impacted by the NE's letter include:
- New residential units – including tourist accommodation, gypsy sites /pitches.
  - Commercial developments – where overnight accommodation is provided.
  - Agricultural Development – additional barns, slurry stores etc. where it is likely to lead to an increase in herd size.
  - Anaerobic Digesters.
  - Some tourism attractions.
- 1.5 As of the 16 March 2022, phosphate neutrality requirements also affect the catchment area of the River Axe Special Area of Conservation (SAC). Whilst this affects some parts of Somerset, East Devon District Council is the lead authority for phosphate neutrality in the River Axe SAC catchment area. As such, this Interim Delivery Strategy is focused on nutrient mitigation in the SL&M catchment area and does not relate to the River Axe SAC.

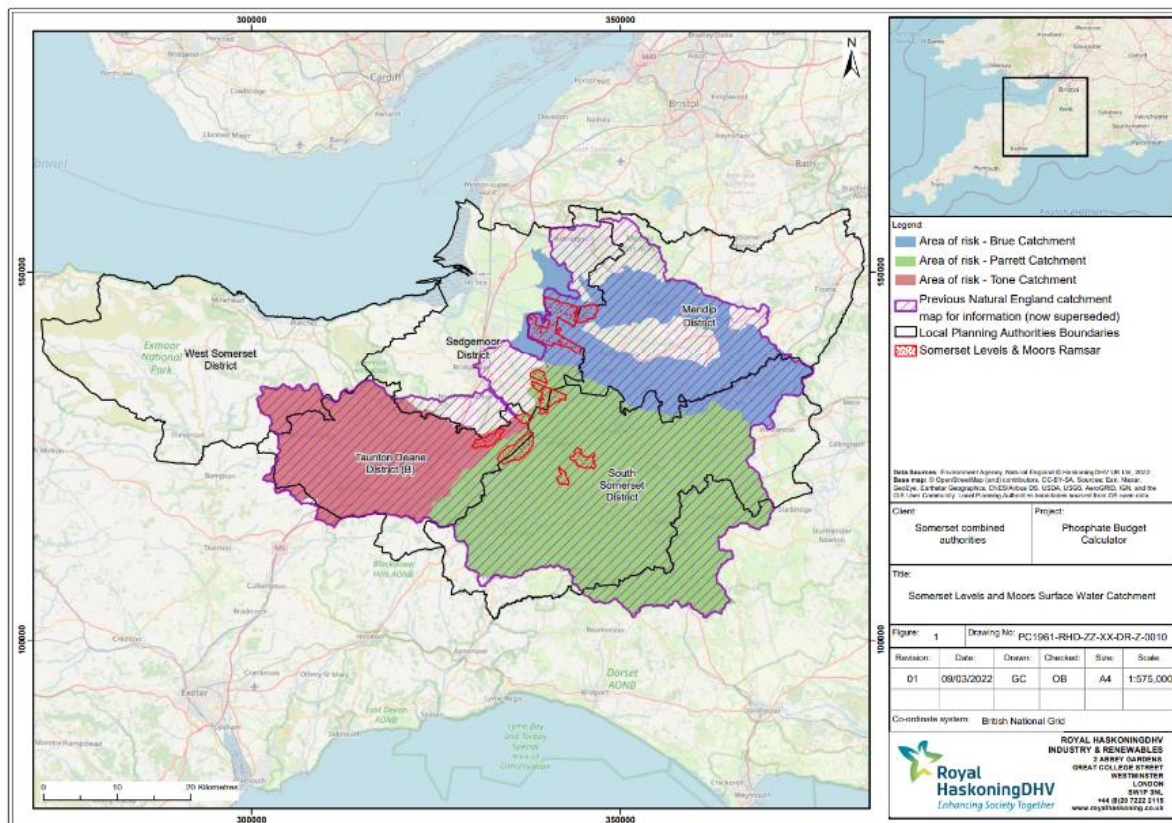
## 2. Impact of the Nutrient Neutrality Issue

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<sup>1</sup> Joined Cases C-293/17 and C-294/17 Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Other

- 2.1 At the time of writing, circa 70 Local Planning Authorities (LPAs) in England are now impacted by nutrient neutrality requirements.
- 2.2 Figure 1 below shows the area affected by phosphate neutrality requirements linked to the SL&M ('the affected area'). It covers a large area of Somerset and part of West Dorset and includes the river catchments of the Brue, Parrett and Tone<sup>2</sup>.

Figure 1 Somerset Levels and Moors Surface Water Catchment Area



2.3 It is currently estimated that there are approximately 18,000 new homes to be delivered by 2032 which are located within the affected area. These dwellings will be required to demonstrate nutrient neutrality in order for planning permission to be granted. Table 1 below provides a breakdown of each of the circa 18,000 units by each planning area in Somerset as well as the area in West Dorset. It also shows the level of phosphate mitigation that will be required in order to bring forward these developments.

Table 1 Housing Delivery and Phosphate Mitigation requirements in the affected area

Planning Area	No. of Dwellings	Phosphate Mitigation Requirement (kg/P/year)
Area East (formerly Mendip District Council)	3,120	516.40

<sup>2</sup> As noted in section 1 of the report, this Interim Delivery Strategy relates only to the SL&M catchment area and does not cover the catchment area of the River Axe SAC.

Area North (formerly Sedgemoor District Council)	375	657.40
Area South (formerly South Somerset District Council)	3,927	1191.23
Area West (formerly Somerset West and Taunton Council)	10,112	29.21
Dorset	700	59.94
<b>Total:</b>	<b>18,234</b>	<b>2454.18</b>

- 2.4 The figures shown in Table 1 are as set out within the Somerset Solutions Report prepared by Royal Haskoning, on behalf of Somerset Council and published in March 2022<sup>3</sup>. Work is ongoing to update these figures, and to provide a breakdown of housing and phosphate mitigation requirements by catchment area.
- 2.5 There is now a statutory requirement within the Levelling Up and Regeneration Act (LURA) 2023 for water companies to upgrade their wastewater treatment infrastructure to the 'Technically Achievable Limit' (TAL) for nutrient removal (for phosphates this figure is 0.25mg/l<sup>4</sup>). These upgrades will significantly reduce phosphate mitigation requirements for proposed developments that utilise mains drainage systems.
- 2.6 Table 2 below presents a high-level estimate of likely phosphate mitigation requirements in each of the planning areas across Somerset (and the affected area in Dorset) once TAL upgrades have been completed<sup>5</sup>. These figures are also going to be subject to further update now that the Government has announced that the SL&M has been formally designated as a 'sensitive catchment area'<sup>6</sup> to ensure that they reflect the locations where TAL upgrades will be taking place. The Government is due to publish a list of Wastewater Treatment Works (WwTW) within each sensitive catchment area that will be upgraded to TAL and at the time of writing, the Council's understanding is that this is expected by the 1 April 2024.

<sup>3</sup> Available at: <https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-guidance-template-documents-and-useful-information/>

<sup>4</sup> By way of comparison, Taunton WwTW is currently one of the best phosphate performing WwTW in the affected area and operates at 1mg/l

<sup>5</sup> N.B. This is broad, high-level estimate based on a 65% reduction in phosphate mitigation requirements compared to the data shown in Table 1. Work is ongoing to update these figures and have this information by river catchment area.

<sup>6</sup> DLUHC (2024) <https://www.gov.uk/government/publications/notice-of-designation-of-sensitive-catchment-areas-2024/notice-of-designation-of-sensitive-catchment-areas-2024>



Table 2 Estimated phosphate mitigation requirement in the affected area post-TAL upgrades (Post 2030)

Planning Area	No. of Dwellings	Estimated phosphate Mitigation Requirement (kg/P/year) post TAL upgrades
Area East	3,120	180.74
Area North	375	10.23
Area South	3,927	230.09
Area West	10,112	416.93
Dorset	700	20.98
<b>Total:</b>	<b>18,234</b>	<b>858.96</b>

*N.B. these figures are estimates and not for reliance*

### 3. Progress to Date

3.1 Since the receipt of the NE letter, Somerset Council (and prior to 1 April 2023 the County and the four District authorities) has been working to facilitate nutrient neutral development. This has included the following:

- Publication of the Somerset Phosphate Budget Calculator<sup>7</sup>
- Publication of advice, guidance and template documents to assist applicants in developing their own solutions, and with phosphate credit schemes<sup>8</sup>
- Lobbying central government on a range of matters, such as the funding and delivery of interim mitigation solutions, 5 Year Housing Land Supply, and the effect of Small and Medium-sized Enterprises (SMEs)<sup>9</sup>
- Establishment of the one of the first LPA-led Phosphate Credit (P-credit) schemes in the country within the River Tone catchment area<sup>10</sup>.
- Supporting private phosphate mitigation (P-mitigation) providers to establish third-party P-credit schemes that can be accepted by Somerset Council.

3.2 Bi-weekly meetings are also held with colleagues from Dorset Council to ensure consistency in approach.

3.3 As a result of the above, Somerset Council has been successful in 'unlocking' some development across the SL&M catchment area. Despite this, across all of the individual river catchment areas there remain planning applications currently being held, awaiting a phosphate solution. On a regular basis, updates on these numbers are reported to the Strategic Planning Committee. It should be noted at the time of drafting this

<sup>7</sup> <https://www.somerset.gov.uk/planning-buildings-and-land/phosphate-budget-calculator/>

<sup>8</sup> Available to view at: <https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-guidance-template-documents-and-useful-information/>

<sup>9</sup> Correspondence with central government is available to view at: <https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/>

<sup>10</sup> Details of the River Tone P-credit scheme underpinned by the former Somerset West and Taunton Council Interim Phosphates Mitigation Strategy is available at: <https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/somerset-west-and-taunton-interim-strategy/>

interim delivery strategy that Dorset Council, have not validated applications unless mitigation measures were proposed. Dorset Council has c. 14 homes in the SL&M catchment area that are pending a decision.

- 3.4 Notwithstanding the above, there is now available phosphate mitigation in each of the affected river catchment areas. The Council is aware of several strategic residential development sites where developers are working to progress their own phosphate mitigation solutions to facilitate their development.
- 3.5 In addition, there are several third-party mitigation schemes currently in operation across the SL&M catchment area with processes established with Somerset Council to allow developers to secure these credits. In addition, there is the Council-led phosphate mitigation scheme in operation in the River Tone catchment area. Table below demonstrates the current phosphate mitigation available across each of the affected areas arising from P-credits (third-party or Council-led). Somerset Council is aware of additional third-party schemes coming forward and these will be signposted on the Council's website when approved.
- 3.6 Please note, the number of houses released through these P-credits will vary depending on their location in the catchment area. 1 no. P-credit is equal to 1kg/year of phosphate removed, not 1 no. dwelling.

*Table 3 Phosphate Mitigation available from P-credit schemes currently operating in the SL&M catchment area*

	River Brue	River Parrett	River Tone
<b>Known P-mitigation (Kg/year) arising from P-credits</b>			
Third-party P-credit Schemes	190.78	213.80 (Temporary P-credits) 335.68 (Permanent P-credits)	60.15
River Tone P-credit Scheme (Somerset Council led P-credit scheme)	N/A	N/A	45-75.5
<b>Total by river catchment area:</b>	<b>190.78</b>	<b>213.80 (Temporary)</b> <b>335.68 (Permanent)</b>	<b>105.15 to 135.65</b>
<b>Total in SL&amp;M catchment area:</b>	<b>631.61 to 662.11 (Permanent)</b>		

- 3.7 The number of P-credits available in the River Tone catchment area is presented as a range. There are currently 45 no. P-credits available arising from the former Somerset

West and Taunton Council's Interim Phosphates Mitigation Strategy (now Area West), 11.3 no. P-credits have already been allocated to facilitate the delivery of 74 no. dwellings. As set out in the Standard Appropriate Assessment of the Interim Phosphates Mitigation Strategy, the strategy as a whole is expected to generate 75.5 no. P-credits<sup>11</sup>.

## 4. Local Nutrient Mitigation Fund

- 4.1 In the Spring Budget 2023, central government announced grant funding for LPAs to deliver 'high quality, locally led nutrient mitigation schemes'<sup>12</sup> known as the 'Local Nutrient Mitigation Fund' (LNMF). In order to access this funding, LPAs were required to submit costed expressions of interest for projects or strategies for delivering nutrient mitigation to unlock housing delivery within nutrient-affected catchment areas.
- 4.2 Somerset Council submitted an expression of interest for the LNMF in May 2023. In December 2023, the Council received confirmation that it had been successfully awarded capital funding of £9.6m.
- 4.3 Section 5 below sets out a summary of each of the phosphate mitigation projects that the Council is seeking to progress. A high-level timetable and costs breakdown is provided at Section 6. It should be noted that this is an Interim Delivery Strategy. It provides a high-level project plan based on best available information at the current time. As the below projects progress, and more information becomes known there will be a need to revisit and update this Interim Delivery Strategy and the information on costs and delivery timescales herein.

## 5. Summary of Phosphate Mitigation Proposals

### **Project One: Salinity Solutions (Temporary/Bridging Credit Solution)**

- 5.1 Somerset Council has been working in partnership with a private company, Salinity Solutions<sup>13</sup> and Wessex Water to move forward an interim phosphate mitigation solution designed to remove phosphate loads entering the Somerset Levels and Moors Ramsar site.
- 5.2 The solution is modular units that can be attached to existing WwTW infrastructure. These modular units provide a secondary treatment process, using an energy efficient batch reverse osmosis treatment process, they provide a 95% phosphorus removal rate

<sup>11</sup> The Standard Appropriate Assessment is available to view on the Somerset Council Phosphates webpage: <https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/somerset-west-and-taunton-interim-strategy/>

<sup>12</sup> <https://www.gov.uk/government/calls-for-evidence/local-nutrient-mitigation-fund-call-for-evidence-and-expression-of-interest/local-nutrient-mitigation-fund-call-for-evidence-and-expression-of-interest>

<sup>13</sup> <https://salinitysolutions.co.uk/>

from the existing WwTW (as well as a 95% nitrogen removal rate) to provide immediate P-credits to the catchment area.

- 5.3 This solution offers the potential to provide sufficient interim P-credits to unlock the housing requirement within the SL&M river catchment areas to 2030, when the upgrades to the WwTW serving the majority of the housing impacted will be upgraded to TAL (0.25mg/l/p)<sup>14</sup>. This interim measure ensures that housing delivery can proceed alongside a clear monitoring regime to ensure nature-based solutions come forward in the timescales required. It also provides sufficient time to progress the range of in-perpetuity measures and enables the in-perpetuity measures to mitigate at the new lower (0.25mg/l/p) permit level for the WwTWs, serving the majority of the developments currently awaiting a phosphate solution (further detail on in perpetuity solutions is provided below).
- 5.4 An initial two-week field trial was carried out by Salinity Solutions in Somerset in July 2023<sup>15</sup> which demonstrated its efficacy. In order to test the technology further, now grant funding is secured, Somerset Council, Salinity Solutions and Wessex Water are currently in the process of beginning a six-month pilot of the technology. The aim of this pilot is to determine the longer-term maintenance and management requirements for a larger scale programme and to confirm the actual number of P-credits that can be generated and the full cost of the P-credits.

**Project Two: Call for sites for land-based phosphate mitigation measures – in partnership with Farming and Wildlife Advisory Group South West (In Perpetuity Mitigation Solutions)**

- 5.5 Working in partnership with the Farming and Wildlife Advisory Group South West (FWAG SW)<sup>16</sup>. Somerset Council will be launching a Call for Sites. The Call for Sites will cover the entirety of the SL&M catchment area (including the area within the Dorset Council administrative boundary).
- 5.6 The purpose of the Call for Sites will be to identify suitable site locations where land-based phosphate mitigation measures (e.g. wetlands, riparian buffer strips) can be delivered. The sites put forward through the Call for Sites process will be assessed by Somerset Council against an agreed, transparent criteria-based process. The proposals can be weighted to support targeted areas, and measures informed by the Council's monitoring of available P mitigation schemes, housing delivery and five-year land supply requirements. In addition, many of the land/nature-based solutions may also deliver additional benefits including natural flood management, biodiversity net gain

<sup>14</sup> By way of comparison, Taunton WwTW, one of the most phosphate efficient WwTW's in the SL&M currently operates at 1mg/l/p

<sup>15</sup> See: [P-Removal-CASE-STUDY.pdf \(salinitysolutions.co.uk\)](https://www.salinitysolutions.co.uk/P-Removal-CASE-STUDY.pdf)

<sup>16</sup> [Farming and Wildlife Advisory Group South West Limited \(fwagsw.org.uk\)](https://www.fwagsw.org.uk)

or public access and Officers will assess and monitor these wider public benefits as part of the delivery programme.

**Project Three: Working with Registered Social Housing Providers and our Council Housing and Property Stock to release P-credits to support the delivery of affordable housing (In Perpetuity Mitigation Solutions)**

- 5.7 Nutrient Neutrality requirements have also impacted the delivery of affordable homes by both Somerset Council's Affordable Housing Delivery Partners (Registered Social Providers or RSPs), and our internal housing and property departments. Since the receipt of the NE letter in August 2020, Somerset Council has approved projects promoted by RSPs to retrofit water efficiency measures into retained rental stock where the housing service/RSP controls will prevent the tenant's capacity to alter domestic fittings. The LNMF gives Somerset Council the opportunity to work with RSPs and the Council's housing service and property team to accelerate these solutions and create P-credits to facilitate the delivery of affordable housing.
- 5.8 A secondary opportunity in parallel with the retrofitting project to unlock credits arises from the existence of a number of primarily rural affordable housing schemes, where landlords manage the disposal of foul waste by means of septic tanks. Since the receipt of the NE letter in August 2020, the retrofitting of poorly performing septic tanks with more phosphate efficient Package Treatment Plants (PTPs) has become an accepted phosphate mitigation solution, and in the last 3 years Somerset Council as the LPA, in consultation with NE, has approved a number of planning applications proposing this solution. Although each septic tank replacement, by a more efficient package treatment plant (PTP), will require an individual calculation of the likely credit release, typically 0.8 Kg of Phosphate credit is released per dwelling that replaces a septic tank with a PTP.
- 5.9 By reason of their engineered nature, the delivery of these types of measures (both retrofitting and PTP upgrades) enables quick and very repeatable solutions to be delivered, without the need for short term land use solutions taking productive land out of use.
- 5.10 Both the retrofitting programme and the PTP upgrade requires upfront funding to roll out a programme of work. Somerset Council is currently in the process of liaising with RSPs and housing and property colleagues to understand in more detail the forward pipeline of these upgrades and how they can be delivered now that funding is secured. Initially, Planning Officers have been in contact with Housing Officers regarding trialling a proposed septic tank to PTP upgrade at Castle View in Curland, which is

expected to generate 1.8kg/year of P-credit which can be allocated to other residential proposals in the locality.

#### **Project Four: Opportunities for nature-based solutions on Council-owned land (In Perpetuity Mitigation Solutions)**

- 5.11 In addition to the Call for Sites process, as described above, Somerset Council is also exploring opportunities to deliver nature-based solutions on Council owned land to facilitate the delivery of phosphate mitigation projects to unlock impacted developments.

#### **Project Five: Miscanthus Grass (Temporary/Bridging Credit Solution)**

- 5.12 Somerset Council has also been exploring potential opportunities associated with Miscanthus Grass in collaboration with a Miscanthus Nursery in Taunton<sup>17</sup>. There are opportunities to grow Miscanthus Grass on areas of fallowed land to provide temporary nutrient credits without the need to rely on fallowing land for nutrient mitigation, thereby improving cost effectiveness.
- 5.13 The Council is working with Miscanthus Nursery to identify a suitable trial site to confirm the level of phosphate removal (i.e. legacy phosphates in the soil) and phosphate mitigation in terms of an alternative fallowing land approach and/or buffer planting to reduce soil/nutrient runoff.

#### **Project 6: New Technical Innovations**

- 5.1 Phosphate mitigation is consistently being developed, particularly as the market for P-credits continues to mature and expand. This is an 'interim' Delivery Strategy and as described above is intended to be a high-level project plan for the LNMF across the SL&M. In light of this, in order to maintain flexibility, a sixth project has been included within this delivery strategy and a provisional cost allocation made (See section below) to allow Somerset Council to respond to new technical innovations that may come forward, and represent effective phosphate mitigation, with good value for money. If new technical innovations do come forward within the next 12 months, further detail will be provided in the next iteration of this Interim Delivery Strategy.

## **6. Interim Delivery Programme and Provisional Cost Allocations**

- 6.1 Table and Figure 2 below set out an estimated timeframe for the roll out of the projects presented in section 5 above. Work has begun on piloting/trialling solutions (e.g. Salinity Solutions and Miscanthus Grass), with the first project roll-out expected to take place from Q2 of 2024/25.

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<sup>17</sup> <https://miscanthusnursery.co.uk/>

- 6.2 Table also presents a provisional capital allocation for each of the proposed mitigation projects. These figures are estimates, based on best available information at the time of writing, but these cost allocations will be updated within 12 months (in line with the Delivery Strategy update) when more information is known.
- 6.3 The information in Table 4 and Figure 2 is based on the assumption that the full funding allocation will be received from central government by 1 April 2024.

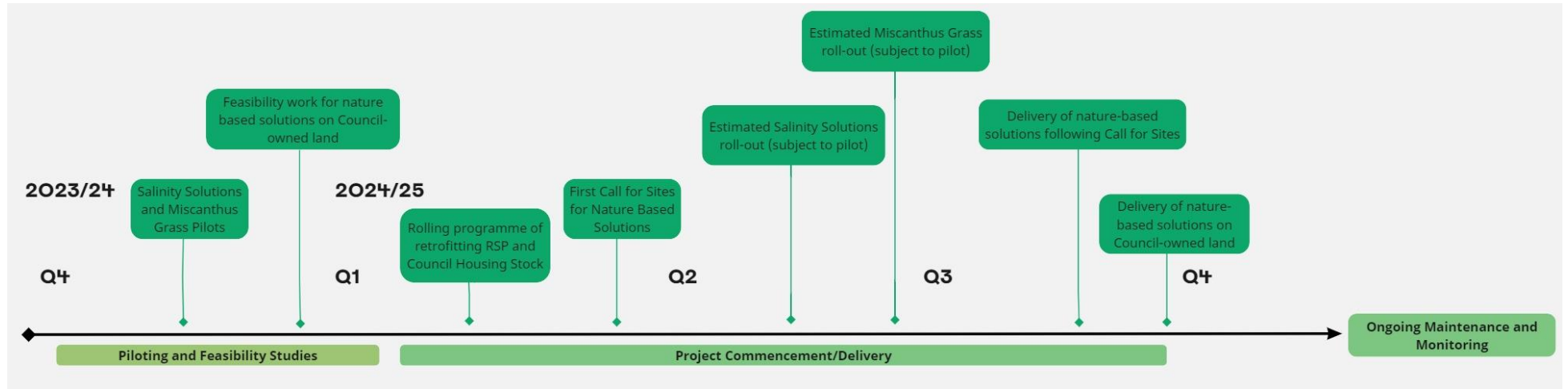
*Table 4 Interim Delivery Programme and Provisional Capital Allocation*

Proposed Project	Estimated Timeframe	Provisional Allocation (£)
Project One: Salinity Solutions	Pilot: Q4 2023/24	£2,000,000
	Roll out: From Q2 2024/25 <sup>18</sup>	
Project Two: Call for sites for Land/Nature Based Solutions	First call for sites: Q1 2024/25  Delivery of projects not expected until Q3 or Q4 2024/2025	£3,500,000
Project Three: Working with Registered Social Housing Providers and our Council Property Stock	Rolling programme from Q1 2024/25	£1,000,000
Project Four: Opportunities for nature-based solutions on Council-owned land/assets	Feasibility work: Q4 2023/24 and Q1 2024/25  Delivery of projects not expected until Q3 or Q4 2024/2025	£2,000,000
Project Five: Miscanthus Grass	Pilot: Q1 2023/24 Roll out: From Q2 2024/25 <sup>19</sup>	£620,000
Project Six: New technical innovations	TBC	£480,000
<b>Total Capital Cost:</b>		<b>£9,600,000</b>

<sup>18</sup> Dependent on outcome of trial

<sup>19</sup> Dependent on outcome of trial

Figure 2 Nutrient Mitigation Fund Interim Delivery Programme





## 7. Governance Arrangements

- 7.1 The implementation of the LNMF projects will be overseen by the Somerset Council Strategic Planning Committee.

## 8. Next Steps

- 8.1 This Interim Delivery Strategy will be presented to the Somerset Council Strategic Planning Committee on 21 March 2024. Work is ongoing to progress the projects set out Section 5 of this document and progress reports will be provided to the Strategic Planning Committee within 6 months, when further information on each of the projects, their costs and delivery is known. This Delivery Strategy will be updated within the next 12 months to meet the timescales for reporting to Government by March 2025.

END