

Statement of Common Ground
Portsmouth City Council as Local Planning
Authority
&
Environment Agency

October 2024



Portsmouth
CITY COUNCIL



Environment
Agency

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1. Introduction

This Statement of Common Ground (SCG) is a jointly agreed statement between Portsmouth City Council Local Planning Authority (PCC-LPA) and the Environment Agency (EA). It sets out the position and understanding with respect to key strategic issues between the City Council and the EA. It is not binding on either party but sets out a clear and positive direction to inform ongoing strategy and plan making. It should be noted that this is a bilateral agreement between these two organisations only.

This SCG has been prepared in accordance with paragraph 27 of the NPPF and the section of the Planning Practice Guidance on Maintaining Effective Cooperation. It has also followed guidance prepared by the Planning Advisory Service (PAS) on this matter. It has been prepared in parallel with the Pre-Submission Local Plan (Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012). This Plan, upon adoption, will supersede the existing Portsmouth Local Plan (2012). The new Local Plan will cover the period to 2040 and sets out the vision, objectives and policies to guide future development in the City over the plan period.

The representation from the EA on the Pre-Submission Portsmouth Local Plan forms Appendix 1 of this document.

The Relation between PCC-LPA and the Statutory undertaker

The EA are a statutory consultee in the planning process. The EA provide advice to local planning authorities (LPA) on developing the evidence, plans and policies they need to demonstrate how growth will be delivered within the capacity of the water environment and infrastructure.

The EA are a member body of the Tipner West Regulatory Panel. The Panel was established in January 2021 to act as a coordinated consultation body to consider matters relating to the Tipner West and Horsea Island East project, as promoted by PCC as landowner ("PCC-Promoter"). Its members comprise the following statutory consultees and non-statutory interest groups:

Statutory consultees:

- Natural England (NE)
- Environment Agency (EA)
- Marine Management Organisation (MMO)
- Historic England (HE)

Plus non-statutory interest groups as regular guest panellists:

- Royal Society for the Protection of Birds (RSPB); and
- Hampshire and Isle of Wight Wildlife Trust (HIWWT).

The Panel was established in line with the *Coastal Concordat*¹, which seeks to streamline the multiple consenting processes for coastal developments in England. There are five high level principles in the Coastal Concordat:

- i. Applicants seeking regulatory approval should be provided with a first point of entry into the regulatory system for consenting coastal development, guiding them to the organisations responsible for the range of consents, permissions and licences which may be required for their development.
- ii. Regulators should agree a single lead authority for coordinating the requirements of Environmental Impact Assessments or Habitats Regulations Assessments.
- iii. Where opportunities for dispensing or deferring regulatory responsibilities are legally possible and appropriate, they should be taken.
- iv. Where possible, at the pre-application stage, competent authorities and statutory advisors should agree the likely environmental and habitats assessment evidence requirements of all authorities at all stages of the consenting process.
- v. Where possible, regulators and statutory advisors should each provide coordinated advice to applicants from across their respective organisations.

The Panel was established to deliver on these principles with respect to the proposed strategic allocation of Tipner West and Horsea Island East. To this end, a "Working Protocol" was prepared which reflects the Concordat principles and supports the Panel in providing a clearly defined and coordinated regulatory body for the purposes of engagement with the Promoter.

PCC-LPA as Competent Authority for Habitats Regulations Assessment (HRA)

The City Council is the LPA for the purposes of Plan-making and planning applications made under the Town and Country Planning Acts and is also Competent Authority as defined under the Conservation of Habitats and Species Regulations 2017 (as amended).

PCC-Promoter

The City Council is also acting as a site promoter, through the 'Tipner Regeneration Project' (TRP), which is tasked with delivering the project. A separate Statement of Common Ground will be entered into between PCC-LPA and the PCC-Promoter.

Planning Policy and national legislation (Flooding)

¹ <https://www.gov.uk/government/publications/a-coastal-concordat-for-england/a-coastal-concordat-for-england-revised-december-2019>. The Concordat was originally an agreement between the Department for Environment, Food and Rural Affairs (DEFRA), the Department for Communities and Local Government (MHCLG), the Department for Transport (DoT), the Marine Management Organisation (MMO), the Environment Agency (EA), Natural England (NE) and the Local Government Association Coastal Special Interest Group. It applies to the consenting of projects that span the intertidal area in estuaries and on the coast and require multiple consents including both a marine licence and a planning permission from the local planning authority.

Paragraph 165 of the NPPF states that "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether now and in the future)". Paragraph 166 goes on to say that "strategic policies should be informed by a Strategic Flood Risk Assessment (SFRA) and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities".

The NPPF requires all plans to take into account current and future flooding impacts as a result of climate change and to apply the sequential test and if necessary, the exception test so as to avoid, where possible, flood risk to people and property.

Portsmouth Context

Portsmouth is the UK's only island City. Whilst this brings an array of benefits, it does mean that the City is significantly constrained, especially when it comes to growth. Given the east, south and west are bound by the sea and the north by Portsdown Hill, this creates very little scope to grow beyond the current built up area.

Portsmouth has a shoreline with a total length of 44 km. The City Council is directly responsible for 23 km of Portsmouth's coastline with the remainder in private ownership, predominantly owned by the Ministry of Defence. The open coast (8 km) is the southern and most exposed shoreline of Portsea Island. Portsmouth is significantly low lying with the majority of Portsea Island being less than 10m above sea level.

Portsmouth is a City that is exposed to significant degrees of flood risk with large areas to the south of the island and to the north, including the mainland, falling within flood zones 2 and 3 (areas most at risk of extreme flood events). This flood risk is expected to grow with the accompanying sea level rise brought about by future projected climate change.

Portsmouth is also the only City in the UK with a population density greater than that of London. The City is significantly compact and there are very few vacant sites or opportunity areas within the administrative boundary that could deliver significant levels of growth to meet housing need as calculated by the standard methodology.

2. Key Strategic Matters

This section sets out where agreement has been reached on strategic matters, or where further work to reach common ground is required. It should be noted that all the figures where included relate to the plan period for the Portsmouth Local Plan of 2020-2040.

Housing Need	Housing Supply	Unmet need
17,980 (899 dpa)	13,603 (680 dpa)	4,376 (219)

Employment Need	Employment Supply	Unmet need
42,500	Office 77,099	0
96,300	B2/ B8 / R&D 79,784	16,516

Environment Agency Representations

The EA's representation on the Pre-Submission Local Plan is set out in Appendix 1 of this Statement.

The overarching policies in relation to flood risk within the Portsmouth Local Plan are Policy PLP31 (Flooding) and Policy PLP32 (Sustainable Drainage Systems). Within the Portsmouth Regulation 18 Local Plan, these were both covered under one policy and have since been separated due to the importance of flooding and the detailed approach required. The City Council has liaised closely with the EA in drafting this policy and taken all Regulation 18 comments into consideration.

PCC have worked closely with the EA following the Regulation 18 Plan. Amendments were made to the Local Plan following the completion of the Strategic Flood Risk Assessments (Level 1²³ and 2⁴) which the EA were closely linked to throughout preparation. With guidance from the EA, recommendations included within the SFRA have been included within the Local Plan where relevant.

The EA are supportive of the Policy PLP31 within the Pre-submission Local Plan. The EA proposed minor amendments which have been included within the Schedule of Additional Changes, which will be submitted to PINS along with the Local Plan. The EA suggested that the Sequential and Exception test could be made more robust through the use of hazard mapping. Both parties agree however that this would not alter the outcomes of the sites proposed within the Local Plan.

The EA were supportive of Policy PLP37 (Contaminated Land); Policy PLP39 (Biodiversity) and Policy PLP40 (Biodiversity Net Gain).

The EA provided comments on four allocations within the Local Plan. Comments in respect of Tipner West and Horsea Island East (**PLP3**) are set out separately below. There was overall support for Tipner East (**PLP4**). Minor amendments proposed have been included within PCC-LPA's schedule of changes. The EA identified the provision of safe access and egress could be challenging for the allocations of Port Solent (Policy **PLP11**) and Fraser Range (Policy **PLP13**). Portsmouth CC understand that the EA does not normally comment on or approve the adequacy of flood emergency response procedures. This is for the LPA to determine. The EA did not find either of these site allocations unsound. Development at Fraser Range has also been granted planning approval in line with the allocation policy.

Policy **PLP3**: Tipner West and Horsea Island East

The Reg.19 EA representation stated that the Agency did not consider there to be enough evidence or certainty regarding the availability and delivery of required mitigation/compensation sites. It was considered that the HRA provided no certainty that the replacement habitat could be found and that detail was lacking as to the lead-in time for replacement habitat of sufficient quality and function before the loss occurs.

² <https://www.portsmouth.gov.uk/wp-content/uploads/2024/05/SFRA-Part-1-Main-Report-V6.pdf>

³ <https://www.portsmouth.gov.uk/wp-content/uploads/2024/05/SFRA-Part-5-Portsmouth-CC-Final-V3.pdf>

⁴ https://www.portsmouth.gov.uk/wp-content/uploads/2024/06/PCC-Level-2-SFRA_Version-4-Final.pdf

The EA considered that, at the time of the Reg.19 Consultation, the HRA failed to have regard to losses accounted for in the North Solent Shoreline Management Plan (NSSMP) and the associated Habitat Compensation and Restoration Programme, for example, resulting from increasing the size of flood defence and associated encroachment into the intertidal zone. It was considered that the HRA did not reflect concerns raised in Regulatory Panel meetings about the absence of detail on compensatory sites and as such the EA could not support the level of confidence assigned in the HRA to the 400ha compensation site habitat stated by the LPA to be available.

For these reasons, the EA's Regulation 19 representation was that the Pre-Submission Portsmouth Local Plan was likely to be **neither legally compliant, nor Sound**. However, the EA considered the Duty to Cooperate to have been complied with.

PCC-LPA has since worked in consultation with Natural England (as the statutory advisor on HRA) - and with the PCC-Promoter - to secure more detail of the proposed compensation site strategy in order to provide enough confidence to both regulators and the Secretary of State (SoS) that the coherence of the National Site Network is safeguarded. The **HRA Supplement** (October 2024)⁵ has provided further information on the package of compensation sites and to address other matters raised in representations, in particular from Natural England and the Environment Agency. In particular it has:

- i. Provided further detail on the function and value of the habitat that would be lost to development in a reasonable worst-case scenario; and
- ii. Considered the "In-combination effect" of Policy PLP3 with the loss of habitat already approved as part of the North Solent Shoreline Management Plan (NSSMP), in particular with regard to adverse effects of 'coastal squeeze'.
- iii. Explored the appropriate level of compensation site strategy detail required at the Plan-level to satisfy Reg.109 of the Habitats Regulations;
- iv. Provided more detail of the potential compensation sites with regard to availability and suitability and the role of the 'SPA Metric' in informing the quantum of compensation required (whilst outlining its limitations);
- v. Prepared draft answers to Q6 (Compensation) of the Government's template Derogation Notice.

The HRA Supplement has concluded that a high level of confidence exists at the Plan-level that sufficient suitable land can be identified to compensate for the adverse effects deriving from policy PLP3.

Given that PCC, as the LPA has high confidence in both the availability of the compensatory land and the deliverability of the compensatory package, the Environment Agency can confirm that it withdraws its unsound representation to this allocation.

In this instance as Natural England is the statutory authority regarding HRA, PCC should continue to work with them to ensure the concerns they previously raised are satisfied and that the information meets the legal requirements of the Habitats Directive.

Strategic Flood Risk Assessments (SFRA) (Level 1 and 2)

⁵ <https://www.portsmouth.gov.uk/wp-content/uploads/2024/10/HRA-Supplement-PDF-Final.pdf>

AECOM were commissioned by PCC on behalf of ten local planning authorities in South Hampshire (the 'Partnership for South Hampshire' (PfSH)) to prepare an updated Strategic Flood Risk Assessment (SFRA). The PfSH SFRA covers the administrative areas of Portsmouth City, Havant Borough, Gosport Borough, Fareham Borough, Eastleigh Borough, Southampton City, Winchester City, Test Valley Borough, New Forest District and New Forest National Park Authority to prepare a joint SFRA Level 1.

PCC also commissioned AECOM to produce a PCC SFRA Level 2. The Level 2 SFRA provides more detailed information about the nature of flood risk in specific areas, enabling users to:

- apply the sequential test by identifying the severity and variation in risk within medium and high flood risk areas,
- establish whether proposed allocations on which the emerging Local Plan will rely, are capable of being made safe throughout their lifetime without increasing flood risk elsewhere, and
- begin to apply the Exception Test, where relevant.

The EA were closely involved in the preparation of both the SFRA Level 1 and Level 2. Both documents set out a list of recommendations for PCC to consider. Those which were considered of particular importance were carried across into the relevant policy within the Pre-submission Local Plan. This was decided following discussions with the EA.

Key strategic matters within SFRA Level 1 which were discussed with the EA and a position agreed were:

- 1) Set back of development from sea defences/safeguarding land for flood management schemes
 - The EA were content that this was assessed on a site by site basis, rather than a specific measurement applied.
- 2) Definition of Flood Zone 3b
 - The EA were content that there was no land defined as tidal Flood Zone 3b within Portsmouth's administrative boundaries.

All other comments that the EA provided on the SFRA Level 1 were agreed by PCC and the relevant updates were made by AECOM.

Key strategic matters within SFRA Level 2 which were discussed with the EA and a position agreed before the Pre-Submission consultation were:

- 1) Safe access and egress (in particular at Port Solent, Fraser Range, The News Centre and St John's College)
 - The EA and PCC agreed a detailed policy approach which was included within the strategic policy on flooding and within the above named sites.

All other comments that the EA provided on the SFRA Level 1 were agreed by PCC and the relevant updates were made by AECOM as follows:

Sequential and exception testing

That the SFRA Levels 1 and 2 are agreed to provide a robust and up to date assessment of the risks at a strategic level and were used to inform the sequential and exception tests. The EA were satisfied that no strategic or allocated sites could be omitted from the Local Plan on grounds of flooding due to the very limited development options within Portsmouth. After allocation of these sites within the Local Plan (along with identified sites and expected windfall development) Portsmouth still does not meet its housing need in full as defined by the Standard Methodology. This is a primary contribution to the agreement that Portsmouth will need to allocate land that is in areas at risk of flooding.

The EA suggested providing additional information within the sequential and exception test on how safe access and egress / a place of safety or evacuation prior to the onset of flooding would be delivered at Port Solent and Fraser Range. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures as they do not carry out this role during a flood event.

PCC understood that this further detail was for a project level Flood Risk Assessment (FRA) to determine as there would be various options to consider at the time of development which is earmarked for the last five years of the plan at Port Solent. A site-specific FRA would need to incorporate flood management measures in line with the SFRA Level 1 and 2. The requirement is set out in the Local Plan for flood characteristics considered to be particularly important (including access and egress) to be assessed in further detail (duration, hazard, frequency) in site specific FRAs, taking into account the circumstances at the time of development.

The SFRA Levels 1 and 2 have provided information relevant to developers on how part B of the exception test can be passed. PCC have provided evidence within the sequential and exception test that all sites pass Part A of the exception test (development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk). A resolution to grant the application at Fraser Range has been made by the Council, subject to condition and completion of a s106 agreement. Therefore, the management measures incorporated to reduce the risk of flooding and deliver a safe development have been considered acceptable.

The City Council is cognisant of the need for local planning authorities to formally consider the emergency planning and rescue implications of new development, and that consultation with emergency planning colleagues has taken place.

3. Signatories

4.1 Both parties agree that this statement is an accurate representation of matters discussed and issues agreed upon.

Both parties agree that they have engaged positively on an ongoing basis and that on this basis the Duty to Cooperate has been met.

Both parties agree that there are no substantial areas of disagreement between the parties relating to the emerging Portsmouth Local Plan and will both continue to work proactively on the key strategic cross boundary issues identified in this SCG.

4.0 Signatories

	Signed:	Signed:
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	Name:	Name:
	Lucy Howard	Laura Lax
	Position:	Position:
	Head of Planning Policy	Planning Specialist
	Portsmouth City Council	Environment Agency
	Date: 19-11-24	Date: 09-12-24

Appendix 1: Environment Agency's Regulation 19 Representations

Portsmouth Local Plan

Pre-Submission Response Form



Portsmouth
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Portsmouth City Council has prepared a new Local Plan to guide development in the City up to 2040. This response form allows you to provide your views on the Pre-Submission version of the Portsmouth Local Plan (the 'Plan') along with its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment before it is submitted for examination to the Planning Inspectorate.

The consultation is open from 09 July 2024 to 23.59 on 03 September 2024.

Here is a link to the [Portsmouth Local Plan Evidence](#), which includes the Local Plan and other supporting documents.

Please contact the Planning Policy team by email at policyconsultations@portsmouthcc.gov.uk or phone 07990138226 if you have any queries or require this form in an alternative format.

Privacy Notice

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This survey uses software supplied by Evolutive. For full details of how Evolutive complies with the UK GDPR, please see their website and private notice ([Evolutive Website](#)).

How to complete this form

This form has three parts:

Part A Your Representation(s): fill in and submit a new response form for each representation you wish to make on a specific policy of the Pre-Submission Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment.

This is a technical consultation that focuses solely on legal compliance, compliance with the Duty to Cooperate and soundness. In order for the Plan to be legally compliant it needs to meet all legal and procedural requirements. All local planning authorities, including Portsmouth City Council, are under a Duty to Cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries. The Government defines a Local Plan as sound if it is:

1. Positively prepared: providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
2. Justified: an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
3. Effective: deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
4. Consistent with national policy: enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant

Please outline which document and section of the document you are responding to. For ease of interpretation please be as descriptive as possible using the policy number, paragraph numbers and/or site names you are responding to and supporting evidence documents where relevant.

Please provide all the supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

Part B Personal Details: need only be completed once by each person responding to the consultation. Please provide your name, postal address, email address and any other contact information. A name and postal address must be provided for the comments to be accepted. Anonymous or confidential representations without the required personal information cannot be accepted.

Part C Diversity Monitoring: is an optional section that asks questions about the characteristics of the person completing the form including sex, age, ethnicity and disability. This section only needs to be filled in once. Answering these questions allows the City Council to monitor responses from different groups and understand their views.

After this Pre-Submission consultation by the City Council, further submissions may only be made if invited by the Planning Inspector, based on the matters and issues they identify for examination.

Part A: Your Representation

Please complete a separate copy of this form for each representation you would like to make. You can make as many representations as you like.

1. Please state below which part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment your representation relates to. *

Local Plan Policy



Policy *

Site Allocation Policy PLP13: Fraser Range



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

2(c) Complies with the Duty to
Co-operate: *

☒ Yes
☐ No

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

In relation to issues within our remit we have no soundness issues with this proposed allocation however we would provide the following comments to clarify our position.

The Level 2 SFRA identifies that the provision of safe access and egress could be challenging for this allocation, and there is a chance that voluntary and free movement of people during the design event may not be deliverable. The recently approved planning application failed to demonstrate that dry or limited depths of flooding to access routes were achievable. However, we are satisfied that the Level 1 & 2 SFRA adequately assesses and identifies the potential risks, and that Portsmouth City Council planners, in conjunction with their emergency planners, have used this information along with our technical advice when considering the inclusion of this allocation within the Plan. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. We do not therefore find this allocation unsound, however Portsmouth City Council should be confident that the movement of people can be safely managed prior to, and during, a flood.

The robust assessment and understanding of wave overtopping and breach risk will be of paramount importance when determining the infrastructure required to reduce the risk of flooding to a safe level. We are therefore pleased to see the inclusion of these requirements, including suitable freeboard calculations.

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

5. If your representation is seeking a modification to the plan, do you consider it necessary to participate in

examination hearing session(s)? *

☐ Yes

☒ No

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

6. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Part B Personal Details:

If you are responding on behalf of an organisation, the postal address noted should be that of the organisation.

☐ Please select here if an agent has been appointed for this representation

1. Personal Details

Title	Mrs
Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	

Building Name	
Secondary Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

Please note: anonymous or confidential representations cannot be accepted.

Do you wish to be informed:

- | | |
|---|--|
| When the Plan is submitted for independent examination? | ☒ Yes
☐ No |
| When the examination recommendations are published? | ☒ Yes
☐ No |
| When the Plan has been adopted? | ☒ Yes
☐ No |
| Of other planning policy work by the City Council? | ☒ Yes
☐ No |

Part C: Diversity Monitoring

If you are responding on behalf of an organisation, you do not need to answer these questions.

What is your sex?

What is your age group?

What is your ethnic group?

Do you consider yourself to have a disability, or a long-term illness, physical or mental health condition that reduce your ability to carry out day-to-day activities?

* - Compulsory Question.

If you would like a copy of your completed response form, please e-mail the Planning Policy team at policyconsultations@portsmouthcc.gov.uk

Portsmouth Local Plan

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2. Justified: an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
3. Effective: deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
4. Consistent with national policy: enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant

Please outline which document and section of the document you are responding to. For ease of interpretation please be as descriptive as possible using the policy number, paragraph numbers and/or site names you are responding to and supporting evidence documents where relevant.

Please provide all the supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

Part B Personal Details: need only be completed once by each person responding to the consultation. Please provide your name, postal address, email address and any other contact information. A name and postal address must be provided for the comments to be accepted. Anonymous or confidential representations without the required personal information cannot be accepted.

Part C Diversity Monitoring: is an optional section that asks questions about the characteristics of the person completing the form including sex, age, ethnicity and disability. This section only needs to be filled in once. Answering these questions allows the City Council to monitor responses from different groups and understand their views.

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Part A: Your Representation

Please complete a separate copy of this form for each representation you would like to make. You can make as many representations as you like.

1. Please state below which part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment your representation relates to. *

Local Plan Policy



Policy *

Strategic Site Allocation Policy PLP3: Tipner West & Horsea Island East



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

- ☐ Yes
☒ No

2(b) Sound: *

- ☐ Yes
☒ No

2(c) Complies with the Duty to Co-operate: *

- ☒ Yes
☐ No

3. If you have answered 'no' to any of questions 2(a) to (c) please give details of why you consider this part of the Local Plan or its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is not legally compliant, is unsound or fails to comply with the Duty to Co-operate. Please be as precise as possible. *

We have concerns regarding the deliverability of this site especially in relation to biodiversity. Currently we do not feel that the evidence provided demonstrates the allocation could come forward without damage to the

environment, specifically the internationally and nationally designated sites. Our main concern relates to a lack of evidence regarding the availability and delivery of required mitigation/compensation sites.

As well as the local plan document we have reviewed the associated Habitats Regulations Assessment (HRA) which provides assessment for this allocation. The Environment Agency is not the decision maker with regards to the derogation case. However, based on our review of the HRA we do not agree with the conclusion. There is too much uncertainty attached to the evidence that underpins the conclusion.

As described in the HRA text, the policy wording sets out the requirement for the provision of replacement habitat. However, this provides no certainty that the replacement habitat can be found and/or no explanation as to the lead-in time required to ensure any replacement habitat is of a suitable quality and functioning before the loss occurs. Paragraph 6.33 of the HRA highlights that parcels of land have been identified as potential mitigation/compensation. In the absence of this information being shared, the validity of the statement cannot be supported.

The Regional Habitat Creation Programme, now referred to as the Habitat Compensation and Restoration Programme addresses coastal squeeze losses resulting from the hold the line policy of the North Solent SMP. However, any losses over and above what was included at the SMP stage e.g., resulting from increasing the size of flood defence, encroachment into the intertidal must be addressed. This has not been addressed in the HRA.

Whilst we acknowledge the continued engagement regarding this site through the Regulatory Panel, we are concerned that the HRA fails to reflect or highlight concerns and issues that have been raised at the Regulatory Steering Group meetings. It is acknowledged in paragraph 8.138 of the HRA that some panel members have raised concerns and questioned the value of continued use of the bespoke metric however in the absence of any detail of the sites identified as potential compensation, we are very sceptical of 400ha figure. This has been flagged at the Regulatory Panel meetings. We do not therefore support the level of confidence that has been assigned in the assessment to finding compensatory habitat.

In conclusion we do not feel that the evidence provided at this time to support this allocation is robust. Too much uncertainty remains regarding the deliverability of compensation/mitigation.

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

It is our opinion that the duty to cooperate has been met through the Regulatory Panel meetings and ongoing dialogue in association with this.

4. If you have answered 'no' to any of questions 2(a) to (c) please set out the modification(s) you consider necessary to make the Portsmouth Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at question 3 above. (Please note that non-compliance with the Duty to Co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. *

Further evidence is required to demonstrate that the mitigation/compensation for this site is available and deliverable.

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

5. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)? *

☐ Yes

☒ No

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

6. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

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Part B Personal Details:

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☐ Please select here if an agent has been appointed for this representation

1. Personal Details

Title

Mrs

Forename *

Laura

Surname *

Lax

Job Title
(where
relevant)

Organisation
(where
relevant)

Environment Agency

Postcode
Look-up

Canal Walk, Romsey, Hamp...✕ ▼

Building Name

Secondary

Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

Please note: anonymous or confidential representations cannot be accepted.

Do you wish to be informed:

- | | |
|---|--|
| When the Plan is submitted for independent examination? | ☒ Yes
☐ No |
| When the examination recommendations are published? | ☒ Yes
☐ No |
| When the Plan has been adopted? | ☒ Yes
☐ No |
| Of other planning policy work by the City Council? | ☒ Yes
☐ No |

Part C: Diversity Monitoring

If you are responding on behalf of an organisation, you do not need to answer these questions.

What is your sex?

What is your age group?

What is your ethnic group?

Do you consider yourself to have a disability, or a long-term illness, physical or mental health condition that reduce your ability to carry out day-to-day activities?

* - Compulsory Question.

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Part A: Your Representation

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1. Please state below which part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment your representation relates to. *

Local Plan Policy



Policy *

Strategic Policy PLP31: Flooding



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

2(c) Complies with the Duty to
Co-operate: *

☒ Yes
☐ No

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

We are very supportive of this policy and the approach within it. We feel that it provides a strong framework to ensure new development in Portsmouth takes account of flood risk now and in the future. For clarification

we would however suggest that the following minor amendments are made.

8.7 When the North Portsea Island scheme is complete it will reduce the risk of tidal flooding to the Eastern Road and A3, but only the sections of those highways that lie within the benefit area to the south of the upgraded flood defences.

8.9 should read 'tidal Flood Zone 3b'

8.16 the word 'assessment' has been omitted

We recognise that a sequential test has been undertaken and included within the evidence base for the local plan. Whilst we feel that the assessment approach is not incorrect, we feel it could be more robust using the hazard mapping that is within the SFRA rather than rely on information relating to the proportion of the sites that are at risk of flooding at the present day relative to the proportion in 2122. This was a comment that we made on an earlier draft of the sequential test document. It is our opinion that this would not alter the outcomes of the sites proposed in the plan and therefore affect soundness but would provide a more robust base for future planning decisions.

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☐ Yes

☒ No

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1. Personal Details

Title

Mrs

Forename *

Laura

Surname *

Lax

Job Title
(where
relevant)

Organisation
(where
relevant)

Environment Agency

Postcode
Look-up

Building Name

Secondary

Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

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Local Plan Policy



Policy *

Development Management Policy PLP37: Contaminated Land



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

2(c) Complies with the Duty to
Co-operate: *

☒ Yes
☐ No

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

We are supportive of this policy and its intention to ensure that the natural environment is protected.

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- ☐ Yes
☒ No

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☐ Please select here if an agent has been appointed for this representation

1. Personal Details

Title

Mrs

Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	
Building Name	
Secondary Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

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When the Plan is submitted for independent examination? ☒ Yes ☐ No

When the examination recommendations are published? ☒ Yes ☐ No

When the Plan has been ☒ Yes

adopted?

☐ No

Of other planning policy work
by the City Council?

☒ Yes

☐ No

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Policy *

Strategic Policy PLP39: Biodiversity



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☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

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- ☐ Yes
☒ No

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1. Personal Details

Title

Mrs

Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	
Building Name	
Secondary Name	
Street	Canal Walk
District	
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County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

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Local Plan Policy



Policy *

Strategic Site Allocation Policy PLP4: Tipner East



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

2(c) Complies with the Duty to Co-operate: *

☒ Yes
☐ No

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

In relation to issues within our remit we have no soundness issues with this proposed allocation however we would suggest the following point is amended to ensure it is factually correct.

Table 4.3 specifies the Environment Agency as being responsible for monitoring delivery of the sea defence wall. This is not within our remit, and this should therefore be amended to state that monitoring should be in line with the planning condition/legal agreement (as in Table 4.2).

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5. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)? *

☐ Yes

☒ No

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☐ Please select here if an agent has been appointed for this representation

1. Personal Details

Title	Mrs
Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	
Building Name	
Secondary Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

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Do you wish to be informed:

When the Plan is submitted for independent examination? ☒ Yes ☐ No

When the examination recommendations are published? ☒ Yes ☐ No

When the Plan has been adopted? ☒ Yes ☐ No

Of other planning policy work by the City Council? ☒ Yes ☐ No

Part C: Diversity Monitoring

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What is your sex?

What is your age group?

What is your ethnic group?

Do you consider yourself to have a disability, or a long-term illness, physical or mental health condition that reduce your ability to carry out day-to-day activities?

* - Compulsory Question.

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Pre-Submission Response Form



Portsmouth
CITY COUNCIL

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Local Plan Policy



Policy *

Development Management Policy PLP40: Biodiversity Net Gain



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

2(c) Complies with the Duty to Co-operate: *

☒ Yes
☐ No

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

We are supportive of this policy and its intention to ensure that the natural environment is protected. It is a positive step towards demonstrating commitment to biodiversity.

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☐ Yes

☒ No

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1. Personal Details

Title	Mrs
Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	
Building Name	
Secondary Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

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When the Plan is submitted for independent examination? ☒ Yes ☐ No

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Part A: Your Representation

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Habitat Regulations Appraisal Section and/or Paragraph



Section *

Chapter 6 - Appropriate Assessment



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

- ☐ Yes
☒ No

2(b) Sound: *

- ☐ Yes
☒ No

2(c) Complies with the Duty to Co-operate: *

- ☒ Yes
☐ No

3. If you have answered 'no' to any of questions 2(a) to (c) please give details of why you consider this part of the Local Plan or its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is not legally compliant, is unsound or fails to comply with the Duty to Co-operate. Please be as precise as possible. *

We have concerns regarding the deliverability of the Tipner West and Horsea Island East site especially in relation to biodiversity. Currently we do not feel that the evidence provided demonstrates the allocation

could come forward without damage to the environment, specifically the internationally and nationally designated sites. Our main concern relates to a lack of evidence regarding the availability and delivery of required mitigation/compensation sites.

As well as the local plan document we have reviewed the associated Habitats Regulations Assessment (HRA) which provides assessment for this allocation. The Environment Agency is not the decision maker with regards to the derogation case. However, based on our review of the HRA we do not agree with the conclusion. There is too much uncertainty attached to the evidence that underpins the conclusion.

As described in the HRA text, the policy wording sets out the requirement for the provision of replacement habitat. However, this provides no certainty that the replacement habitat can be found and/or no explanation as to the lead-in time required to ensure any replacement habitat is of a suitable quality and functioning before the loss occurs. Paragraph 6.33 of the HRA highlights that parcels of land have been identified as potential mitigation/compensation. In the absence of this information being shared, the validity of the statement cannot be supported.

The Regional Habitat Creation Programme, now referred to as the Habitat Compensation and Restoration Programme addresses coastal squeeze losses resulting from the hold the line policy of the North Solent SMP. However, any losses over and above what was included at the SMP stage e.g., resulting from increasing the size of flood defence, encroachment into the intertidal must be addressed. This has not been addressed in the HRA.

Whilst we acknowledge the continued engagement regarding this site through the Regulatory Panel, we are concerned that the HRA fails to reflect or highlight concerns and issues that have been raised at the Regulatory Steering Group meetings. It is acknowledged in paragraph 8.138 of the HRA that some panel members have raised concerns and questioned the value of continued use of the bespoke metric however in the absence of any detail of the sites identified as potential compensation, we are very sceptical of 400ha figure. This has been flagged at the Regulatory Panel meetings. We do not therefore support the level of confidence that has been assigned in the assessment to finding compensatory habitat.

In conclusion we do not feel that the evidence provided at this time to support this allocation is robust. Too much uncertainty remains regarding the deliverability of compensation/mitigation.

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

It is our opinion that the duty to cooperate has been met through the Regulatory Panel meetings and ongoing dialogue in association with this.

4. If you have answered 'no' to any of questions 2(a) to (c) please set out the modification(s) you consider necessary to make the Portsmouth Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at question 3 above. (Please note that non-compliance with the Duty to Co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. *

Further evidence is required to demonstrate that the mitigation/compensation is available and deliverable.

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

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- ☐ Yes
- ☒ No

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☐ Please select here if an agent has been appointed for this representation

1. Personal Details

Title	Mrs
Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	
Building Name	

Secondary Name	
Street	Canal Walk
District	
Town	Romsey
County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.c

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Do you wish to be informed:

- | | |
|---|--|
| When the Plan is submitted for independent examination? | ☒ Yes
☐ No |
| When the examination recommendations are published? | ☒ Yes
☐ No |
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☐ No |
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1. Please state below which part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment your representation relates to. *

Local Plan Policy



Policy *

Site Allocation Policy PLP11: Port Solent



2. Do you consider this part of the Local Plan and its Policies Map, Sustainability Appraisal and Habitat Regulations Assessment is:

2(a) Legally compliant: *

☒ Yes
☐ No

2(b) Sound: *

☒ Yes
☐ No

2(c) Complies with the Duty to
Co-operate: *

☒ Yes
☐ No

If you have answered 'yes' to any of questions 2(a) to (c) please give details of why you support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Co-operate. Please be as precise as possible. *

In relation to issues within our remit we have no soundness issues with this proposed allocation however we would provide the following comments to clarify our position.

The Level 2 SFRA identifies that the provision of safe access and egress could be challenging for this allocation, and there is a chance that voluntary and free movement of people during the design event may not be deliverable. However, we are satisfied that the Level 1 & 2 SFRA adequately assesses and identifies the potential risks, and that Portsmouth City Council planners, in conjunction with their emergency planners, have used this information along with our technical advice when considering the inclusion of this allocation within the Plan. Further, more detailed, site specific Flood Risk Assessment requirements are also clear. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. We do not therefore find this allocation unsound, however Portsmouth City Council should be confident that the movement of people can be safely managed prior to, and during, a flood.

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

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- ☐ Yes
☒ No

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☐ Please select here if an agent has been appointed for this representation

1. Personal Details

Title	Mrs
Forename *	Laura
Surname *	Lax
Job Title (where relevant)	
Organisation (where relevant)	Environment Agency
Postcode Look-up	
Building Name	
Secondary Name	
Street	Canal Walk
District	
Town	Romsey

County	Hampshire
Postcode *	SO51 7LP
Telephone Number	
Email Address *	laura.lax@environment-agency.g

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