

**HAMPSHIRE COUNTY COUNCIL****Report**

<b>Committee</b>	River Hamble Harbour Board
<b>Date:</b>	26 June 2013
<b>Title:</b>	Harbour Works Consent Application: Royal Air Force Yacht Club & Royal Southern Yacht Club Pontoon Development
<b>Reference:</b>	4971
<b>Report From:</b>	Director of Culture, Communities and Business Services

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## 1. Summary

- 1.1 This report details an application for Harbour Works Consent (HWC) made jointly on behalf of the Royal Southern Yacht Club and the Royal Air Force Yacht Club by their agents, Marina Projects Limited, to create a 'yacht haven' to seaward of the two clubs' premises.
- 1.2 The proposal comprises the following elements:
- Reconfiguration of berthing facilities and installation of additional pontoons.
  - Improved arrangements for access to water for a range of users including: floating all-tide dinghy slipway; disabled access berth; crane and holding berth; dedicated visitor and event berthing.
  - Capital dredging works to create additional water depth to berths and the associated facilities.
  - A new sheet piled quay wall with suspended timber deck and infill behind to replace the existing failing structure.
  - Removal of inspection piles and existing slipway.
  - Mitigation works to include removal of pontoons from a Special Protection Area located off-site in order to reinstate intertidal habitat.
- 1.3 Additional reports relating to the Hydrodynamic & Geomorphological Assessment were commissioned by a third party and the applicant during

the public consultation. These reports are at Appendix 2. A summary of events and explanation is provided at Section 7.1.

- 1.4 This report sets out the aspects of this application which are relevant to the consideration of Harbour Works consent, namely the impacts of the pontoon design, new sea wall and the proposed dredge on safety and ease of navigation, and on the environment, both during construction and once operational.
- 1.5 This proposal is also subject to permissions from other authorities (i.e. Local Planning Authority, Marine Management Organisation, Environment Agency and The Crown Estate), and issues pertaining to their policies and regulations should be addressed with the appropriate organisation.

## **2. Background**

- 2.1 Following encouragement by the Harbour Board, the Royal Southern and the RAF Yacht Clubs agreed to co-operate in developing a proposal to address each club's individual concerns and aspirations regarding this important area of river frontage. This joint application for HWC is the result.
- 2.2 The application was brought to the Consent Advice Panel (formally the 'Streamlined Consents Group') and the applicant has kept an open dialogue with the Harbour Authority and the other consenting authorities throughout the design and application process.
- 2.3 The 'Needs Case' for the project is set out in Appendix 1 – Project Description - at point 2.

## **3. Project Description**

- 3.1 The project is described in full in Appendix 1 and reference must be made to these documents for a full understanding of the proposal:
  - Project Description
  - Environmental Note
  - Navigation Risk Assessment (as amended March 2013)
  - Method statement
  - Hydrodynamic & Geomorphological Assessment
  - Existing layout drawing: MP189-200 Rev 1
  - Site Boundary drawing: MP189-201 Rev 1
  - Site Location drawing: MP189-202 Rev 1
  - General Arrangement drawing: MP189-203 Rev 1
  - General Arrangement and dimensions drawing: MP189-203.1 Rev 1
  - Existing and proposed layout drawing: MP189-203.2 Rev 1
  - Dredge plan and cross section drawing: MP189-204 Rev 1
  - Indicative sections drawing: MP189-205 Rev 0

#### **4. Harbour Authority's Responsibilities**

- 4.1 Consent may be granted by the River Hamble Harbour Board permitting harbour works in the River Hamble in accord with Section 10 of the Southampton Harbour Act 1924 and Section 48 of the Southampton Harbour Act 1949 as amended by the River Hamble Harbour Revision Orders 1969 to 1989. Within the River Hamble Harbour Board's statutory duties lies the responsibility to ensure that all matters concerning navigational safety and responsibilities under the Habitat Regulations are addressed. This area of responsibility includes the proposed development.
- 4.2 Navigational safety issues are addressed through the Port Marine Safety Code and the Harbour's Safety Management System. Specific issues relevant to this particular application are covered within the Harbour Master's comments below.
- 4.3 The River Hamble is part of the Solent European Marine Site and is afforded protection due to its international nature conservation value. The RHHA is a Relevant Authority under the Conservation of Habitats and Species Regulations 2010 as amended, commonly known as the Habitats Regulations. As a Relevant Authority the Harbour Authority has a duty to comply with the requirements of the Habitats Regulations and to ensure that in exercise of any of its powers or functions to have regard to direct and indirect effects on interest features of the European Marine Site.
- 4.4 As a Section 28G Authority under the Wildlife and Countryside Act 1981 (as amended), the RHHA has a duty to take reasonable steps, consistent with the proper exercise of the Authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
- 4.5 Under the Natural Environment and Rural Communities Act 2006, all public bodies, which include the Harbour Authority as statutory undertakers, have a duty to have regard, so far as is consistent with the proper exercise of their functions, to the purpose of conserving biodiversity.
- 4.6 The Harbour Authority addresses its responsibilities under the environmental regulations through consultation with Hampshire County Council, the Local Borough Councils, the Department for Environment, Food and Rural Affairs, Natural England and the Environment Agency. Specific issues relevant to this particular application are covered within the Harbour Master's comments below.

#### **5. Consultation process**

- 5.1 Subsequent to receipt of the application for Harbour Works Consent the following actions were taken:

- Project details and plans entered on the Harbour Authority's webpage for the online viewing of applications at <http://www3.hants.gov.uk/hambleharbour/harbour-works.htm>
  - The plans and details of the application were made available in the Harbour Office for inspection by members of the public.
  - Notification email sent to all members of the River Hamble Harbour Management Committee and the River Hamble Harbour Board of the proposed development.
  - Email sent to interested parties informing them of the application and requesting written comments by the deadline.
  - Liaison with the Environment Agency, Natural England and Eastleigh Borough Council, and the Hampshire County Council Archaeologist.
- 5.2 The applicant has independently consulted widely with local interested parties throughout the scheme design process.

## **6. Responses to Public Consultation**

- 6.1 A total of 52 responses were received as a result of the Harbour Authority's public consultation. Hard copies are available for viewing at the Harbour Office. 41 responses were broadly in support of the proposed development. The principal benefits cited were:

- Improvements to safety and convenience of 'walk-ashore' moorings.
- Enhanced event facilities.
- Benefits to businesses in the area.
- Much more efficient use of the available space.
- Closure of existing access channels will enhance safety.
- Provision of much needed facilities for sailors with disabilities.
- Improved facilities for youth sailing.
- Less need to use tenders to access the club mid-stream berths.
- Dredging will improve access to the inshore, downstream berths of 'A' pontoon of Port Hamble Marina.
- Safeguard the failing river wall.
- Low visual impact.
- Retention of the Hamble's position as the UK's premier recreational harbour.
- Doing nothing is not an option.

- 6.2 11 responses were broadly against the proposed development. The principal concerns were:

- Loss of recreational space.
- More difficult access to, and restricted use of, the Hamble public slipway.
- Closure of access channels and increased 'privatisation' of the River.

- Loss of River views.
- Potential impact of the capital dredge on tidal flow velocities.
- Potential impact of the capital dredge on the adjacent Hamble public slipway.
- Impact on vessels manoeuvring to and from berths on the downstream side of Port Hamble Marina's 'A' pontoon.
- Increased traffic through the entrance channel.
- Inadequate width of the proposed entrance channel
- Lack of sufficient car parking space.

All of the reasons given (both in favour and against) which relate to the Harbour Authority's statutory and safety responsibilities have been taken into account during the preparation of this report.

## **7. Professional consultancy reports assessing the impacts of the proposed dredge**

- 7.1 See Appendix 1 (Project Description, Environment Note, Method Statement and the 'Dredge plan and cross section drawing: MP189-204 Rev 1') for full details of the proposed dredge. A Hydrodynamic & Geomorphological Assessment (Appendix 1) undertaken by ABPMer also accompanied the original application.
- 7.2 Subsequently, and during the public consultations for both HWC and Planning Permission, an assessment was commissioned by Hamble Parish Council on the potential impact of the proposed dredge, authored by Dr. Paul Tosswell of Lymington Technical Services (Appendix 2a). This report highlighted some variance from the applicant's Hydrodynamic and Geomorphological Assessment report by APBMer.
- 7.3 As a result of this, a response was prepared by ABPMer (Appendix 2b).
- 7.4 A further report was then commissioned by the applicant and prepared by a third independent consultancy, HR Wallingford (Appendix 2c).
- 7.5 The views of the three independent consultancies with expertise in this field have been taken fully into consideration in determining the potential resulting impact that the dredge (i.e. removal of the material and associated changes to the geomorphology and hydrodynamics) may have on safety and ease of navigation (see Section 8) and on the environment (see Section 9).

## **8. Safety and Ease of Navigation**

- 8.1 Introduction. This is a complex proposal. The issues pertaining to safety and ease of navigation require careful assessment and consideration of the risks involved. It is important to emphasise that the purpose of risk assessments, as required by the Harbour Authority's Safety Management

System, is to ensure that the risks associated with any particular activity can be reduced to 'As Low As Reasonably Practical' (ALARP) by the introduction of appropriate control measures. If the risks can be reduced to ALARP, then the activity is deemed permissible; if not, the activity must not take place or it must be halted.

8.2 Risk Assessment. The applicant has provided a comprehensive Navigational Risk Assessment (Appendix 1) covering the various elements of the proposed development. This divides the risks on the basis of their location within the proposed development and the surrounding area. This is a sound piece of work and requires no further comment. However, the Harbour Authority chooses to assess risk based on the various activities which take place on the River, rather than on a location-specific basis. A review of the relevant existing Harbour Authority activity-based risk assessments has revealed some matters which require further consideration (see paragraph 8.3 below). It is important to note that the risks relating to those activities within the operational curtilage of the proposed development for which the clubs will have operational responsibility are the sole responsibility of the clubs' management and should be the subject of comprehensive risk assessments within their own safety management systems.

8.3 Activity-based risk assessments. The relevant activity-based risk assessments are:

- Berthing and unberthing
- Canoeing, Kayaking and Rowing
- Dinghy racing
- Gig Racing
- Manoeuvring into and out of commercial marinas
- Use of tenders
- Vessels under power encountering difficulties

A review of these risk assessments in the context of the proposed development has highlighted the following:

- Vessels launching from the Hamble public slipway will no longer be able to use the two mooring access channels as an 'escape route' if they get into difficulties before reaching the main channel. They will, however, be able to use either a vacant downstream berth or, *in extremis*, lie alongside a berthed boat.
- Small craft leaving Hamble Jetty or Hamble public slipway and proceeding upstream may not be able to get an uninterrupted view of traffic proceeding downstream in the main channel before they can enter the main channel to cross. However, being aware of this hazard (as illustrated by the signage on Hamble slipway) and proceeding with appropriate caution will significantly reduce any risk.
- Small craft launching from, and recovering to, Hamble public slipway may be affected by the changes to the tidal stream in the area.

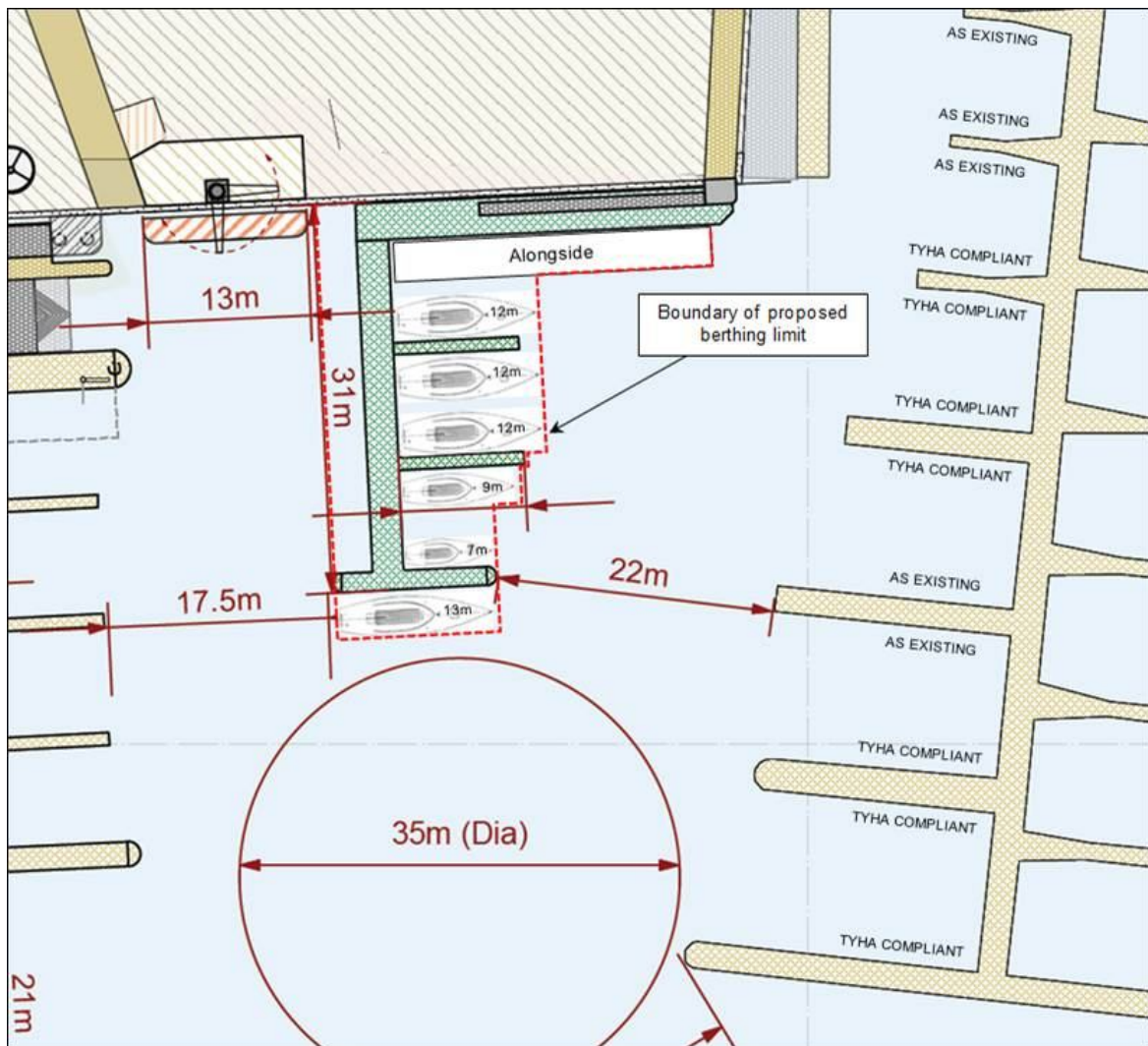
However, changes in tidal flow rates are assessed as small or slight and are not expected to have an unsafe impact on slipway users.

- Sailing dinghies and tenders leaving the Royal Southern/RAFYC facility via the only remaining entrance may encounter large vessels manoeuvring in the same area. The routine use of safety boats to escort sailing dinghies using this entrance during busy periods will significantly reduce any risks involved.

Furthermore, in order to quantify these risks, it is important to understand the likely frequency of occurrence. To this end, the Harbour Master asked the applicant to supply survey data regarding the frequency of boat movements in the area of the proposed development. The results are at Appendix 3. Of particular note is the fact that usage of the Hamble public slipway is very low and that all the vessels observed using the slipway during the survey period proceeded downstream after launching. Noting that risk is the product of (likelihood of occurrence) x (severity of harm), the Harbour Master is satisfied that the data regarding movements around the proposed development area clearly indicate that the potential frequency of occurrence is 'very unlikely' which, even when combined with 'Extreme Severity of Harm', results in a worst case 'Medium' risk, which falls within the 'ALARP' envelope.

- 8.4 Proposed 'Yacht Haven' Entrance. The current layout of this section of the River features three 'entrances' to the area of water along the foreshore which is occupied by the Royal Southern Yacht Club, the RAF Yacht Club and the downstream 'A' pontoon berths of the adjacent Port Hamble Marina. The proposed layout reduces this to a single entrance giving access to the entire complex. At present, this single entrance is 22 metres in width and the proposal increases this to 26 metres, with a 35 metre diameter turning circle immediately inside the entrance. It has been suggested by some objectors that this is insufficient for the anticipated number of vessel movements and the size of vessels involved. This concern has been carefully considered. The size of the proposed entrance exceeds the minimum requirements of The Yacht Harbours Association Code of Practice. A useful comparison with a similar arrangement at Poole Yacht Club is shown at Appendix 4; the single entrance to the marina at Poole Yacht Club is 30 metres wide, but this services a much larger marina (over 400 berths and 200 resident dinghies) and has an internal pinch point just 16 metres wide which services over 150 berths and all the 200 dinghies (which launch and recover from the slipway). Thus, the 26 metre wide entrance to the proposed development is considered adequate, especially since there is a 35 metre diameter turning circle immediately inside the proposed entrance. Furthermore, in order to ensure that the access to the downstream berths on the 'A' pontoon of Port Hamble Marina is no worse than it is at present, it is proposed (see Recommendation) that consent, if approved, should include a condition that there should be no double berthing or rafting on the inshore 10 metres at the upstream end of the inner pontoon which forms the entrance to the complex, and that the length of individual boats berthed on

the upstream finger pontoons of the RAFYC berthing facility shall not exceed the lengths shown in the diagram below:



8.5 Access channels. At present, the Royal Southern Yacht Club leases the river bed beneath the two detached (mid-stream) pontoons from The Crown Estate. This lease does not include the narrow strips of water which separate these pontoons from the land. In fact, the river bed beneath these strips of water forms part of Hampshire County Council's lease of the river bed from The Crown Estate. Clause 4.1 of this lease gives The Crown Estate the right to extract these two strips of river bed from the lease at one month's notice, if required for works or over which rights are required in connection with works. It is understood that The Crown Estate will invoke this clause if the proposed works are approved. Clearly, the Royal Southern Yacht Club will then need to re-negotiate its lease with The Crown Estate.

These two narrow strips of water currently form access channels to the Royal Southern Yacht Club moorings on the mid-stream pontoons. However, they are also used by others, notably members of the RAFYC wishing to gain access to the club's jetty, and berth holders on the downstream berths of 'A' pontoon, part of the adjacent Port Hamble Marina.

This occurs most frequently on an ebb tide. Other users include small craft such as canoes, kayaks and tenders. Some objectors feel that these two narrow strips of water form 'recreational space' and should continue to be accessible to the public. However, the risks associated with using these two strips of water, particularly in a small boat, when they are also being used by larger vessels manoeuvring to and from their berths are significant – these are risks that will be eliminated with the proposed development.

- 8.6 Dredge impacts. The proposed capital dredge introduces some additional considerations with regard to its potential impact on tidal stream rates and directions, and the consequent implications for boat handling within the confines of the proposed development. Specialist examination of the predicted changes to the tidal stream indicates that these changes will be minimal and unlikely to have any adverse impact. Concerns have been expressed by objectors regarding the possibility of erosion of the Hamble public slipway over the medium to long term. Again, the balance of specialist opinion indicates that the amount will be limited in duration and scale but the Harbour Master endorses the applicant's verbal indication that they would be happy to negotiate an indemnity with the owners of the slipway (Hamble Parish Council), accepting financial responsibility for any remedial works which may be required in the future as a result of erosion of the upstream edge of the slipway (see Recommendations). Further, a condition is proposed which would require that the first phase of the dredging in the location of the southerly boundary should commence north of where the final slope is to be positioned to enable trimming to the final slope position once slope stability and intertidal erosion have been observed.
- 8.7 Berthing Capacity. Objectors have also commented on the potential to increase in the number of berths within the proposed development when compared with the existing layout. The exact number of berths available depends on the size of vessels involved and the extent of any double berthing (particularly during events). The existing pontoon layout provides at least 72 berths (including Rigid Inflatable Boats (RIBs) but excluding tenders). This figure increases to about 110 when the link pontoon is installed and vessels are double berthed or rafted for regattas and other events. The proposed layout will also provide some 72 berths (including RIBs but excluding tenders) but will only increase to about 88 when vessels are double berthed or rafted for events. This increase in the number of potential berths available will still leave the total number of moorings in the River at a level well below the permitted maximum of 3261. However, it is proposed that consent, if approved, should include a condition (see Recommendations) to prevent double berthing or rafting on the hammerheads of the outer pontoons (i.e. on the main channel side.)
- 8.8 Moorings Restricted Area. A small part of the proposed development lies within the Hamble Mooring Restriction Area. Since the Mooring Restriction Area is an Eastleigh Borough Council policy, it will be for the Council to determine whether this is acceptable during their consideration of the planning application.

## 9. Environmental Considerations

- 9.1 The applicant has produced an environmental note to accompany the application (Appendix 1) and reference must be made to this document. This sets out information regarding the location of the proposal in relation to sites designated for nature conservation, an assessment of potential environmental impacts, and proposed mitigation measures
- 9.2 The area of the proposed capital dredge that lies below the mean low water mark is within a small part (less than 0.005%) of the Solent Maritime Special Area of Conservation (SAC) – see hatched area on drawing MP189-204 Rev 1 Dredge Plan in Appendix 1.) The balance of opinion resulting from the reports assessing the hydrodynamic and geomorphological impacts, and supported by Natural England, is that the dredge is not anticipated to cause any unacceptable changes to the intertidal and subtidal habitats outside the development site itself, and therefore will not adversely affect the functioning of the Hamble Estuary and, by implication, the wider Solent Maritime Special Area of Conservation.
- 9.3 The intertidal area of the proposed capital dredge is not designated for nature conservation under International, European or National legislation. All intertidal mudflats in the UK are, however, classified as Biodiversity Action Plan Habitat, and, as with other developments in the Hamble on mudflats, the environmental authorities & Harbour Authority seek appropriate mitigation measures for any loss of these. The applicant has engaged in discussion with the various licensing authorities throughout the design of the project regarding potential mitigation measures, and has identified the opportunity to remove derelict pontoons from an intertidal area downstream from the development site and thereby reinstate an area within a Ramsar, Special Protection Area (SPA) and SSSI site (see Appendix 1 Environment Note part 6). The authorities recognise that the measures do not replace the equivalent size of intertidal area, but support the applicant's efforts to enhance an area of higher quality habitat, and Natural England and Eastleigh Borough Council's biodiversity officer have advised that the measures proposed are acceptable.
- 9.4 The proposal contains other mitigation measures in addition to the removal of the pontoons from the nearby SPA site. These include removal of the old inspection piles and concrete grid, creation of a 'vertical habitat' on the new sheet pile wall, and the following measures to mitigation impacts during the construction phase: use of best practise methodology for piling and dredging, and recycling of existing pontoons and piles into the proposed new development where possible.
- 9.5 Natural England's response to the Harbour Authority is at Appendix 5 and has confirmed no objection to the proposal, In summary, Natural England's view is that it does not believe the scheme will have a 'significant effect' or a 'detrimental impact' upon the interest features of the designated sites, either alone or in combination with other plans and projects, and that HWC

consent may be granted under the terms of the Conservation of Habitats and Species Regulations.

- 9.6 The Environment Agency has requested RHA condition that vibro piling be used as standard and have recommended timing restrictions to reduce impact on migratory salmonids, namely sea trout (see Section 11). The Environment Agency stated that the mitigation proposed for the works seems reasonable and welcomed the opportunity to remove the redundant structures and the reinstatement of intertidal habitat.
- 9.7 Hampshire County Council's archaeologist advised that whilst any capital dredge may have the potential to affect previously unknown archaeological deposits; this matter will be addressed by English Heritage who have the responsibility for advising upon maritime archaeology through the Marine Licence being determined by the Marine Management Organisation.
- 9.8 Sediment analysis associated with assessing the risk of release of contaminated sediment from the capital dredge works is assessed through the Marine Management Organisation's marine licence and via the Environment Agency's Flood Defence Consent and is not required for Harbour Works Consent Applications.
- 9.9 If the River Hamble Harbour Board decides in favour of this application, it would be adhering to its responsibilities under environmental legislation.

## **10. Strategic Vision**

- 10.1 Before reaching a decision regarding this application, it is important to consider it within the context of the Harbour Board's Strategic Vision. The non-statutory Strategic Vision 'seeks to meet the aspirations of all those users who have a stake in the future prosperity of the River Hamble, whether their interests are commercial, recreational or environmental' but should be read in its entirety before reaching any conclusions with regard to this specific application.

## **11. Recommendation**

**It is recommended that the River Hamble Harbour Board approves Harbour Works Consent for the proposed works as shown in the drawings listed in paragraph 3.1 and subject to the following conditions:**

- 11.1 That the applicants shall seek to negotiate in good faith to agree an indemnity with the owners of the Hamble public slipway (Hamble Parish Council), accepting financial responsibility for any remedial works which may be required in the future as a result of erosion of the upstream edge of the slipway. Evidence is to be provided to the Harbour Authority to

demonstrate discharge of this condition before dredging works may commence.

- 11.2 That there shall be a prohibition on double berthing or 'rafting' on the hammerheads of the outer pontoons (i.e. on the main channel side) and on the inshore 10 metres at the upstream end of the inner pontoon which forms the entrance to the complex.
- 11.3 That the length of individual boats berthed on the upstream finger pontoons of the RAFYC berthing facility shall not exceed the lengths shown in the diagram at Para 8.4 above.
- 11.4 That the method of pontoon removal, along with confirmation from the landowner of agreement to access and remove, shall be provided to and agreed by RHHA prior to removal works being undertaken.
- 11.5 That the redundant pontoons within the mitigation site shall be removed before any other works commence.
- 11.6 That dredging and piling works shall take place only in a period between November 15<sup>th</sup> and March 15<sup>th</sup> to prevent harm to migratory salmonids.
- 11.7 That vibro-piling should be used as standard. In the event that it is necessary to use percussive piling methods, then this should only be undertaken in order to drive a pile to its design level, using soft start techniques.
- 11.8 That all capital dredging works shall be undertaken with the use of a backhoe dredger.
- 11.9 That the first phase of the dredging in the location of the southerly boundary shall commence north of where the final slope is to be positioned to enable trimming to the final slope position once slope stability and intertidal erosion have been observed.
- 11.10 That pre-dredge and post-dredge data shall be supplied to RHHA on request for the purpose of maintaining the River Hamble Dredge Plan.
- 11.11 That all the mitigation measures set out in Appendix 1 Environment Note shall be undertaken.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	no
Corporate Improvement plan link number (if appropriate):	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None

## **IMPACT ASSESSMENTS:**

### **1. Equalities Impact Assessment:**

- 1.1 A full Equalities Impact Assessment for the River Hamble Harbour Authority's compliance with the Port Marine Safety Code has been carried out and this report does not raise any issues not previously covered by that Assessment.

### **2. Impact on Crime and Disorder:**

- 2.1 No known impact.

### **3. Climate Change:**

- a) How does what is being proposed impact on our carbon footprint / energy consumption? The contents of this report have no impact on carbon footprint or energy consumption, other than for the construction works themselves, which cannot easily be quantified.
- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? Not applicable to this report.