



Report to the Partnership for South Hampshire Overview and Scrutiny Committee

Date: **21 September 2022**

Report of: **Simon Kennedy, PfSH Strategic Environmental Planning
Manager**

Subject: **Nutrient Neutrality in the Solent Update**

Summary

The report provides an update for the Overview & Scrutiny Committee on nutrient neutrality for PfSH authorities. The update focuses on the 20 July Ministerial Statement (ministerial statement) relating to water quality, the use of funding from the Department for Levelling Up, Housing and Communities, and the supply and demand of nutrient mitigation in the Solent catchments.

Recommendation

It is RECOMMENDED that the Overview and Scrutiny Committee:-

- a) NOTES the contents of this report;
- b) NOTES that Joint Committee will be asked to NOTE the contents of this report; and
- c) consider any comments to be passed to the Joint Committee for consideration.

1. Background

- 1.1 The 14 February 2022 update on nutrient neutrality ([14 February report](#)) to the Joint Committee recognised that the Solent's emerging mitigation market must be monitored - to ensure that it is sustainable and continues to meet the needs for growth across the sub-region.
- 1.2 The report to Joint Committee provides a continuation of a series of reports to the Joint Committee. The aim of the report is to provide key updates on the local planning authority response to the need for nutrient neutrality in the Solent catchments.

2. Ministerial Statement on nutrient neutrality

2.1 On 20 July this year the secretary of state for Environment, Food and Rural Affairs released a statement outlining how government intend to improve water quality in relation to nutrients¹. The statement outlined the following key steps:

- Providing new funding to the Environment Agency to increase farm inspections to at least 4,000 inspections a year by 2023, and launching future farming schemes that will reward farmers and land managers for actions to reduce run-off, such as introducing cover crops and buffering rivers. This is reinforced by proposed Environment Act targets to reduce the key sources of river pollution.
- Tabling an amendment to the Levelling Up and Regeneration Bill. This will place a new statutory duty on water and sewerage companies in England to upgrade wastewater treatment works to the highest technically achievable limits by 2030 in nutrient neutrality areas. Water companies will be required to undertake these upgrades in a way that tackles the dominant nutrient(s) causing pollution at a protected site.
- Introducing Natural England led accelerator unit to directly deliver mitigation in those areas where housing is being most held up.

3.1 It should be noted that although there has been a commitment to upgrade wastewater treatment works, this requirement is subject to an amendment to the Levelling up and Regeneration Bill being made, and the Bill itself passing into law. It is expected that this process will be completed in spring 2023, at which point local planning authorities will have the required certainty that the upgrades will take place. It should also be noted that whilst there will be sufficient certainty regarding upgrades, this will only reduce the medium to long term need for mitigation. Any dwellings planned to be occupied prior to the relevant wastewater treatment plant upgrade will still be required to mitigate their higher impact until the upgrade has been completed. It is anticipated that should the upgrades be confirmed through the Levelling up and Regeneration Bill it is likely to increase the administrative burden on local planning authorities managing the need for nutrient neutrality, it may also result in some developments being delayed until the upgrades are in place. For the best performing treatment works in the impacted area there will be no upgrades as these treatment works already operate at, or in some cases better than, the indicated technically achievable limit.

3.2 Natural England have already commenced some work on an accelerator unit. However, initial indications from Natural England indicate that the Solent will not be a focus for this work as we now, due to the work undertaken by PfSH member authorities, have comparatively little backlog compared to other authorities nationally.

¹ <https://questions-statements.parliament.uk/written-statements/detail/2022-07-20/hcws258>

3.3 Additionally, the ministerial statement clarified the position on which decisions require assessment for nutrient neutrality, this was following a number of conflicting legal opinions on the matter. The statement confirms that:

- The Habitats Regulations Assessment provisions apply to any consent, permission, or other authorisation, this may include post-permission approvals; reserved matters or discharges of conditions.

Although the clarification on reserved matters in the ministerial statement is helpful, it holds little weight in decision making by the courts. It is hoped, as suggested in the statement and in the context of differing legal opinions on the matter, that further clarity can be provided by government through the most appropriate means.

4. DLUHC Funding

4.1 The memorandum of understanding with DLUHC, as provided in the report to Joint Committee on 5 July 2022, requires the lead authority receiving the funding to report on progress at regular intervals. The first report was submitted at the end of June this year with no feedback received.

4.2 Following agreement by Joint Committee, also at the at the 5 July meeting, plus agreement from other impacted authorities benefiting from the funding, two additional staff have already been employed to support the work on nutrients as well as wider strategic environmental issues and opportunities.

5. Supply and Demand

5.1 In the 2021/2022 reporting year, full planning permissions were granted for around 3,400 new dwellings within the area impacted by a requirement for nutrient neutrality.

5.2 The figures presented in this section of the report are based on figures from the start of the 2022/2023 financial year. The figures presented for strategic mitigation schemes are based on the revised nutrient budget position as calculated following the revised guidance issued by Natural England in March of this year. Although the revised guidance is considered to generally increase the amount of mitigation required to mitigate a dwelling, the revised Natural England calculator includes a number of new variables that make it impossible to accurately assess the related increase in demand. For the purposes of this report the amount of mitigation required per dwelling for different wastewater treatments works is the same as those used in earlier reports.

5.3 As local plans progress in areas impacted by a requirement for nutrient neutrality, and as local planning authorities develop their own evidence for variables such as occupancy, the demand is updated in line with the most up-to-date information. However, it should be noted that the overall demand figure will fluctuate between reports due to these factors.

East Hampshire catchment

Supply and Demand

a. Overall, the supply of strategic mitigation remains strong within the East Hampshire catchment. Figure 1 shows the supply and demand position for the catchment.

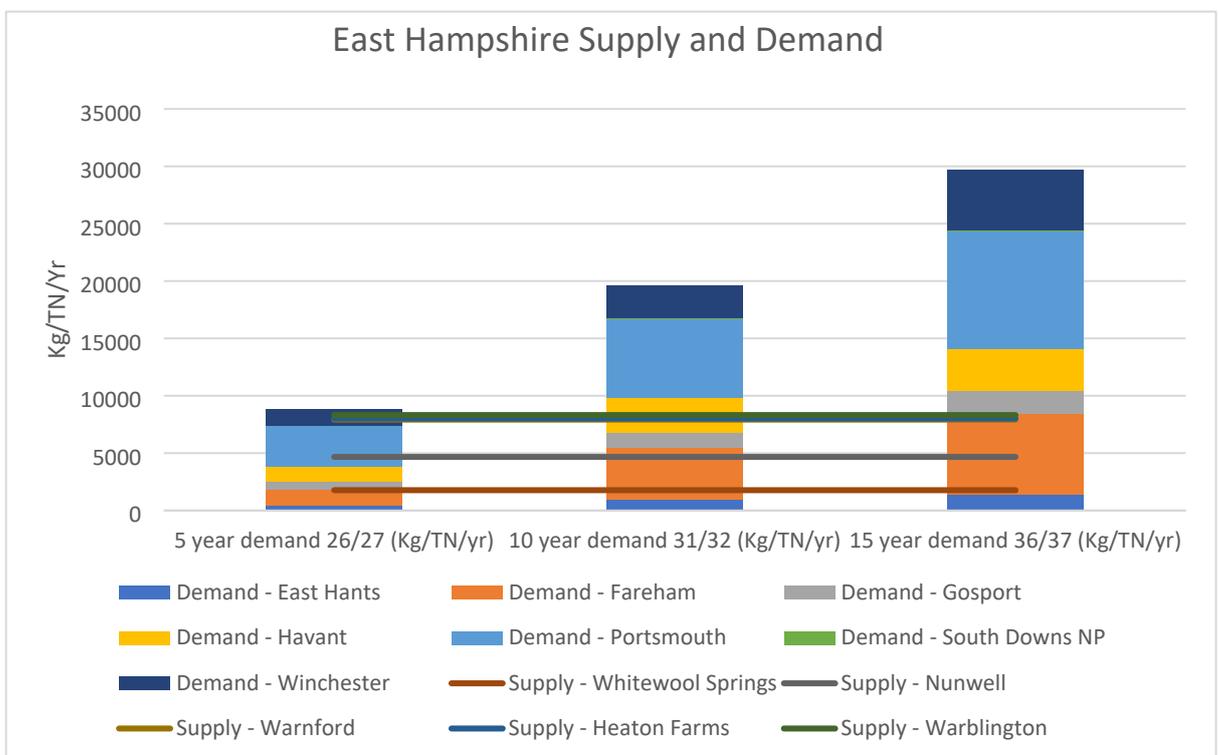


Figure 1 - East Hampshire supply and demand, chart uses stacked bars and stacked lines to represent data

Impact of proposed improvements to wastewater treatment works

b. As the relevant wastewater treatment works in the East Hampshire catchment already perform at a level better than the proposed minimum standard for nitrogen removal, it is not anticipated that there will be any further upgrades at the relevant wastewater treatment works to reduce the amount of required mitigation as shown in figure 1.

Emerging Strategic Mitigation Schemes

c. There are two emerging strategic mitigation schemes benefiting the East Hampshire catchment:

- Constructed wetland at Knowle wastewater treatment works
- Constructed wetland at Meon Marsh

All schemes are at the final stages of development with an expected nutrient reduction of around 4000 Kg/Tn/Yr and are expected to come online over the next 18 months.

Summary

d. The supply of strategic mitigation in the East Hampshire catchment remains strong with a 5-year supply of credits already available. Emerging sites are considered likely to increase supply to satisfy planned growth for approximately 7 years. The current rate of supply is increasing in-line with projections provided in the 21 July 2021 report to Joint Committee and as such the supply of mitigation is considered sustainable and likely to continue to meet demand into the long term.

Test and Itchen Catchment

- e. The supply and demand position for the test and Itchen catchment is shown in figure 2. It should be noted that the impact of a requirement for phosphorus neutrality in the Itchen river catchment may reduce demand for nitrogen mitigation in the short term, this would slightly reduce demand and increase relative supply for those authorities not impacted by phosphate neutrality.

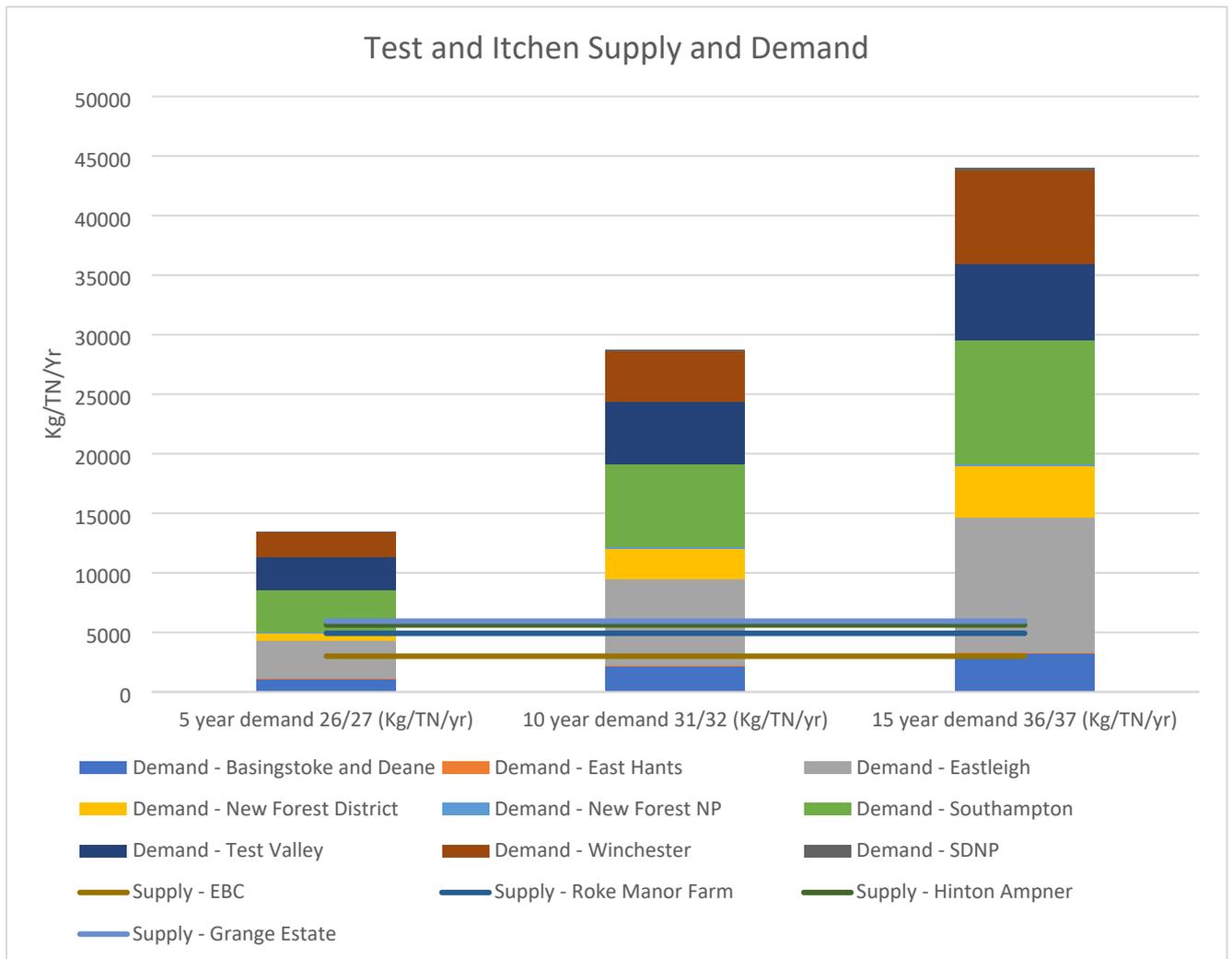


Figure 2 - - Test and Itchen supply and demand, chart uses stacked bars and stacked lines to represent data

Impact of proposed improvements to wastewater treatment works

- f. There will be a clear impact of proposed improvements to waste water treatment works. The 14 February report to the Joint Committee projected the impact of improvements to wastewater treatment works in the Test and Itchen catchment, this projection was on the basis of permit levels the same as proposed in the ministerial statement. The 14 February report made clear that improvements to wastewater treatment

works in the Test and Itchen catchment would be required, in addition to continued delivery of strategic mitigation schemes, for projected growth to be sustainable in the impacted area.

- g. The proposed upgrades are welcomed, and necessary, to facilitate sustainable development in the medium to long term. However, it should be noted that for any dwelling occupied prior to the relevant upgrade being completed then mitigation will be required in-line with the current permit limits for the period until the upgrade is complete, once the upgrade is completed this will potentially return the associated credits into the market for re-sale. This mechanism will be extremely difficult to manage and audit from the point of view of local planning authorities. In some areas mitigation costs per dwelling will substantially reduce once wastewater upgrades are completed, as such development in these areas may artificially reduce until the upgrades are confirmed and/or completed.

Emerging Strategic Mitigation Schemes

- h. There are currently three potential sources of additional strategic mitigation in the Test and Itchen catchment.
 - Private scheme in Test Valley – A private scheme in Test Valley is in the final stages of completion and is expected to be available to mitigate new overnight accommodation shortly.
 - Solent Nutrient Market Pilot – The Solent Nutrient Market Pilot is currently accepting expressions of interest from landowners that may wish to deliver mitigation schemes for both nutrients and biodiversity net gain. There is also potential that the Market Pilot will be better able to offer bridging credits for development requiring additional mitigation up to the point wastewater treatments works are upgraded
 - Phosphate mitigation schemes – It is likely that any phosphate mitigation scheme will also deliver substantial mitigation for total nitrogen

There is a high level of confidence that the private scheme in Test Valley will deliver 1621 kg/TN/Yr. However, there are still questions regarding the ability of the Solent Nutrient Market Pilot to deliver schemes and provide a robust legal framework to use those schemes in the planning process. Additionally, although phosphate mitigation schemes are likely to be delivered it is not yet possible to ascertain the amount of associated mitigation for total nitrogen or the timescales for delivery.

Summary

- i. The supply of mitigation credits for total nitrogen remains sufficient for sustainable development to continue in those areas of the Test and Itchen catchment not impacted by the requirement for phosphate

neutrality, with current supply expected to meet demand for 2.5 – 3 years. The introduction of the forthcoming scheme in the Test Valley is encouraging, but further schemes will be required to meet demand regardless of any improvements to wastewater treatment works.

Itchen Catchment – Phosphorous

- j. Although wastewater treatment permit limits for phosphorus vary across the catchment, the expected requirement to mitigate one dwelling is an average of 0.1 Kg/TP/Yr and is used in figure 3 to indicate demand.

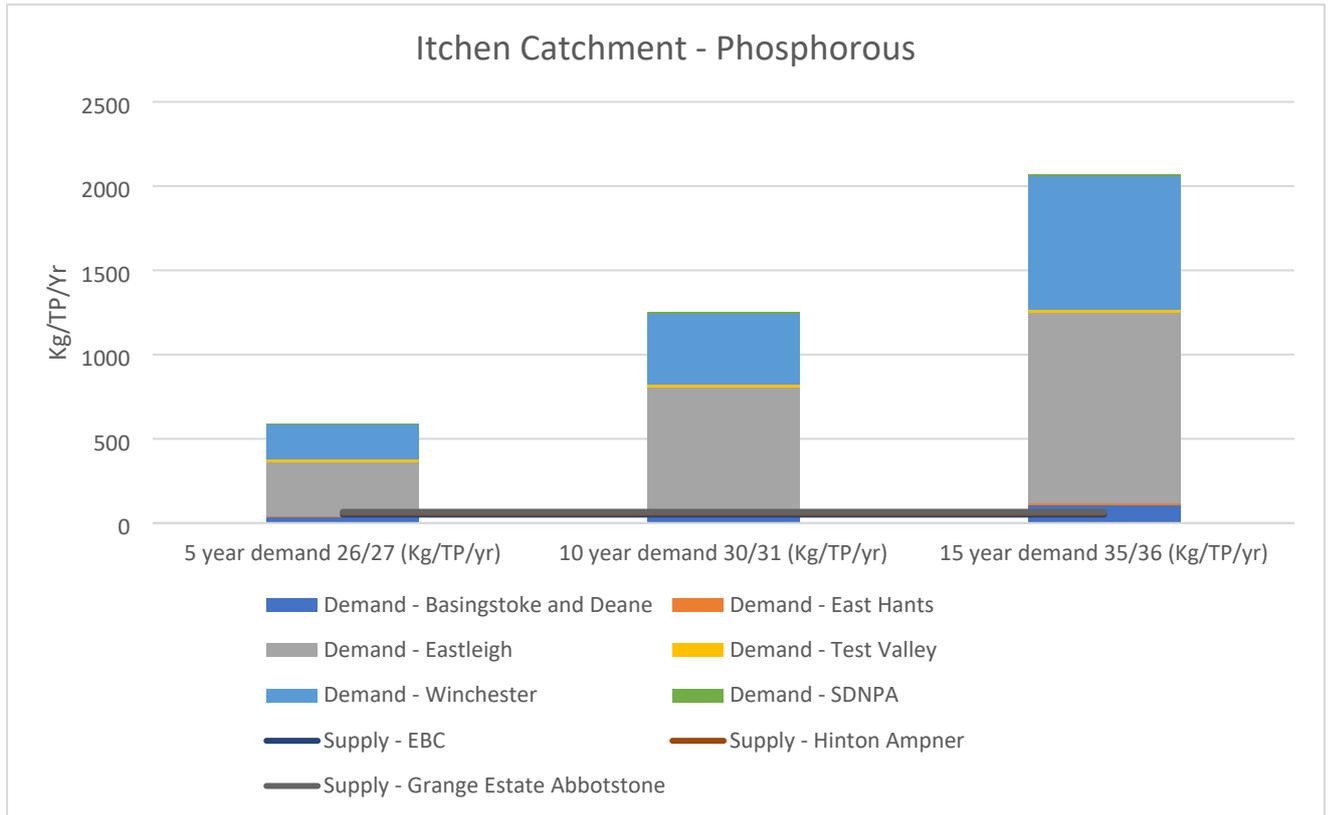


Figure 3 - Itchen supply and demand (phosphorous), chart uses stacked bars and stacke

Impact of proposed improvements to wastewater treatment works

- k. There are existing planned upgrades at both Chickenhall wastewater treatment works and Harestock wastewater treatment works. Both upgrades are expected to be completed by 2025. However, it should be noted that the currently planned upgrade at Chickenhall wastewater treatment works is 0.6 mg/TP/ml, as the currently proposed requirements for wastewater upgrades proposed all treatment works be upgraded to a permit limit of 0.25 mg/TP/ml it is unclear whether the currently planned upgrade will change to reflect this or whether there will be a second upgrade in 2030. Harestock wastewater treatment works is scheduled to be upgraded to the 0.25 mg/TP/Yr limit.

Emerging Strategic Mitigation Schemes

- I. There are currently four potential sources of phosphate mitigation in the Itchen catchment.
 - Chickenhall wastewater treatment works – constructed wetland at outfall
 - Upgrades to wastewater treatment infrastructure on estate owned by Winchester City Council
 - Constructed wetland on private land in upper Itchen
 - Schemes arising from Solent Market Trading Platform

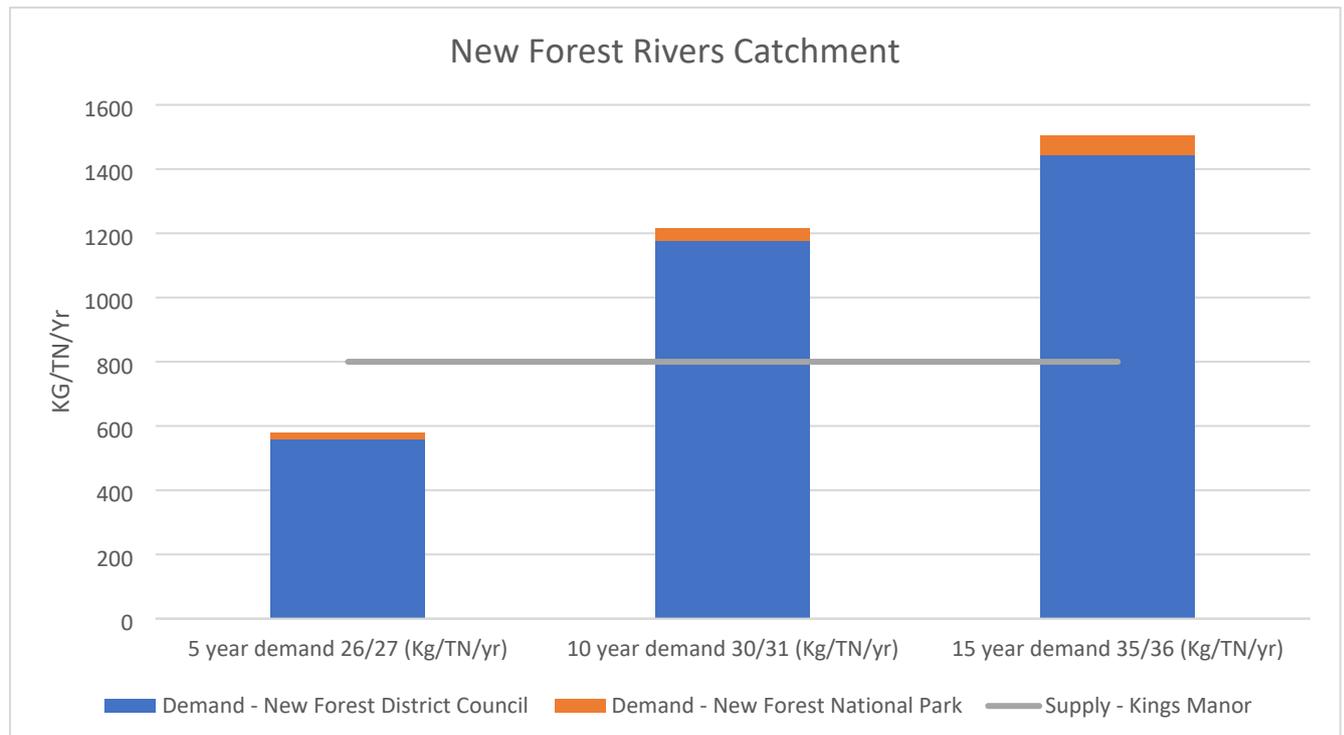
All of the potential schemes listed are still in early scoping/inception stage. A key part of the ongoing work of the Partnership for South Hampshire Strategic Environmental Planning Officers is to work with the relevant stakeholders to deliver phosphate mitigation in order to support sustainable development within the catchment.

Summary

- m. Although there is a small amount of phosphate mitigation available from suitable existing nitrogen schemes, this is only sufficient to support a handful of developments. It is expected that one or all of the emerging schemes will deliver sufficient mitigation to meet the short to medium need for new overnight accommodation. However, at this stage there is no confirmed timescales or quantum of mitigation for delivery of the relevant schemes.
- n. The inability of Southern Water to provide information on outfall positions for relevant waste water treatment works has particular relevance when planning for suitable mitigation. It is hoped that Southern Water will be able to work more closely with local planning authorities to ensure that sustainable development can continue in relation to phosphate neutrality. Without appropriate input from all key stakeholders, including Southern Water, the Environment Agency and Natural England, delivering mitigation for phosphates will take considerably longer.

New Forest Rivers Catchment

- o. For the purposes of this report all development draining to Pennington wastewater treatment works, as well as smaller wastewater treatment works within the New Forest National Park area, is considered to be demand related to the new forest rivers catchment and is shown as such in figure 4.



Impact of proposed improvements to wastewater treatment works

- p. As Pennington wastewater treatment works already has a permit limit that is better than the proposed requirement, and all other development in the catchment is likely to be to private treatment plants or to small waste water treatment works with limited planned development associated with the, it is considered that there will be little impact from the proposed changes on overall supply and demand.

Emerging Strategic Mitigation Schemes

- q. The Hampshire and Isle of Wight Wildlife Trust are currently in negotiation with a landowner in the New Forest rivers catchment with regard to delivering a scheme for mitigation of total nitrogen. It is considered that there is a high level of confidence that this scheme will come forward in the forthcoming months.

Summary

- r. There is currently sufficient mitigation in the New Forest rivers catchment to meet demand for around 7.5 years of expected new overnight accommodation. The current supply allows sustainable development to continue whilst emerging schemes are likely to satisfy demand for over 15 years.

6. Summary and Next Steps

- 6.1 Since the 14 February report to Joint Committee on supply and demand, there has been significant changes in the methodology to assess both development and mitigation for the purposes of nutrient neutrality. The increase in variables in the Natural England calculator has made it significantly harder to accurately assess supply and demand. The change in mitigation values for existing sites, as well as associated major changes in the financial viability of those sites, has a detrimental impact on the Solent's existing mitigation market. Additionally the introduction of a requirement for phosphate neutrality, without warning, has led to an unavoidable reduction in housing delivery for those impacted authorities.
- 6.2 The 20 July ministerial statement, although encouraging with regard to wastewater infrastructure improvements, provides greater uncertainty to the currently operating system in the Solent. Until the relevant laws have been passed and delivery of upgrades is certain, the ministerial statement only serves to introduce further uncertainty to landowners with regard to the viability of mitigation schemes.
- 6.3 Despite the various changes from government over the last six months, the mitigation market in the Solent continues to provide a robust and sustainable solution to the requirement for neutrality of total nitrogen into the Solent's protected sites. The mitigation market will continue to be closely monitored and a further supply and demand update will be delivered early in the new year. The strategic environmental planning officer team will continue to support the delivery of further mitigation schemes with a particular focus on delivering schemes for phosphate neutrality in the Itchen catchment.

Recommendation

It is RECOMMENDED that the Overview and Scrutiny Committee:-

- a) NOTES the contents of this report;
- b) NOTES that Joint Committee will be asked to NOTE the contents of this report; and
- c) consider any comments to be passed to the Joint Committee for consideration.

Enquiries:

For further information on this report please contact:-

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