





CAMBRIDGE WATER WATER RESOURCES MANAGEMENT PLAN 2024

Habitats Regulations Assessment

Method Statement

Report for: Cambridge Water

Ref. WRMP24 Environmental Assessment support

Ricardo ref. ED16326 Issue: 1 Date: 20/04/2022

Customer:

Cambridge Water Plc

Customer reference:

WRMP24 Environmental Assessment support

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1. INTRODUCTION

1.1 BACKGROUND AND PURPOSE OF REPORT

Like all water companies in England and Wales, Cambridge Water is required [1] to prepare, maintain and publish a Water Resource Management Plan (WRMP). A WRMP sets out the strategy for water resource and demand management to ensure supplies of safe, clean drinking water are maintained to customers throughout the relevant company's region in a way that is economically, socially, and environmentally sustainable. WRMPs are reviewed on a rolling five-year basis; Cambridge Water published their most recent WRMP (WRMP19) in December 2019. The next cycle of WRMPs (WRMP24) cover the period 2025 to 2050 and beyond. Cambridge Water is now reviewing and updating their draft WRMP24 for consultation in autumn 2022.

Cambridge Water forms part of the Water Resources East (WRE)¹ regional group and is one of five regional water resources groups in England and Wales working under the National Framework for Water Resources (the 'National Framework')². Each regional group brings together the water companies operating in that region with key water users, stakeholders and environmental regulators including the Environment Agency. This enables greater co-ordination and alignment of water resources planning for WRMP and regional plan development. The other water companies that form WRE alongside Cambridge Water are Affinity Water, Anglian Water, Essex & Suffolk Water and Severn Trent Water.

In addition, Cambridge Water are merged with South Staffs Water. South Staffs Water are one of five water companies³ that make up the Water Resource West (WRW) regional group. As such, there is also the requirement for the Cambridge Water WRMP to align with that of South Staffs Water and the WRW regional plan.

A water company must ensure its WRMP meets the requirements of the Habitats Regulations before implementation. The requirement for a Habitats Regulations Assessment (HRA) is established through Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora, hereby referred to as the 'Habitats Directive', in Articles 6(3) and 6(4). The Habitats Directive is transposed into national legislation by the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations').

Regulation 63 of the Habitats Regulations essentially provides a test that the final plan must pass; there is no statutory requirement for HRA to be undertaken on draft plans or similar developmental stages. However, as with Strategic Environmental Assessment (SEA), it is accepted best-practice for the HRA of WRMPs to be run as an iterative process alongside plan development to ensure that potential effects on European sites can be identified at an early stage and factored into the selection of options. In practice, therefore, HRAs of WRMPs have two functions: they informally guide each water company as it determines which water resource options will be included in the published WRMP; and then subsequently provides a formal assessment of the preferred programme and published WRMP against Regulation 63.

This method statement sets out the proposed approach for the assessment of the feasible list of options and the preferred programme through the HRA process. Cambridge Water are already in the process of completing a high level environmental assessment of the unconstrained list of options, to generate the feasible list of options.

¹ https://wre.org.uk/

² https://www.gov.uk/government/publications/meeting-our-future-water-needs-a-national-framework-for-water-resources

³ Along with Severn Trent Water, United Utilities Water, Dŵr Cymru Welsh Water and Hafren Dyfrdwy

2. HABITATS REGULATIONS ASSESSMENT APPROACH

2.1 CONTEXT AND STAGES OF THE HRA PROCESS

The responsibility for undertaking the HRA lies with Cambridge Water as the plan making authority.

Regulations 63 and 64 (if required) of *The Conservation of Habitats and Species Regulations (2017)* (the 'Habitats Regulations') transposed the provisions of Articles 6(3) and 6(4) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive') as they related to plans or projects in England and Wales.

Regulation 63 of the Habitats Regulations states that if a plan or project "(a) is likely to have a significant effect on a European site or a European offshore marine site⁴ (either alone or in combination with other plans or projects); and (b) is not directly connected with or necessary to the management of the site" then the competent authority must "…make an appropriate assessment of the implications for the site in view of that site's conservation objectives" before the giving consent or authorisation. The plan or project can only be given effect if it can be concluded (following an 'appropriate assessment') that it "…will not adversely affect the integrity" of a site unless the provisions of Regulation 64⁵ are met.

An HRA determines whether there will be any 'likely significant effects' (LSE) on any European site as a result of a plan's implementation (either on its own or 'in combination' with other plans or projects)⁶ and, if so, whether there will be any 'adverse effects on site integrity'⁷.

Guidance recognises four key steps in the HRA process as follows:

- 1. Stage 1 Screening the identification of Likely Significant Effects (LSEs) of a plan or project on a European designated site either alone or in-combination. The test is a trigger for further assessment, and therefore the bar is set low i.e., is there a risk or possibility of an adverse effect. At this stage mitigation measures should not be taken into account, in accordance with the People over Wind (Court of Justice of the European Union (ECJ) Case C-323/17); this reinforces the idea of screening as a 'low bar' and makes 'appropriate assessments' more common.
- 2. Stage 2 Appropriate Assessment and the 'integrity test' which involves closer examination of the project or plan and 'screened in' European designated sites to determine whether those sites will be subject to 'adverse effects on integrity'. The scope of such assessments is not set, and some may not be particularly detailed, especially where standard mitigation measures are available which are known to be effective. The level of assessment must be sufficient to ensure that there is no 'reasonable scientific doubt' that adverse effects on site integrity will not occur.
- 3. Stage 3 Alternative Solutions where adverse effects or uncertainty remain after the inclusion of mitigation in Stage 2, alternative ways where alternative solutions that meet the plan objectives are identified and consideration of their effects are given in comparison to those in the plan. A plan or project which has adverse effects on the integrity of a European site cannot be permitted if alternative solutions are available, except where the criteria for imperative reasons of overriding public interest are met (IROPI, see Stage 4).
- 4. Stage 4 Imperative Reasons of Overriding Public Interest where there are no alternatives that have no or lesser effects on European sites, and the IROPI criteria are met, compensatory measures are developed and secured.

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⁴ 'European offshore marine sites' are defined by Regulation 18 of *The Conservation of Offshore Marine Habitats and Species Regulations 2017*; these regulations cover waters (and hence sites) over 12 nautical miles from the coast.

⁵ Considerations of overriding public interest.

⁶ Also referred to as the 'test of significance'.

⁷ Also referred to as the 'integrity test'.

2.2 GUIDANCE

The HRA will be undertaken in accordance with the key guidance document UKWIR (2021)⁸. *Environmental Assessment Guidance for Water Resources Management Plans and Drought Plans*. UK Water Industry Research Limited, London.

Other relevant guidance and case-practice will be considered, summarised as the following:

- Defra (2021). Policy paper: Changes to the Habitats Regulations 2017 [online]9.
- UK Government (2019). Appropriate assessment: Guidance on the use of Habitats Regulations Assessment [online]¹⁰.
- Tyldesley, D. & Chapman, C. (2021). *The Habitats Regulations Assessment Handbook* [online]. DTA Publications Limited¹¹.
- UK Government (2021). Water resources planning guideline [online]¹².
- Natural England (2020). Guidance on how to use Natural England's Conservation Advice Packages in Environmental Assessments. Natural England, Peterborough.
- European Commission (2018). Managing Natura 2000 sites The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC. European Union, 1-86.
- Defra (2012). The Habitats and Wild Birds Directives in England and its seas: Core guidance for developers, regulators & land/marine managers [online]¹³.
- PINS Note 05/2018: Consideration of avoidance and reduction measures in Habitats Regulations Assessment: People over Wind, Peter Sweetman v Coillte Teoranta. [withdrawn].
- SNH (2019). SNH Guidance Note: The handling of mitigation in Habitats Regulations Appraisal the People Over Wind CJEU judgement [online]¹⁴.

Most recently, Natural England (NE) and Natural Resources Wales (NRW) have published guidance to assist the production of the Regional Plans, but which has implications for the WRMP HRA process. The document, titled "Regional Water Resource Planning and the natural environment" was made available at the end of January 2022. The document is still being reviewed by the water companies, and wider Regional Groups. Cambridge Water will be consistent with the application of this guidance to its WRMP24 HRA process, as Water Resources East and Water Resources West apply the guidance.

2.3 APPROACH OVERVIEW: STAGE 1 SCREENING - FEASIBLE LIST

The detailed HRA Stage 1 Screening process will be undertaken for the feasible list of options. As noted in Section 1, Cambridge Water are already in the process of completing a high level environmental assessment of the unconstrained list of options, to generate the feasible list of options. The assessment will identify whether each feasible option (either alone or in combination with other plans or projects) is likely to have significant effects on European sites, including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), as well as internationally-designated Ramsar sites:

https://www.nature.scot/sites/default/files/2019-08/Guidance%20Note%20-

% 20 The % 20 handling % 20 of % 20 mitigation % 20 in % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20 Appraisal % 20 Habitats % 20 Regulations % 20

⁸ UKWIR (2021). Environmental Assessments For Water Resources Planning. UKWIR Report Nr 21/WR/02/15. Published March 2021

⁹Available at: <a href="https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017/changes-t

¹⁰ Available at: https://www.gov.uk/guidance/appropriate-assessment.

¹¹ Available at: https://www.dtapublications.co.uk/handbook/.

¹²Available at: <a href="https://www.gov.uk/government/publications/water-resources-planning-guideline/water-resources-

¹³Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/82706/habitats-simplify-guide-draft-20121211.pdf.

¹⁴Available at:

^{%20}the%20People%20Over%20Wind%20CJEU%20judgement.pdf.

- SPAs are classified under the European Council Directive 'on the conservation of wild birds' (2009/147/EC; 'Birds Directive') for the protection of wild birds and their habitats (including particularly rare and vulnerable species listed in Annex 1 of the Birds Directive, and migratory species).
- SACs are designated under the Habitats Directive (92/43/EEC) and target particular **habitats** (Annex 1) **and/or species** (Annex II) identified as being of European importance.
- The Government also expects, as a matter of policy, potential SPAs (pSPAs), possible/proposed SACs (pSACs), compensation habitat and Ramsar sites to be included within the assessment.
- Ramsar sites support **internationally important wetland habitats** and are listed under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971).

For ease of reference throughout the HRA process, these designations will be collectively referred to as "European sites", despite Ramsar designations being made at the international level.

The purpose of the screening stage is to determine whether any part of the plan, during construction and/or operation, is likely to have a significant effect on any European site (including areas of compensation habitat, areas of functional land, and the ability for abstractions to occur for the management of designated wetland sites). This is judged in terms of the implications of the plan for a site's conservation objectives, which relate to its 'qualifying features' (i.e. those Annex I habitats, Annex II species, and Annex I bird populations for which it has been designated¹⁵, and Ramsar criteria). Significantly, HRA is based on a rigorous application of the precautionary principle. Where uncertainty or doubt remains, an impact should be assumed, triggering the requirement for Appropriate Assessment of that scheme or plan.

The screening stage also has to conclude whether any in-combination effects would result from the various schemes within the plan itself, or from implementation of the plan in-combination with other plans and projects, and whether these would adversely affect the integrity of a European site.

The screening process will be reiterated for the preferred and alternative programmes, to fulfil the formal Stage 1 Screening stage.

2.3.1 Identifying European sites

The initial list of European sites for screening will be derived by adopting a distance-based threshold of 10km from each option component, plus exceptional, longer impact pathways. The use of a '10km threshold plus exceptional pathways' approach is based on precedent set for previous HRAs of plans through consultation with statutory consultees and the Impact Risk Zone (IRZ) mapping provided by Natural England for screening of impacts to designated sites in England. It is based on the premise that most significant effects on qualifying species and habitats will occur within a maximum 10km radius of the source of impact, except where there are exceptional pathways such as major downstream or coastal dispersion effects, or larger foraging and dispersal distances for mobile species (e.g., bats, migratory fish).

In addition, the HRA Stage 1 Screening will identify any habitat outside the designated site that also supports the qualifying species populations that use the European site in question. This off-site 'functionally linked land' (or sea) is particularly relevant to mobile qualifying species (e.g., birds, bats, invertebrates, fish, otters). The precautionary principle applies equally to functionally linked land, so where there is insufficient information to ascertain that there would be no LSE, an Appropriate Assessment will be required. However, this does not mean that every possible parcel of land within reach of the European site's qualifying populations must have been surveyed. The 'Boggis' case¹⁶ establishes that there must be at least credible evidence that there could be a functional link between the location of option effects and the European site.

2.3.2 Sources of information

Data on the European sites and their interest features will be collected from the Joint Nature Conservation Committee (JNCC) and NE websites. These data will include information on the attributes of the European sites that contribute to and define their integrity, current conservation status and the specific sensitivities of the site, notably the site boundaries and the boundaries of the component SSSIs; the conservation objectives; the

 $^{^{\}rm 15}$ Annexes are contained within the relevant EC Directive.

¹⁶ Boggis and Another v Natural England: Court of Appeal, 20 Oct 2009

condition, vulnerabilities and sensitivities of the sites and their interest features; the current pressures and threats for the sites; and the approximate locations of the interest features within each site (if reported); and designated or non-designated 'functional habitats' (if identified).

The following sources of published information will be used:

- Site citations
- Site Register Entries
- Standard Data Form (SPA/SAC) or Information Sheet (Ramsar site)
- Conservation Objectives and Supplementary Advice on Conservation Objectives (for SPAs/SACs¹⁷)
- Site Improvement Plans (SIPs).
- Regulation 33 information for European Marine Sites or Conservation Advice for Marine Protected Areas¹⁸
- Environment Agency Review of Consents information
- SSSI Impact Risk Zones (in England), which apply equally to European sites
- Site condition assessment has been integrated with SSSI assessments through Common Standards Monitoring (CSM) and marine condition assessments (for SAC marine features only)
- Definitions of Favourable Conservation Status (where available for species/habitat).
- Favourable Condition Tables are set out for every SSSI that underpins a European site and can often be applicable to the European site's qualifying features.
- Article 12 (SPA) and Article 17 (SAC) status reports.

2.3.3 Thresholds

The UKWIR (2021) guidance includes accepted 'zones of influence' for certain impacts, as repeated in **Table 1**, however the best and latest information should always be used to inform an assessment. Where possible, robust universal assumptions regarding the sensitivities of European site interest features will also be specified and applied at screening, for example:

- most breeding passerines will not be water-resource dependent.
- for groundwater sources and groundwater fed habitats, the EA consider that significant effects as a result of ground water abstractions are unlikely on European sites over 5km from the abstraction 19.
- wide-ranging marine / marine dependent species associated with marine sites that are not directly
 connected to the hydrological zone of influence are not typically considered to be both sensitive and
 exposed to the effects of the options (except in certain relatively unique circumstances, such as some
 desalination schemes).

Sites over 10km from the options that are not hydrologically linked and which do not support wide-ranging mobile species are considered sufficiently remote such that any environmental changes will be effectively nil, and so there will be 'no effects' on sites beyond this distance (and so no possibility of 'in combination' effects).

Table 1 Potential Impacts of Plan Options²⁰ (Source: UKWIR, 2021)

Broad categories of potential impacts on European Sites, with examples	Examples of activities responsible for impacts (example distance considerations in italics)
Physical loss: Removal Smothering	Development of infrastructure associated with option, e.g., new or temporary pipelines, transport infrastructure, temporary weirs. Indirect effects from a reduction in flows e.g., drying out of water-margin habitat.
	Physical loss is likely to be significant where the boundary of the option extends within or is directly adjacent to the boundary of the European Site, or within/adjacent to an offsite area of known foraging, roosting, breeding habitat (that supports species for which a European Site is designated, or where natural processes link the option to the site, such as through hydrological connectivity

¹⁷ The conservation objectives for Ramsar sites are taken to be the same as for the corresponding SACs / SPAs (where sites overlap); SSSI Favourable Condition Tables will be used for those features not covered by SAC/SPA designations.

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¹⁸ Natural England & the Countryside Council for Wales' advice given under Regulation 33(2)(a) of the Conservation (Natural Habitats, &c.) Regulations 1994, as amended.

¹⁹ National EA guidance: Habitats Directive Stage 2 Review: Water Resources Authorisations – Practical Advice for Agency Water Resources Staff

²⁰ Note that the distances given in this table are illustrative only and should be defined for each Plan option on a case by case basis.

Broad categories of potential impacts	Examples of activities responsible for impacts	
on European Sites, with examples	(example distance considerations in italics)	
	downstream of an option, long shore drift along the coast, or the option impacts the linking habitat).	
Physical damage: Sedimentation/silting	Construction activity leading to permanent and/or temporary damage of available habitat, sedimentation/siltation, fragmentation, etc.	
Prevention of natural processes Habitat degradation Erosion Fragmentation Severance/barrier effect Edge effects	Physical damage is likely to be significant where the boundary of the option extends within or is directly adjacent to the boundary of the European Site, or within/adjacent to an offsite area of known foraging, roosting, breeding habitat that supports species for which a European Site is designated, or where natural processes link the option to the site, such as through hydrological connectivity downstream of an option or sediment drift along the coast.	
Non-physical disturbance: Noise Visual presence Human presence Light pollution	Noise from temporary construction or temporary pumping activities. Taking into consideration the noise level generated from general building activity (c. 122dB(A)) and considering the lowest noise level identified in appropriate guidance as likely to cause disturbance to estuarine bird species, it is concluded that noise impacts could be significant up to 1km from the boundary of the European Site ^{21,22}	
	Noise from vehicular traffic during operation of an option.	
	Noise from construction traffic is only likely to be significant where the transport route to and from the option is within 3-5km of the boundary of the European Site ²³ .	
	Plant and personnel involved in in operation of the option.	
	These effects (noise, visual/human presence) are only likely to be significant where the boundary of the option extends within or is adjacent to the boundary of the European Site, or within/adjacent to an offsite area of known foraging, roosting, breeding habitat (that supports species for which a European Site is designated).	
	Options that might include artificial lighting, e.g., for security around a temporary pumping station.	
	Effects from light pollution ²⁴ are more likely to be significant where the boundary of the option is within 500m of the boundary of the European Site.	
Water table/availability: Drying Flooding/stormwater Changes to surface water levels and flows	Changes to water levels and flows due to increased water abstraction, reduced storage or reduced flow releases from reservoirs to river systems. Potential for changes to habitat availability, for example reductions in wetted width of rivers leading to desiccation of macrophyte beds.	
Changes in groundwater levels and flows Changes to coastal water movement	These effects are only likely to be significant where the boundary of the option extends within the same ground or surface water catchment as the European Site. However, these effects are dependent on hydrological continuity between the option and the European Site, and sometimes whether the option is up or down stream from the European Site.	
Toxic contamination: • Water pollution	Reduced dilution in downstream or receiving waterbodies due to changes in abstraction or reduced compensation flow releases to river systems.	
Soil contamination Air Pollution	These effects are only likely to be significant where the boundary of the option extends within the same ground or surface water catchment as the European Site. However, these effects are dependent on hydrological continuity between the option and the European Site, and sometimes whether the option is up or down stream from the European Site.	
	Air emissions associated with plant and vehicular traffic during construction and operation of options.	
	The effect of dust is only likely to be significant where site is within or in close proximity to the boundary of the European Site ^{25,26} . Without mitigation, dust and dirt from the construction site may be transported onto the public road network and then deposited/spread by vehicles on roads up to 500m from large sites,	

²¹ Environment Agency (2013) Bird Disturbance from Flood and Coastal Risk Management Construction Activities. Overarching Interpretive Summary Report. Prepared by Cascade Consulting and Institute of Estuarine and Coastal Studies.

²² Cutts N, Hemingway K and Spencer J (2013) The Waterbird Disturbance Mitigation Toolkit Informing Estuarine Planning and Construction Projects. Produced by the Institute of Estuarine and Coastal Studies (IECS). Version 3.2.

²³ British Standards Institute (BSI) (2009) BS5228 - Noise and Vibration Control on Construction and Open Sites. BSI, London.

²⁴ Institute of Lighting Professionals (2020) Guidance Notes for the Reduction of Obtrusive Light GN01/20.

²⁵ Highways Agency (2003) Design Manual for Roads and Bridges (DMRB), Volume 11.

²⁶ Institute of Air Quality Management (2014) Guidance on the assessment of dust from demolition and construction v1.1.

Broad categories of potential impacts on European Sites, with examples	Examples of activities responsible for impacts (example distance considerations in italics)
	200m from medium sites, and 50m from small sites as measured from the site exit. Effects of road traffic emissions from the transport route to be taken by the project traffic are only likely to be significant where the protected site falls within 200 metres of the edge of a road affected.
Non-toxic contamination: Nutrient enrichment (e.g., of soils and water) Algal blooms Changes in salinity Changes in thermal regime Changes in turbidity Changes in sedimentation/silting	Changes to water salinity, nutrient levels, turbidity, thermal regime due to increased water abstraction, discharges, storage, or reduced compensation flow releases to river systems. These effects are only likely to be significant where the boundary of the option extends within the same ground or surface water catchment as the European Site. However, these effects are dependent on hydrological continuity between the option and the European Site, and sometimes whether the option is up or down stream from the European Site.
Biological disturbance: Direct mortality Changes to habitat availability Out-competition by non-native species Selective extraction of species Introduction of disease Rapid population fluctuations Natural succession	Killing or injury due to construction activity. Likely to be a risk where the boundary of the option extends within or is directly adjacent to the boundary of the European Site, or within/adjacent to an offsite area of known foraging, roosting, breeding habitat (that supports species for which a European Site is designated). Creation of new pathway for spread of non-native invasive species. This effect is only likely to be significant where the option is situated within the European Site or an upstream tributary of the European Site, but also for intercatchment water transfers.

2.4 APPROACH OVERVIEW: STAGE 2 APPROPRIATE ASSESSMENT

For each option in the feasible list, the Stage 1 Screening will identify where significant effects are likely or uncertain. Where significant effects cannot be excluded, the option will be subject to a Stage 2 Appropriate Assessment. A Stage 2 Appropriate Assessment will only be undertaken for those options in the preferred or alternative plans.

A 'low-threshold' principle is used from the screening of the feasible options, therefore any impact pathways identified are considered further in the Appropriate Assessment, rather than a more detailed 'secondary screening'.

The appropriate assessments will be 'appropriate' to the strategic nature of the WRMP, the option under consideration and the scale and likelihood of effects. The assessment will consider the potentially damaging aspects of the proposed option with potential effects on a European site's qualifying features and likely achievement of the conservation objectives.

The potential for adverse effects on the integrity of the site depends on the scale and magnitude of the action and its predicted impacts, taking into account the distribution of the qualifying features across the site in relation to the predicted impact and the location, timing and duration of the proposed activity and the level of understanding of the effect, such as whether it has been recorded before and, based on current ecological knowledge, whether it can be expected to operate at the site in question.

Where an option is assessed as having an adverse effect by undermining the site's conservation objectives, mitigation may be necessary to satisfy the integrity test. Following the People Over Wind ruling, no mitigation measures can be considered to be incorporated, and therefore cannot be used during the screening stage.

The conclusion of the Stage 2 Appropriate Assessment is the integrity test. The integrity test requires the Competent Authority to ascertain whether the proposed option (either alone or in-combination with other plans or projects), will not have an adverse effect on site integrity. The following definition of site integrity is provided by Defra. The integrity of the site is:

"The coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the level of populations of the species for which it was classified"

²⁷ NE Internal Guidance – Approach to Advising Competent Authorities on Road Traffic Emissions and HRAs V1.4 Final - June 2018

The assessment will conclude with a professional opinion on whether such a test can be met, but it is for the Competent Authority to make that decision in light of the information presented.

3. ASSESSMENT REPORTING

An overarching HRA document will be produced, summarising the findings of the Stage 1 Screening, and if necessary, Stage 2 Appropriate Assessments. The document will include technical appendices providing the detailed screening outputs, and each option Appropriate Assessment, if required. The tables within the technical appendix will include relevant information for each of the designated sites (qualifying features, condition, main threats and pressures) and will provide more detailed assessments of LSEs for each qualifying feature.



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