



Secretary of State for Environment, Food and Rural Affairs  
FAO Mr Davide Minotti, Deputy Director of Water Services  
Department for Environment, Food and Rural Affairs  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

6 April 2022


Dear Mr Minotti,

### **Hampshire Water Transfer and Water Recycling Project – Section 35 Planning Act 2008 Direction Request**

Southern Water's 'Water for Life – Hampshire' (WfLH) programme represents an integrated approach to addressing the sustainability objectives of reduced abstractions on Hampshire's two main rivers and ensuring a resilient water supply for over 850,000 of the County's residents when the weather is dry. Infrastructure investment, nature-based solutions, land management and customer behaviour all have a role to play in achieving these objectives. A key part of the WfLH programme is the 'Hampshire Water Transfer and Water Recycling Project' (the Project), which comprises both pioneering water recycling infrastructure and extensive water transfer pipelines. The Project will provide an enhanced use of the recently consented Havant Thicket Reservoir, due for delivery by Portsmouth Water in 2029, by abstracting increased volumes of water from the reservoir in drought conditions whilst maintaining water levels in the reservoir with water from a new water recycling plant.

It is crucial that the Project is delivered at the earliest opportunity in order to avoid both a significant deficit of water supply for many of the County's residents in a drought and further delays to protecting the ecological status of the County's two main rivers. This would ensure compliance with Southern Water's statutory water supply duty and its 'all best endeavours' obligation to deliver the Project as quickly as possible under the s20 operating agreement agreed between Southern Water and the Environment Agency.

The Development Consent Order (DCO) process provides the most effective consenting route to securing the earliest delivery of the Project in 2030, aligning closely with the completion of the Havant Thicket Reservoir on which the Project depends. It would provide the most efficient mechanism for securing the extensive range of statutory powers, permissions, consents and licences needed to deliver this significant and complex project. The alternative Town and Country Planning Act route, coupled with a multitude of other separate permissions, licences, powers and consents, carries a risk of substantial delay to the delivery of this critical infrastructure.



Water recycling, as a relatively new and emerging technology in the UK, is not one of the categories of water resources infrastructure that can automatically qualify as a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008 (the 2008 Act), therefore a direction from the Secretary of State for Environment, Food & Rural Affairs (SoS) is required to bring a water recycling scheme into the DCO process. Water transfer infrastructure can automatically qualify as a NSIP to be determined under the DCO process. However, because the Project will only be used for water supply during drought conditions, it does not meet the criteria and threshold set out in the 2008 Act and would thus require a direction from the SoS that it is a project of national significance that should be consented through the DCO process.

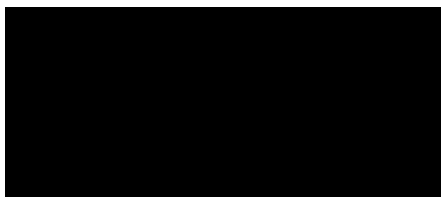
To provide certainty to Southern Water's programme for delivery of the Project in early 2030, it is essential that a section 35 direction is given for the Project at the earliest date practicable. This in turn will then enable Southern Water to fulfil its pre-application obligations under the DCO process and submit an application for development consent in late 2023.

Southern Water therefore requests that the SoS gives a direction ("a section 35 direction") under section 35 of the 2008 Act<sup>1</sup> for the 'principal'<sup>2</sup> elements of the Project to be treated as development for which development consent is required.

This letter is accompanied by a 'qualifying request' under section 35 of the 2008 Act for the Project, which is being made in writing and specifies the development to which it relates.

The information within the qualifying request explains why the conditions in section 35(2)(a) and (b) of the 2008 Act are met in relation to the Project, and why it is considered to be a project of national significance. The qualifying request therefore meets the requirements within the meaning of section 35ZA(11) of the 2008 Act to enable the SoS to give a direction for the Project under section 35(1).

Yours sincerely,



Ian McAulay  
Chief Executive Officer



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<sup>1</sup> Planning Act 2008, available at: <https://www.legislation.gov.uk/ukpga/2008/29/contents>

<sup>2</sup> Defined within section 3.2 of this request

# Qualifying request

## Executive Summary

Both the Government, in its 25 Year Environment Plan *Green Future*<sup>3</sup>, and the Environment Agency, in its *National Framework for Water Resource*<sup>4</sup>, make clear that the water industry needs to increase its resilience to drought by developing additional water supply capacity and must maintain this in the face of pressures from climate change, population growth and the need to improve environmental protection. The South East in particular is where that resilience is most needed.

Southern Water's Hampshire Water Transfer and Water Recycling Project (the Project) is a drought resilience scheme. By serving a projected population of over 850,000 people across Hampshire during drought conditions, it would be a critical piece of infrastructure in meeting the supply deficit for a number of Southern Water's water supply zones. It could also provide potential longer-term resilience for Portsmouth Water and its customers, as a neighbouring water company area.

The Project would make a significant contribution to the resilience of the economy in the Solent region and wider Hampshire area by mitigating the risks of debilitating water restrictions for both businesses and households in drought conditions, with the consequential socio-economic impacts that these would bring. In addition, it would contribute substantially to the UK's environmental objectives and policy priorities by protecting internationally significant chalk streams and river habitats, removing the environmental risks and impacts from emergency Drought Permits and Drought Orders that would otherwise have to be deployed in drought conditions to maintain essential water supplies.

The National Infrastructure Commission, in its report *Preparing for a drier future*<sup>5</sup> estimates that the costs of providing longer-term water resilience infrastructure are significantly less than the cost of emergency or short-term response measures to maintain water supplies. This is the case even without including the cost of subsequent emergency restrictions in the event that water supplies cannot be maintained, such as restricting or even cutting off supplies to households and businesses, both of which it notes are unlikely to be publicly or politically acceptable. It highlights that most short-term options would incur very high costs and some would result in severe environmental damage and risks to public health.

Effective and timely delivery of the Project is therefore fundamental to securing the longer-term resilience of the water supply to household and business users in the area. Moreover, the section 20 operating agreement<sup>6</sup> between the Environment Agency and Southern Water highlights the national significance of the Project by placing Southern Water under a legal obligation to use 'all best endeavours' to deliver the Project at the earliest opportunity in order to protect internationally significant chalk streams and river habitats. The section 20 Agreement means that the effective


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<sup>3</sup> A Green Future: Our 25 Year Plan to Improve the Environment, HM Government, 2018

<sup>4</sup> Meeting our future water needs: a national framework for water resources, Environment Agency, 16 March 2020

<sup>5</sup> Preparing for a drier future: England's water infrastructure needs, National Infrastructure Commission, 2018

<sup>6</sup> An agreement between Southern Water Services Ltd and The Environment Agency under section 20 of the Water Resources Act 1991



and timely consenting, and ultimately delivery, of the Project is crucial to securing the outcome sought by the parties to that agreement and the wider benefits that the Project will bring.

The Planning Act 2008 (the 2008 Act) regime is the only consenting route that would provide the necessary capability and certainty to enable the Project to be delivered and become operational at the earliest opportunity in accordance with the 'all best endeavours' obligation. Given the Project's linear nature and its complex construction and operational processes and interfaces, which will require works across multiple local authority boundaries, including potentially a National Park, and through multiple sites with a multitude of owners and occupiers, it is important that the breadth of powers and certainty in the determination processes and timelines associated with the 2008 Act consenting regime can be utilised for this Project. This includes enabling the acquisition and/or use of the necessary land and land rights quickly, using compulsory acquisition and temporary possession powers if required.

Due to the size and complexity of the Project, it would interface with a large number of existing infrastructure assets, including key transport and pipeline infrastructure (some of which are themselves nationally significant infrastructure projects (NSIPs)), as well as require construction below or within environmentally designated sites. It would also interact with the planned and permitted Havant Thicket reservoir project, which is itself a strategic water resource and part of both Southern Water's and Portsmouth Water's Water Resources Management Plans 19 (WRMP19). Multiple consents, permits, licences and statutory powers are likely to be required to secure the delivery of the Project due its size and complexity.


Importantly, the Project will be founded on pioneering water recycling technology that has yet to be fully tested and delivered in the UK, but which is likely to increasingly feature in water companies' water resource management plans as a more sustainable water supply solution. The 2008 Act consenting regime, which is able to provide much more than just a planning permission, will be crucial for the timely delivery of this critical and significant project and its complex mix of integrated and associated water infrastructure, within a largely single authorisation process.

Despite the compelling need, substantial size, complexity and potential environmental impacts of the Project and its wide geographical range, the hybrid nature and use of both pioneering water recycling and water transfer infrastructure for drought resilience means that it does not automatically qualify as a NSIP that must be consented under the DCO regime. There is currently no separate category of infrastructure set out in section 14 of the 2008 Act for water recycling, although it is acknowledged in the draft National Policy Statement for Water Resources that large-scale water recycling is likely to result in large transfers, and in such circumstances the transfer may qualify as a nationally significant infrastructure project when assessed against the relevant threshold in the 2008 Act, or through a s35 direction<sup>7</sup>. If operated all of the time (i.e. not just during times of drought), the significant water transfer element of the project would fall within the relevant threshold, but because the Project will only be used for water supply during drought conditions, it also does not automatically qualify as a NSIP.

For the reasons set out in this request, Southern Water considers that the Project is of national significance and would benefit considerably from the 2008 Act's single consenting regime, and therefore should be treated as a project for which development consent is required. The fact that

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<sup>7</sup> Paragraph 2.6.15 of [https://consult.defra.gov.uk/water/draft-national-policy-statement/supporting\\_documents/draftnpswaterresourcesinfrastructure.pdf](https://consult.defra.gov.uk/water/draft-national-policy-statement/supporting_documents/draftnpswaterresourcesinfrastructure.pdf).



the project is the first and only scheme to progress through the RAPID<sup>8</sup> *accelerated* regulatory process, a process specifically set up to facilitate the funding and delivery of nationally strategic water supply schemes, further reinforces the view that it is a project of national significance.

This document therefore comprises a ‘qualifying request’ under section 35 of the 2008 Act for the Project to be directed by the Secretary of State for Environment, Food & Rural Affairs (SoS) as a project of national significance to which the 2008 Act regime will apply. The information within this request explains why the Project is considered to be of national significance.

The Project needs to be formally brought into the DCO regime as soon as possible through a section 35 direction, so that Southern Water can undertake the key activities specifically required for the DCO pre-application period. This includes carrying out non-statutory consultation on the Project in summer 2022, submitting a request for an environmental impact assessment (EIA) Scoping Opinion to the Planning Inspectorate in Q3 2022, undertaking statutory consultation on the Project in Q1 2023, and submitting the DCO application in Q4 2023. This is critical to enable Southern Water to confidently fulfil the pre-application obligations as an applicant under the 2008 Act regime and minimise and manage the planning, consenting and delivery risks already identified in Southern Water’s RAPID gated process submissions.

## 1. Introduction

1.1 This document represents a ‘qualifying request’ under section 35 of the Planning Act 2008 (the 2008 Act) for the ‘principal’ elements<sup>9</sup> of the proposed Hampshire Water Transfer and Water Recycling Project (the Project) to be treated as development for which development consent is required.

### ***Securing a resilient water supply for Hampshire***

1.2 The Project comprises both water transfer pipelines and pioneering water recycling infrastructure to treat water at a proposed water recycling plant, that will then be transferred via the recently consented Havant Thicket Reservoir to Southern Water’s water supply works at Otterbourne. It proposes an enhanced use of the Havant Thicket Reservoir which is being delivered in partnership with Portsmouth Water to supply water to household and business users in the area in drought conditions. As a drought resilience scheme, the Project is only planned to be used in drought conditions – water will be abstracted from the reservoir and transferred to Otterbourne for treatment and onward supply, whilst treated wastewater from Budds Farm Wastewater Treatment Works (WTW) will be transferred to the innovative water recycling plant to produce highly-treated recycled water, before being transferred the short distance to top-up and maintain levels within the reservoir during the drought period.

1.3 The Project forms a critical part of Southern Water’s ‘Water for Life - Hampshire’ programme, which represents a significant investment into securing a resilient water supply for the household and business users in the Hampshire area. The Project could also provide longer-term resilience for Portsmouth Water and its customers, as a

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<sup>8</sup> Regulators’ Alliance for Progressing Infrastructure Development

<sup>9</sup> Defined within Section 3.2 of this document.



neighbouring water company area, should it face potential future abstraction reductions or water supply deficits. Without delivery of this Project, a large proportion of Hampshire's population would be at risk of water shortage when the weather is dry.

- 1.4 The Project is the first and only scheme to be progressed through the accelerated track of the RAPID<sup>10</sup> gated regulatory process. This bespoke process was specifically set up to facilitate the expedited funding and development of new large-scale strategic water supply options by the water companies, in recognition of the urgent need to develop new water resources to avoid future restrictions. Moreover, this is the first water recycling scheme to progress through the RAPID gated process and potentially through the DCO consenting process, and will no doubt prove instrumental in building support and demonstrating the delivery and operation of this innovative technology in the UK.
- 1.5 It is crucial therefore that this significant project is delivered at the earliest opportunity to address the deficit of water supply and provide resilience for the Hampshire area. This water supply deficit has been created largely by a change in water abstraction licences that has been agreed between Southern Water and the Environment Agency to protect the river Itchen and river Test, which are international and nationally designated chalk streams, and deliver UK international commitments under the Water Framework Directive Regulations. In drought conditions a significant deficit already exists as a result of licence changes already made. This position will significantly worsen in 2027 when further licence changes will come into effect.
- 1.6 Until the Project is built and becomes operational, there are no alternatives available to provide supplies to household and business users in the area in a drought other than securing Drought Permits and Drought Orders, which could have adverse effects on the chalk streams (Southern Water is having to rely on derogations and the Imperative Reasons of Overriding Public Interest (IROPI) test under the Habitats Regulations in relation to these Drought Permits and Drought Orders). It is very noteworthy and very pertinent that the Environment Agency's *National Framework for Water Resources 2020*<sup>11</sup> makes clear that delivering increased resilience should not rely on the increased use of drought measures to boost supplies by allowing additional abstraction during drought, where this is environmentally damaging, noting that Drought Permits and Drought Orders should be used less frequently in sensitive areas, like the river Test and river Itchen.


### ***National significance and the need for a section 35 direction***

- 1.7 The development and funding of the project through the RAPID accelerated gated process underlines the urgency in the delivery of the project. Delivery at the earliest opportunity can only be achieved by promptly securing a complex range of statutory powers, permissions, consents and licences. To deliver the urgent and established need derived from international commitments, national and legal obligations and Southern Water's statutory duty to supply customers, it is essential that a section 35 direction is given for the Project so that it can utilise the benefits of the DCO regime.
- 1.8 A section 35 direction will enable Southern Water to fulfil the pre-application obligations under the 2008 Act in relation to its intention to submit an application for development consent to the Planning Inspectorate in late 2023, and hence meet its programme for the

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<sup>10</sup> RAPID – Regulators' Alliance for Progressing Infrastructure Development

<sup>11</sup> Meeting our future water needs: a national framework for water resources, Environment Agency, 16 March 2020



Project to be operational at the earliest opportunity, as set out in its Gate 2 Planning & Consenting Strategy submitted to RAPID on 6 December 2021. Without a section 35 direction, Southern Water will be unable to progress those activities specific to the DCO consenting process, including environmental impact assessment (EIA) scoping, preparation of a Preliminary Environmental Information Report and statutory consultation.

- 1.9 Despite the urgent and compelling need for the Project and its significant nature, substantial size, complexity and wide geographical range, it does not automatically qualify under the 2008 Act as a NSIP. Water recycling is not a specified infrastructure category under section 14 of the 2008 Act, so is not capable of automatically qualifying as a NSIP. The water transfer element does not meet the thresholds and conditions set out in section 28 (transfer of water resources) of the 2008 Act because the Project will only be used for water supply during drought conditions. Principally, this is because the threshold under section 28 relates to the annual average deployable output of a project and not the maximum (peak) volume or output that the project will be sized to deliver. In this case, the Project's purpose is primarily as a drought resilience project – it will only be operated at full capacity during a drought. The calculation of deployable output therefore depends on the use of the Project in a 1 in 200 year drought event, as specified in the 2008 Act's thresholds. This would be the first significant hybrid water recycling and transfer scheme to enter the 2008 Act regime and the first drought scheme to be considered against these thresholds in practice.
- 1.10 The parts of the Project that interface with Havant Thicket reservoir also do not meet the thresholds and descriptions associated with section 27 (dams and reservoirs) or section 29 (wastewater treatment plants) of the 2008 Act.
- 1.11 Confirmation for all stakeholders that the project is to be considered within the 2008 Act regime is desirable to ensure that activities and responsibilities relevant to that regime's process can be confidently and effectively undertaken. This would provide a clear and robust basis for the consenting and delivery of the Project in a regime where the risks are manageable in the context of the need to secure delivery of the Project by early 2030.
- 1.12 Given the substantial size and extensive and complex nature of the construction and operational processes of the Project, which will require works across multiple local authority boundaries, including potentially a National Park, and through multiple sites with a multitude of statutory undertakers, owners and occupiers, it is important that Southern Water can rely upon the certainty in the determination processes and timelines associated with the 2008 Act consenting regime. This regime will enable the acquisition of the necessary land and rights over land using compulsory acquisition powers, as well as achieving a wide range of other consents, licences, permissions and statutory powers, through this single consenting process in a timely and effective way.
- 1.13 For the reasons set out in this request, Southern Water considers that the Project is of national significance and therefore should be consented under the 2008 Act regime, including with reference to and in accordance with any relevant national policy statement designated by the SoS under the 2008 Act.

## Contents

- 1.14 Further detail is provided below to support and make the case to assist the SoS in considering the request for, and giving, the direction. The qualifying request is structured as follows:
1. Introduction – this section of the request
  2. Background and overview of the Project
  3. Project description and location
  4. Regulator and stakeholder engagement
  5. Qualifying request
  6. Case for national significance
    - Needs case
    - Draft National Policy Statement for water resources infrastructure
    - Deployable output
    - Economic significance
    - Contributing to the UK’s environmental objectives
    - Size, geographic reach and impacts of the Project
    - Timely and comprehensive delivery of consents
    - Benefits of a single authorisation process
  7. Conclusion
- 1.15 A glossary of terms used through this request is included at **Appendix A**.
- 1.16 A draft of the section 35 direction sought for the Project has been included at **Appendix B**.
- 1.17 An indicative site / route plan of the proposed project is included at **Appendix C**

## 2. Background and overview of the Project

- 2.1 Southern Water supplies water and provides wastewater services to over four million customers in the South East of England. Southern Water’s operations cover Hampshire, Kent, the Isle of Wight and East and West Sussex, traversing over 700 miles of coastline,



National Parks, forests and Areas of Outstanding Natural Beauty (AONB) which are critical to the south-east of England.

- 2.2 Southern Water published its final *Water Resources Management Plan (2020 – 2070)*<sup>12</sup> in December 2019 (WRMP19), confirming Southern Water's 'Preferred Strategy' to supply drinking water to Kent, Sussex, Hampshire and the Isle of Wight. WRMP19 identifies that most of Southern Water's supply zone is 'seriously water stressed' and that the demand for water can be higher than the amount available.
- 2.3 In Hampshire, WRMP19 identified an existing significant deficit in drought conditions which was forecast to significantly worsen in 2027. This followed a planned abstraction licences public inquiry in March 2018 into proposed reductions to a number of Southern Water's abstraction licences, which was averted by Southern Water entering into a section 20 operating agreement with the Environment Agency under the Water Resources Act 1991<sup>13</sup> (section 20 Agreement). As a result of these licence changes made to protect the rivers Test and Itchen, both of which are internationally and nationally designated chalk streams, Southern Water can no longer abstract water from the rivers Test and Itchen under low flow conditions, resulting in a shortfall of approximately 190MI/d of water by 2027 in south Hampshire during a 1-in-200 year drought event.
- 2.4 In the absence of any alternative sources, the section 20 Agreement provides for Southern Water to rely on Drought Permits and Drought Orders that will authorise abstractions affecting the rivers Test and Itchen for an interim period until an alternative longer-term solution is put in place. At the time the section 20 Agreement was agreed, it was expected this could be by 2027. Subsequent to the section 20 Agreement, the WRMP19 Preferred Strategy set out an adaptive plan to provide the long-term solution, with a series of demand management and significant new infrastructure solutions required to be explored and delivered, with the final part of the Preferred Strategy delivered in 2029.
- 2.5 The deadline for use of the rivers for abstraction purposes is driven by UK obligations under the Water Framework Directive (WFD)<sup>14</sup> ecological objectives timetable, which requires all water bodies to achieve 'good ecological and chemical status' by 2027. Whilst the UK has withdrawn from the EU, the Directive continues to have effect in the UK through the Water Environment Regulations 2017<sup>15</sup>. Regulation 3(1) requires the SoS and the Environment Agency to exercise their relevant functions so as to secure compliance with the requirements of the WFD. Regulation 3(4) provides that the SoS and the Environment Agency must exercise their relevant functions in relation to each river basin district so as best to secure that the requirements of the WFD for the achievement of the environmental objectives, and in particular programmes of measures, are coordinated for the whole of that district. The UK will not meet the deadline in relation to achieving environmental objectives under the WFD unless alternative water supplies (such as the Project) are urgently put in place in a way that will be resilient in the longer term. In giving

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<sup>12</sup> Water Resources Management Plan 2019: Technical Overview (Southern Water, 2019), available at:

<https://www.southernwater.co.uk/media/3657/wrmp19-technical-overview.pdf>

<sup>13</sup> Water Resources Act 1991, available at: <https://www.legislation.gov.uk/ukpga/1991/56/contents>

<sup>14</sup> EU Water Framework Directive, 2000/60/EC, available at: [https://ec.europa.eu/environment/water/water-framework/info/intro\\_en.htm](https://ec.europa.eu/environment/water/water-framework/info/intro_en.htm)

<sup>15</sup> The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 available at: <https://www.legislation.gov.uk/uksi/2017/407/contents>

the section 35 direction sought the SoS would give effect to and demonstrate exercise of relevant functions to enable Southern Water to use its 'all best endeavours' to secure compliance with the WFD.

- 2.6 A key component of Southern Water's WRMP19 Preferred Strategy was a proposal for a desalination plant at Fawley which was intended to provide up to 75MI/d of the 190MI/d shortfall. Alongside this, WRMP19 identified a number of strategic alternatives to be investigated in parallel in order for there to be sufficient confidence in the delivery of either the preferred or alternative options in line with the timings set out in WRMP19. WRMP19 is an adaptive plan, and the strategy and supporting information published in the plan specifically highlighted the risks and uncertainties relating to implementation, and that alternatives (including water recycling options) would need to be investigated and potentially promoted in order to address the water supply shortfall.
- 2.7 In the context of the section 20 Agreement, delivery at the earliest opportunity of a strategic water resource project capable of providing a significant proportion of the overall shortfall was therefore critical to address the forecast deficit of water supply for household and business users in Hampshire. That position remains unchanged as a result of the Project now being progressed. The section 20 Agreement commits Southern Water to using 'all best endeavours' to implement its strategic water resource project as set out in its Preferred Strategy in WRMP 19, or as may be revised by future WRMPs. The fundamental aim of the section 20 Agreement to secure compliance with WFD objectives by protecting internationally significant chalk streams and river habitats highlights the national significance of the Project.
- 2.8 Through Southern Water's options appraisal process undertaken in 2021, it has been determined that the new strategic resource project of a desalination plant at Fawley, referred to in the WRMP19 Preferred Strategy, is not consentable and deliverable in the proposed location at this time. Through investigation of the WRMP19 alternative options, a new strategic water resource project was identified through the options appraisal, namely the Project. The Project is consistent with the alternative options identified within WRMP19 through its adoption and reliance on large-scale water transfers from Portsmouth Water (themselves reliant on the proposed Havant Thicket reservoir), and water recycling from large-scale wastewater treatment works in south Hampshire.
- 2.9 Southern Water's Interim Update and Gate 2 submissions to RAPID in September and December 2021 respectively reflected this position, noting that the Project would now be progressed through the accelerated RAPID gated process instead of the previous desalination proposal. The same has been reflected in Southern Water's WRMP19 Annual Review (December 2021) and the draft Regional Plan (on which consultation took place in January and February 2022), and will feature in the draft of Southern Water's WRMP24 to be submitted to the SoS in Summer 2022.
- 2.10 In light of the options appraisal process undertaken in 2021 and its impact on timelines, the Project cannot be delivered to the original WRMP19 and section 20 Agreement timescales. It will be necessary to review the section 20 Agreement to reflect the revised timelines and to ensure that Southern Water can continue to meet its supply duty after 2027.
- 2.11 For the Project to be implemented at the earliest opportunity, Southern Water's project schedule requires an application for development consent to be submitted to the SoS in

2023. Southern Water confirmed its preferred consenting strategy of making a request for a section 35 direction to bring the Project into the DCO regime in its Gate 1 submission to RAPID in September 2020, and more recently in its Gate 2 submission of December 2021. The consenting strategy makes reference to the certainty of timely delivery and the largely single authorisation of consents enabled by the 2008 Act regime as being critical for the timely delivery of the Project. It would also provide the Project with the clarity and direct support of national policy, in the form of the expected National Policy Statement for Water Resources Infrastructure, which confirms that the 'need' for a particular scheme is established when it is included in a WRMP.

- 2.12 RAPID has confirmed in its Gate 2 'Draft Determination' for the Project that the planning strategy has been assessed as 'good', which provides Southern Water with confidence that it has properly explored the consenting routes available and made a robust decision in selecting its preferred route as the DCO process.
- 2.13 It is crucial that a section 35 direction is therefore given to enable Southern Water to fulfil its pre-application obligations as a prospective applicant under the 2008 Act regime to achieve the programmed submission date of the DCO application in 2023.

### 3. Project description and location

- 3.1 This section provides an explanation of the Project description and location to enable an understanding of its substantial size and geographic extent.
- 3.2 The principal elements of the Project that would be included in the intended DCO application are:
- A circa 40km underground pipeline (approximately 1000mm diameter) to transfer at peak operation (i.e. in a drought scenario) approximately 90MI/d of water from Havant Thicket Reservoir to Otterbourne Water Supply Works (WSW);
  - A Water Recycling Plant (WRP) in the vicinity of Budds Farm Wastewater Treatment Works (WTW) with a peak output of at least 15MI/d of recycled water;
  - Two circa 0.5km underground pipelines, at minimum 19MI/d transfer volume, to transfer at peak operation (1) at least 19MI/d of treated wastewater between Budds Farm WTW and the proposed WRP; and (2) waste arising from the water recycling process from the WRP back to the Budds Farm WTW<sup>16</sup> prior to discharge via the existing long-sea outfall at Eastney;
  - A circa 3.5km underground pipeline to transfer at peak operation at least 15MI/d of recycled water from the WRP to Havant Thicket Reservoir;
  - A high lift pumping station, either located at the site of the WRP or located along the underground water transfer pipeline between Havant Thicket Reservoir and Otterbourne WSW; and
  - A second stage pumping station and break pressure tank located along the underground water transfer pipeline between Havant Thicket Reservoir and Otterbourne WSW.

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<sup>16</sup> The waste return pipeline to Budds Farm WTW must have the same minimum transfer volume as the treated wastewater supply pipeline in the event of a WRP failure and the need to send flows back to the WTW.

3.3 Construction and operation of these principal elements of the Project would be supported by provision in the DCO application for ‘associated development’<sup>17</sup>. Associated development is not required to be consented by a DCO and is not included within the scope of this request for a section 35 direction to maintain flexibility for how associated development is consented and delivered. The associated development, however, could include but is not limited to:

- temporary works to support construction;
- permanent works to support operation and maintenance;
- accesses and utility connections for the site including electrical sub-stations, telecoms, water and sewerage facilities; and
- landscaping, environmental mitigation, enhancement and compensation measures.

3.4 As illustrated in Figure 1 below, the existing Budds Farm WTW, site of the new WRP, water transfer pipeline between WRP and Havant Thicket Reservoir, and Havant Thicket Reservoir itself, are located within the administrative area of Havant Borough Council. The Otterbourne WSW is located within the administrative area of Winchester City Council. Hampshire County Council is the county planning authority for all elements of the Project.

**Figure 1. Indicative schematic plan of the Project**



<sup>17</sup> In accordance with subsections (2) to (4) of section 115 of the Planning Act 2008




- 3.5 The Project would interface with Portsmouth Water's Havant Thicket Reservoir project, which secured planning permissions given by the local planning authorities of Havant Borough Council and East Hampshire District Council in late 2021. Discussions with Portsmouth Water are ongoing regarding the required connections between the Project and the new reservoir. It is anticipated that the minor enabling works required within the footprint of the reservoir to future-proof for these future connections could potentially be delivered through the detailed approvals for the reservoir planning permission, and do not necessarily need to form part of any DCO application for the Project. Southern Water anticipates that a DCO for the Project could encompass any consequential alterations to the operating regime for the reservoir as may be necessary.
- 3.6 In respect of the proposed WRP, this is currently proposed to have a peak output of at least 15MI/d, however, future needs modelling indicates that this facility could potentially be required from 2040 to deliver a peak output of 60MI/d in order to provide drought resilience to the neighbouring Portsmouth Water area in addition, as a result of possible future sustainability reductions on water abstractions. This additional requirement is likely to be confirmed through further modelling in 2022 and Southern Water will ensure that its scheme development and site selection for the proposed WRP takes into account this potential future need requirement. Should it be confirmed, then Southern Water's DCO would seek consent for the larger facility. It is important that any section 35 direction therefore specifies a WRP with a peak output of **at least** 15MI/d to provide the flexibility for Southern Water to seek consent for a larger facility in response to the emerging regional need.
- 3.7 Similarly, an enlarged WRP at this scale would also require both of the pipelines connecting from the nearby Budds Farm WTW and the pipeline going from the WRP to Havant Thicket Reservoir to be sized to deal with equivalent peak transfer volumes (i.e. 60MI/d). It is therefore essential that any section 35 direction provides sufficient flexibility by not precluding these potentially larger sizings for the WRP and its connecting pipelines should it be required to provide for increased regional resilience beyond Southern Water's water supply zones.
- 3.8 In respect of the main water transfer pipeline proposed between Havant Thicket Reservoir and Otterbourne WSW, this was originally intended to deliver a peak transfer volume of at least 75MI/d, although more recent modelling has confirmed the need for an approximate 90MI/d peak transfer volume requiring a substantial pipeline diameter of approximately 1000mm. For all of the underground water transfer pipelines, further site and route selection work is ongoing to determine the preferred route corridors and the locations for associated pumping stations and a break pressure tank.
- 3.9 The route corridors currently being considered for the water transfer pipelines traverse the administrative areas of Portsmouth City Council, Eastleigh Borough Council, Winchester City Council, Havant Borough Council, Fareham Borough Council and South Downs National Park Authority. Hampshire County Council is the county planning authority for all of the route corridors.
- 3.10 Construction methods for the Project are yet to be determined, although at this stage it is assumed that construction of the pipelines will be through a mix of cut and fill and no-dig techniques. There will be a number of complex crossings of existing major transport and utility infrastructure, including some nationally significant infrastructure projects.



- 3.11 The proposed pipeline connection between Budds Farm WTW and the site of the new WRP would be located adjacent to the Chichester and Langstone Harbours Special Protection Area (SPA), which has been designated for important bird species that breed and feed in the area. The main water transfer pipeline between Havant Thicket Reservoir and Otterbourne WSW may need to pass under or over the river Itchen Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), and could also be located within the South Downs National Park, designations which carry a high level of protection under national planning policy.

## 4. Regulator and Stakeholder engagement

- 4.1 Southern Water has already undertaken stakeholder consultation and engagement on the Project and the wider Water for Life - Hampshire programme, and this will continue as the Project is progressed through the consenting process. In February 2021, Southern Water undertook a non-statutory public consultation on its strategic water resource options being considered under the Water for Life - Hampshire programme. The purpose of the non-statutory consultation was to consult on Southern Water's desalination proposal as presented in its WRMP19 Preferred Strategy, and to introduce the alternative water recycling and transfer options (including the Project) should the desalination proposal be found to be undeliverable in the identified location. An online questionnaire was created to allow people to respond to the consultation.
- 4.2 Nearly 200 responses were received from the public and key stakeholders. Whilst the majority of feedback raised concerns about the potential impacts of the proposed desalination project, both water recycling and water transfer alternatives were viewed as generally being more acceptable alternative solutions, based on the limited information available. Respondents were generally supportive of water recycling due to the perceived likelihood of lower environmental damage, albeit concerns were noted on the alternatives in respect of disruption to the local environment and community. The feedback received was considered as part of Southern Water's options appraisal process during 2021. The options appraisal work supported a move away from the desalination proposal in favour of the Project.
- 4.3 Since completion of the non-statutory consultation exercise, Southern Water has carried out regular update meetings on the Water for Life - Hampshire programme and the Project. This has included engagement with many of the key stakeholders specified under the various planning and regulatory regimes applicable to the delivery of the Project including Ofwat, the Department for Environment, Food and Rural Affairs ('Defra'), the Planning Inspectorate, statutory environmental bodies (Environment Agency, Natural England, Historic England and the Marine Management Organisation) and local authorities. Some of the statutory environmental bodies in particular have supported Southern Water's decision, following the extensive options appraisal process in 2021, to discontinue its desalination proposals in favour of the Project given the potential landscape, environmental and ecological impacts associated with the desalination scheme.
- 4.4 Southern Water has provided regular briefings on the Project to officers of the local authorities and has commenced a programme of regular engagement with those officers



to be undertaken throughout the preparation and development of the Project in the pre-application stage. To date, local authority officers have engaged constructively on the Project, recognising the need for a strategic solution and the reasons for moving away from the previous desalination scheme, and have welcomed the regular briefings and initial engagement already undertaken.

- 4.5 Wider stakeholder forums, including local authorities, statutory and non-statutory bodies, and other interested parties, have been and continue to be held to update on Southern Water's Gate 2 regulatory submission to RAPID and, in particular, how the Project is now starting to be progressed through the consenting process and how interested parties will be actively engaged and consulted in that process. No significant objections have yet been raised from Southern Water's key stakeholders in respect of Southern Water's intention to utilise the DCO consenting process, although it is anticipated that some local authorities will naturally wish to retain decision-making powers over developments within their areas.
- 4.6 Collaboration with Portsmouth Water is ongoing to understand how the Project will integrate with the planned Havant Thicket Reservoir, including technical design and alignment of consenting and construction programmes, and will continue to inform the development of the Project.
- 4.7 Engagement has also commenced with key stakeholders across a number of technical disciplines (e.g. planning, environmental impact assessment, scheme development and land interests) as Southern Water progresses the pre-application engagement activities for the Project. In addition to ongoing individual and stakeholder group engagement, this will include up to two additional stages of public consultation (both statutory and non-statutory) in accordance with the requirements of and guidance in relation to the 2008 Act and DCO consenting regime. This will enable all interested parties to provide meaningful input into Southern Water's emerging proposals.
- 4.8 In parallel, Southern Water has commenced engagement with identified registered land owners of all currently identified potential main sites (including WRP infrastructure and water transfer pipelines), to obtain information on known land interests and constraints, and to secure access for environmental surveys and investigations. Following submission of this request, Southern Water will continue to engage with land interests in accordance with section 42(1)(d) of the 2008 Act. Early negotiations with landowners regarding potential option agreements for securing land interests for the Project will also shortly commence.
- 4.9 The engagement undertaken during 2021 and early 2022 builds on the wider statutory public and stakeholder engagement undertaken as part of the preparation of WRMP19 and the 2019 and 2022 Drought Plans. Stakeholders have acknowledged this engagement as the logical next step in supporting the more detailed development of the Project through the consenting process.
- 4.10 Southern Water has also had regard to the timescales for consultation that has been and will be undertaken in respect of the draft Water Resources South East (WRSE) Regional Plan in Q1 2022, and draft WRMP24 later in 2022. It has sought to align as far as possible public consultation on the Project with these other statutory processes, in particular consultation on its WRMP24, the latter of which will reaffirm and cement the Project as the key plank in Southern Water's Water for Life – Hampshire programme. Southern Water

anticipates that by the time a DCO application for the Project is submitted in late 2023, WRMP24 will be in place.

## 5. Qualifying request

- 5.1 Section 35(1) of the 2008 Act states that the SoS may give a direction for development to be treated as development for which development consent is required. The provisions of section 35 of particular relevance to the Project are:
- the development is or forms part of a project (or proposed project) in the field of energy, transport, water, wastewater<sup>18</sup>;
  - the development would (when completed) be wholly in England or waters adjacent to England up to seaward limits of the territorial sea<sup>19</sup>; and
  - the SoS thinks the project (or proposed project) is of national significance, either by itself or when considered with one or more projects (or proposed projects) in the same field<sup>20</sup>.
- 5.2 The project for which a section 35 direction is sought, namely the Project, is principally a water transfer pipeline and water recycling plant. Section 14 'Nationally significant infrastructure projects: general' of the 2008 Act defines the types of development that, subject to sections 15 – 30A, automatically constitute a 'nationally significant infrastructure project' and therefore require development consent under section 31 ('When development consent is required'). The Project is a proposed project in the field of water and is therefore within the scope of section 35(2)(a)(i) of the 2008 Act.
- 5.3 The Project will be carried out in England by one or more water undertakers. The Project will enable the transfer of water resources between water undertakers' areas in England and does not directly relate to the transfer of drinking water. The Project also includes the treatment and transfer of recycled wastewater as well as an interface with, and increase in deployable output from, a reservoir.
- 5.4 The Project is proposed to be located wholly in England or within waters adjacent to England up to the seaward limits of the territorial sea. The Project is therefore within section 35(2)(b) and (3)(a).
- 5.5 Section 6 below explains why the Project can be considered by the SoS to be a project of national significance, in accordance with section 35(2)(c)(i).
- 5.6 Section 35ZA(1) states that the power in section 35(1) to give a direction in a case within section 35(2)(a)(i) is exercisable only in response to a qualifying request if no application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development to which the request relates. Southern Water confirms that no application for consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the principal elements of the Project to which this request under section 35 relates.

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<sup>18</sup> Section 35(2)(a)(i) of the Planning Act 2008

<sup>19</sup> Section 35(2)(b) and (3)(a) of the Planning Act 2008

<sup>20</sup> Section 35(2)(c)(i) of the Planning Act 2008

- 5.7 Section 35 ZA(11) defines a 'qualifying request' as meaning "a written request for a direction under section 35(1) that:
- a) specifies the development to which it relates, and
  - b) explains why the conditions in section 35(2)(a) and (b) are met in relation to the development".
- 5.8 This request represents a 'qualifying request' as it is made in writing and specifies the development to which it relates (see section 3 above). Furthermore, as confirmed in this section, the conditions in section 35(2)(a) and (b) are met.

## 6. Case for National Significance

### Introduction

- 6.1 This section provides information to assist the SoS in determining whether the Project is of 'national significance', either by itself or when considered with one or more projects (or proposed projects) in the same field, as per section 35(2)(c)(i) of the 2008 Act.
- 6.2 The Project is significant as an infrastructure project in its own right, but also as a key component in a wider nationally significant programme of works set out in the WRMP19 Preferred Strategy, the emerging WRSE Regional Plan and WRMP24, which would address a forecast deficit in water supply for a projected population of over 850,000 people in Hampshire. In conjunction with the Havant Thicket Reservoir project, the Project is a strategically important water resource for the south of England and will play a critical role in meeting the water resources needs and resilience of this large geographical region, which in itself makes it nationally significant.

### Needs Case – WRMP19, Section 20 Agreement and WFD

- 6.3 The Project is a public water supply project being delivered by Southern Water in accordance with and further to its WRMP19, and with funding under the RAPID Gated Process, as required by section 37A of the Water Industry Act 1991<sup>21</sup> and subsequent legislation. In addition, the Project will be reflected in Southern Water's draft WRMP24 and is included in the emerging draft WRSE Regional Plan.
- 6.4 As highlighted in section 2 of this document, reductions to abstraction licences agreed through the section 20 Agreement with the Environment Agency result in a modelled shortfall by 2027 of approximately 190Ml/d of water a day in south Hampshire during a 1-in-200-year drought event. Whilst ensuring protection of the rivers and surrounding environment, this puts businesses and the growing population of a large proportion of Hampshire under very significant risk of water shortage when the weather is dry. The South East is identified as an area of significant economic growth and there is a need to have effective, integrated and resilient water infrastructure that is fit for purpose to meet the constant needs of a growing population. If Southern Water does not ensure that there is sufficient supply in its network when the weather is dry, the needs of existing communities and economic activities will not be sustained.

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<sup>21</sup> Water Industry Act 1991, available at: <https://www.legislation.gov.uk/ukpga/1991/56/contents>



- 6.5 The scale of the deficits arising as a result of the abstraction licence changes already introduced are so significant that there is a lack of sufficient alternative sources of supply available to Southern Water to maintain supplies to customers in a drought, other than by recourse to temporary Drought Permits and Drought Orders. Southern Water has funded a significant package of environmental monitoring, mitigation and compensation through the section 20 Agreement to enable it to rely on Drought Permits and Orders as an interim measure pending the implementation of the long-term infrastructure solution, but these interim measures are not a solution in themselves. For the river Itchen, abstraction relies on an IROPI case under the Habitats Regulations, and so reliance on these licences is and can only be temporary. The Environment Agency's *National Framework for Water Resources 2020*<sup>22</sup> makes clear that increased resilience should not rely on the increased use of drought measures to boost supplies by allowing additional abstraction during drought, where this is environmentally damaging, noting that Drought Permits and Orders should be used less frequently in sensitive areas.
- 6.6 The long-term infrastructure solution, namely the Project, needs to be consented and implemented rapidly to safeguard customer supplies and to protect the environment, without recourse to Drought Permits and Drought Orders over the longer term. Until the Project is implemented, should Drought Permits and Orders not be approved, households and businesses in the area face serious restrictions to their water supply, which at its extreme could involve rota cuts<sup>23</sup> and standpipes in a drought.
- 6.7 Furthermore, WFD objectives require all water bodies to achieve a 'good ecological and chemical status' by 2027, or risk non-compliance. Unsustainable abstraction from Hampshire's iconic chalk streams during drought conditions and the potential ecological harm and deterioration pose a serious threat to WFD compliance. In its policy paper *Water abstraction plan: Environment*, Defra is clear that water companies are under a duty to have regard to the WFD and have a vital role to play in delivering environmental improvements.
- 6.8 The section 20 Agreement with the Environment Agency places a legally binding obligation on Southern Water to use 'all best endeavours' to implement a long-term scheme for alternative water resources as set out in its final WRMP19, as may be revised by future WRMPs, which includes delivering the strategic resource solution as components of its Preferred Strategy at the earliest opportunity. The novel nature of this obligation illustrates the urgent need for and national significance of the Project in securing compliance with national environmental objectives.
- 6.9 As noted in section 2, the Project is derived from the adaptive planning approach in WRMP19. Following the WRMP19 desalination project now not being considered consentable in the proposed location at this time, the Project will deliver the alternative options consistent with WRMP19, through reliance on pioneering water recycling from large-scale wastewater treatment works in south Hampshire and significant water transfers from Portsmouth Water (themselves reliant on Havant Thicket Reservoir). The Project would serve a projected population of over 850,000 people across Hampshire during drought conditions and would be a critical piece of infrastructure in meeting the water supply deficit.

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<sup>22</sup> Meeting our future water needs: a national framework for water resources, Environment Agency, 16 March 2020

<sup>23</sup> Normally involving restrictions to the availability of water supply.



- 6.10 WRSE's emerging Regional Plan for the period 2025 to 2100 will be seeking to increase drought resilience for the South East of England to 1:500 year resilience and Southern Water's WRMP24 will also be prepared on this basis. An emerging draft of the Regional Plan was published for consultation and engagement in January 2022. The Project is selected as a core component of the emerging Regional Plan for implementation as soon as possible, in order to contribute towards the significant existing supply deficits being faced in the whole South East region.

### **Draft National Policy Statement for Water Resources**

- 6.11 The draft National Policy Statement<sup>24</sup> for Water Resources (dNPS) states that if a project of national significance is included in a published final WRMP, the need for that project would have been demonstrated in line with Government policy and the applicable statutory requirements and does not need to be revisited as part of the application for development consent. The dNPS therefore places weight on the need established in WRMPs for projects approved through a final WRMP, like the Project. Water transfer and water recycling solutions are included as significant components in Southern Water's WRMP19 Preferred Strategy.
- 6.12 In addition, the Project has been included in Southern Water's WRMP19 Annual Review submitted on 03 December 2021 and subsequently published, is reflected in the emerging WRSE Regional Plan and will also be included in Southern Water's draft WRMP24. These latter two plans will both be subject to consultation and engagement and are expected to be in place in their final form by the programmed time for the determination of Southern Water's application for consent for the Project. The inclusion of a project in a WRMP brings greater certainty into the planning and consenting process for the Project and further evidences the demonstrable need for it.
- 6.13 Paragraph 1.4.6 of the dNPS states "*The Secretary of State will also consider applications for development consent for projects which do not meet the NSIP criteria, as set out in sections 27, 28 and 28A of the Planning Act, but which the Secretary of State directs are to be treated as a development for which development consent is required under section 35 of the Planning Act. Where a section 35 direction is made in relation to a scheme which has been identified as a preferred option in a final WRMP, this NPS may apply*<sup>25</sup>".
- 6.14 With regards to water resource technologies, such as water recycling, that are not within section 14 of the Planning Act 2008, paragraph 2.6.14 of the dNPS states "*other infrastructure types or technologies, not specified in the Planning Act that do not meet the definition of an NSIP, may be considered under the Planning Act following a direction by the Secretary of State under section 35, as set out in section 1. This could include other options to enhance the storage capability of the water supply system and water available for use, including but not limited to aquifer re-charge and effluent re-use schemes.*"
- 6.15 More specifically, paragraph 2.6.15 states that "*recycled water can have the advantage of being a constant, reliable supply of water and may reduce the amount of water extracted from the environment. Whilst not identified as a separate water resource activity in the*

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<sup>24</sup> Draft National Policy Statement for Water Resources Infrastructure (Department for Environment Food & Rural Affairs, 2018) available at: [https://consult.defra.gov.uk/water/draft-national-policy-statement/supporting\\_documents/draftnpswaterresourcesinfrastructure.pdf](https://consult.defra.gov.uk/water/draft-national-policy-statement/supporting_documents/draftnpswaterresourcesinfrastructure.pdf)

<sup>25</sup> In accordance with section 104 of the Planning Act 2008, where a national policy statement has effect in relation to development of the description to which the application relates.

*Planning Act, large scale effluent reuse is likely to result in large transfers. In such circumstances the transfer may qualify as an NSIP, when assessed against the relevant threshold in the Planning Act or through a section 35 referral.”*

- 6.16 This is an important policy position when considering the increasing level of drought resilience that water companies are required to plan for, as it is acknowledged in the dNPS that solutions like larger reservoirs can provide a good level of resilience during a short term drought; however, they are not as resilient as other infrastructure types such as effluent reuse (i.e. water recycling) during longer term drought<sup>26</sup>. This further highlights the need to enable complex water recycling schemes to be effectively consented and delivered as part of the water resources planning mix.
- 6.17 Southern Water considers that the Project is included within the Preferred Strategy in WRMP19, as explained above, and will be included in its draft WRMP24. In addition, the options appraisal process for identifying the Project as the most appropriate option to take forward has been undertaken having regard to and in a manner consistent with the Water Resources Planning Guideline<sup>27</sup>, and so meets with the requirements of section 2.5 of the dNPS in relation to the role of water resource management plans in identifying the need for a project. The dNPS specifically acknowledges the prospect of ‘other infrastructure’ outside of the infrastructure types specifically listed in section 14 of the 2008 Act being brought into the Planning Act 2008 regime following a section 35 direction by the SoS, including water recycling schemes like the Project, and that where a section 35 direction is given, the NPS may apply to the determination of any resulting DCO application for the infrastructure project concerned.


## **Deployable output**

- 6.15 As presented in WRMP19, the strategic resource option was determined to require an output of up to 75MI/d in order to contribute (as a significant part of the Preferred Strategy) to resolving the water supply deficit within the Hampshire area, based on a 1:200 drought scenario. Modelling is ongoing for the WRSE Regional Plan and future WRMP 24, and there is a need to now also consider a 1:500 extreme drought scenario (which was not part of WRMP19), potentially requiring a strategic resource option with a greater output than identified and supported in WRMP19. This may be required in any case given uncertainties associated with the deliverability of some of the bulk transfer solutions and other initiatives and measures which form part of the WRMP19 Preferred Strategy.
- 6.16 As part of its options appraisal process leading to the selection of the Project as the preferred solution to address the water supply deficit, Southern Water undertook analysis of how the Project could potentially evolve through the design process and via the emerging Regional Plan outputs and WRMP24 to meet future needs. The Future Needs Statement prepared by Southern Water for its Gate 2 submission to RAPID in December 2021 identified the need for its strategic resource option to deliver an increased output of 87-95MI/d of raw water to its Otterbourne WSW.
- 6.17 Further ongoing modelling since Southern Water’s Gate 2 submission has refined this need to a peak transfer of approximately 90MI/d of raw water to Otterbourne WSW. It has also confirmed the short-term requirement for the water recycling plant to deliver at least

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<sup>26</sup> Paragraph 2.6.6.

<sup>27</sup> <https://www.gov.uk/government/publications/water-resources-planning-guideline/water-resources-planning-guideline>



15MI/d of recycled water for transfer to the reservoir. However, there is potentially a longer-term requirement for this to increase to 60MI/d to meet a wider regional need, specifically for Portsmouth Water, in the event that its water supply zone is also subject to possible sustainability reductions on water abstractions. The development of the Project and ongoing modelling will be undertaken in parallel with work on the emerging Regional Plan and the draft WRMP24 to confirm this longer-term requirement.

- 6.18 At this stage, Southern Water would therefore like to ensure that there would not be a need to change or supplement the consenting route in future should it be necessary to deliver a larger project, and to request a direction from the SoS with adequate flexibility to allow for scheme development and evolution to ensure greater resilience.
- 6.19 Southern Water is therefore requesting that the section 35 direction specifies the peak transfer volume of the main water transfer pipeline element of the Project (i.e. from Havant Thicket Reservoir to Otterbourne) as 'approximately 90MI/d', and the peak output of the WRP as 'at least 15MI/d'. This will ensure that when the modelling work is complete, if any upward adjustments are needed to peak volumes and outputs, Southern Water can accommodate these within the scope of the section 35 direction, which would enable the Project to progress through the 2008 Act regime in accordance with the current programme.
- 6.20 Southern Water acknowledges that with regard to the main water transfer element of the Project, this would have a peak (drought scenario) transfer volume of approximately 90MI/d, which does not meet the 'deployable output' NSIP threshold of 80MI/d for a water transfer scheme within section 28 of the 2008 Act. This is because the definition of deployable output requires consideration of an annual average in a 1 in 200 year drought. Southern Water's modelling currently indicates that the Project would be in operation on a "sweetening flow" basis for most of the year (at approximately 5MI/d) to maintain the infrastructure in readiness to operate in the event of a severe drought. The sweetening flow would then gradually increase to a peak output during drought conditions lasting for around three months. When this usage is averaged across the year, it is below the threshold set out in section 28.
- 6.21 However, it is important to note that the infrastructure required is no different to that which would be required if the scheme were in operation all year round – its location, size, scale, complexity and likely impacts are not diminished by the fact it is only planned to be used in a drought. It is still a significant and extensive project.
- 6.22 If it was the case that the Project was proposed to be operated at a transfer volume of approximately 90MI/d full time, it would exceed the 80MI/d deployable output threshold. The peculiarity of this threshold is that two physically identical water transfer schemes with the same transfer volumes in excess of 80MI/d could either sit within or outside of the NSIP thresholds depending solely on how often the plant was proposed to be operated (i.e. the scheme to be operated only in a drought would not meet the thresholds but the scheme to be operated full time would). Both schemes would still require the same multiple applications for consents, permissions, land interests and licences and the same multiple local authorities and consultees would be impacted and engaged by the proposals.

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- 6.23 In light of this, it is considered necessary and appropriate to secure designation of the Project as a project of national significance to be treated as a development for which development consent is required.
- 6.24 Southern Water has also considered whether the Project has the potential to be considered as an alteration to an existing reservoir within the meaning of section 27 of the 2008 Act, which in this case would relate to an alteration to the Havant Thicket Reservoir, for which planning permission has been granted and which is to be constructed by Portsmouth Water. Southern Water does not consider that the Project will require physical alterations to the consented reservoir, although there may be a need for some enabling associated interface works that are currently anticipated to be delivered via either an enabling works planning application or through implementation of the existing planning permissions. There will be no increase in the volume of water to be stored in the reservoir as a result of the Project. Its consented cubic capacity will not therefore be increased.
- 6.25 For the reasons explained above in relation to the deployable output of the water transfer element of the Project, it is also not considered that the Project will result in an additional deployable output of the reservoir in excess of 80Ml/d because the Project will only be used for water supply during drought conditions. The Project is therefore not expected to meet the thresholds in relation to the alteration of a reservoir set out in section 27 of the 2008 Act.

## **Economic significance**

- 6.30 Chapter 3 of the Government *National Infrastructure Strategy*<sup>28</sup> acknowledges the PR19 funding from Ofwat for water companies to progress strategic new water resource and transfer infrastructure and the role of RAPID to support their delivery by overcoming barriers which might hamper the development of strategic schemes.
- 6.31 The Project would involve a major investment in Hampshire and would secure resilient water supplies for the County's communities and businesses in drought conditions. Critically, the Project would make a significant contribution to the economy in Hampshire by mitigating the risks of debilitating water restrictions for both businesses and households in drought conditions, with the consequential economic impacts that these would bring.
- 6.32 The National Infrastructure Commission, in its report *Preparing for a drier future*<sup>29</sup> estimates that the costs of providing longer term water resilience infrastructure are significantly less than the cost of emergency response measures to maintain water supplies. This doesn't include the cost of subsequent emergency restrictions in the event water supplies cannot be maintained, such as restricting or even cutting off supplies to households and businesses, both of which it notes are unlikely to be publicly or politically acceptable. It highlights that most options would incur very high costs and some would result in severe environmental damage and risks to public health.
- 6.33 Furthermore, the Project would create direct and indirect jobs itself, and there would be significant supply chain opportunities and support for national, regional, and local businesses, in addition to safeguarding and supporting economic growth within the Solent

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<sup>28</sup> <https://www.gov.uk/government/publications/national-infrastructure-strategy>

<sup>29</sup> *Preparing for a drier future: England's water infrastructure needs*, National Infrastructure Commission, 2018



and wider Hampshire sub-region through securing resilient water supplies for domestic and business customers.

- 6.34 In advance of the abstraction licences inquiry in 2018, Southern Water obtained evidence from Vivid Economics on the estimated economic impacts of the imposition of water restrictions and other drought measures that could be necessary should the abstraction licences be changed and additional infrastructure such as the Project not be implemented. Evidence was presented for both business and household impacts. For businesses, the evidence identified that the Gross Value Added (GVA) in the area affected was £22.6 billion (in 2017 prices), giving a daily GVA figure estimated at £62million. It was clearly identified that as drought restrictions increase in severity (as the drought itself becomes more severe), so does the impact on GVA, leading up to an estimated £23m a day GVA being lost at the highest level of water use restrictions (level 4 restrictions). For households, it was estimated that level 4 restrictions could lead to £34m a day of impacts.
- 6.35 Whilst there may be some uncertainty in these estimates, it is clear that the socio-economic costs of one drought that causes level 4 water use restrictions across Hampshire would easily exceed the costs of the new water resource solution. For example, when looking at potential costs to businesses alone, a drought lasting only 45 days would incur over £1 billion in economic costs (at £23 million per day), as would a drought of 90 day duration if those economic costs were half the Vivid Economics estimates (at £11.5 million per day).
- 6.36 Drought incidents can clearly result in significant impacts on local businesses and households. The Project will ensure resilient and secure supplies over the longer-term, substantially mitigating the risk of level 4 restrictions being needed in a drought and avoiding the consequential economic impacts on customers and the economy as a whole.


## **Contributing to the UK's environmental objectives**

- 6.39 The Project would make a significant contribution to the UK Government's environmental objectives, international commitments and policy priorities.
- 6.40 The dNPS acknowledges that new water resources infrastructure projects have the potential to deliver significant benefits and enhancements resulting in environmental net gain. The UK Government's *National Infrastructure Strategy*<sup>30</sup> states that delivering vital infrastructure whilst protecting and improving the environment is a top government priority, including supporting environmental net gains wherever possible.
- 6.41 The UK is home to globally important wetlands, rivers and chalk streams, the healthy existence of which depends on water quality and availability. Having the right flow in our rivers and protecting groundwater levels is essential to support healthy ecology and enhancing natural resilience to drought. The impacts of climate change and the growing demand for water are putting added pressure on this availability and sensitive environment.
- 6.42 The over-abstraction of water from the environment can alter the natural flow regime of rivers and chalk streams. Current levels of water abstraction from some sources would

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<sup>30</sup> <https://www.gov.uk/government/publications/national-infrastructure-strategy>





need to be reduced to protect the environment. In *Green Future*<sup>31</sup> the UK Government set out its commitment to reduce damaging abstraction of water from rivers and groundwater, while maintaining and improving water supply resilience now and in the future.


- 6.43 The rivers Test and Itchen are among the finest examples of chalk streams in the world and are internationally recognised ecosystems that support an abundance of wildlife and habitats. The abstraction licence changes to Southern Water's sources related to the rivers Test and Itchen that are driving the need for the Project are necessary to reduce the amount of water abstracted from the rivers Test and Itchen, in turn protecting and enabling recovery of the chalk streams. The protection of habitats including chalk streams is identified as essential within the dNPS.
- 6.44 In order to support the phased changes to relevant abstraction licences, Southern Water has identified the Project as the most viable way to secure new water resources whilst protecting and enhancing the internationally recognised sensitive habitats of the rivers Test and Itchen and contributing to meeting the WFD objectives. Until the Project is delivered, Southern Water's customer supplies in a drought can only be maintained through reliance on Drought Permits and Drought Orders that relate to chalk stream and chalk groundwater abstractions (which for the river Itchen relies on derogations and an IROPI case in order for a Drought Order to be granted). This is not a sustainable long-term solution and the Project is necessary to deliver alternative supplies to enable the long-term protection and enhancement of internationally important chalk stream environments.
- 6.45 Delivery of the Project would ensure biodiversity and environmental net gain, whereby the natural environment would be in a measurably better state than beforehand. Reducing abstractions from sensitive chalk streams would protect existing habitats from degradation and help to restore environmental features providing benefit to wildlife and people. As such, the Project would contribute to the UK Government achieving its policy for new water resources infrastructure and its wider environmental objectives.
- 6.46 The Project is effectively a form of urgent and necessary essential mitigation – mitigation against the impacts of continued abstraction from sensitive ecosystems, against climate change and extreme weather, against the impacts of a growing population, and against the economic risks of not acting quickly and at significant scale to resolve the water supply deficit.

### **Size and impacts of the project**

- 6.47 The principal elements of the Project, including the main pipeline to transfer water at scale from the WRP site to Havant Thicket Reservoir and from the reservoir to Otterbourne WSW, would cover a large geographic and supply area with the potential to impact a wide range of receptors during construction and operation.
- 6.48 The multiple sites and linear elements of the Project mean that it would be located within multiple local authority areas and potentially a National Park Authority (in total, up to seven local authorities including the County Council). There would be 'larger than local' construction and environmental impacts arising from the Project, which would likely span


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<sup>31</sup> A Green Future: Our 25 Year Plan to Improve the Environment (HM Government, 2018), available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/693158/25-year-environment-plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf)



across local authority boundaries and affect a number of communities in the south Hampshire area within the vicinity of the Project, including potential impacts relating to construction traffic, the historic environment, ecology and biodiversity, landscape and visual amenity, water quality, air quality, land use and agriculture, and noise and vibration .

- 6.49 As outlined in section 3, the Project would be located within and close to numerous sensitive nature conservation, landscape and environmental designations and it has the potential to affect both designated and non-designated habitats and species. The Project is also likely to interfere with sites allocated for development in the local plan documents of the host local authorities (e.g. the proposed site for the proposed WRP is allocated, and subject to a planning application, for commercial development).
- 6.50 The proposed location of the new WRP infrastructure and tunneled pipeline connections with Budds Farm WTW would be located adjacent to the Chichester and Langstone Harbours Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site, which has been designated for important bird species that breed, feed and over-winter in the area. It is recognised that there could be at least potential construction impacts to habitats due to the development in this location.
- 6.51 Elements of the Project may also need to pass beneath, or near to, the River Itchen Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) – designated for its status as a sub-type 1 chalk river which supports species characteristic of calcium rich rivers. It is acknowledged that there could be impacts to surface and groundwater flows that support a number of key habitats and species in the surrounding area.
- 6.52 Some terrestrial elements of the Project (i.e. transfer pipelines) could be located within the South Downs National Park, which carries the highest level of protection under national planning policy to ensure the protection of natural beauty, wildlife and cultural heritage . Major development within the National Park requires robust justification and the impacts on it must be fully assessed and mitigated.
- 6.53 Each of these sites is of international or national significance in its own right and further work will be undertaken by Southern Water to ensure that the significant number of complex designated sites and habitats are assessed and managed appropriately and that adverse impacts are avoided, minimised or mitigated where practicable.
- 6.54 Southern Water has undertaken land searches on land which could be required to deliver the Project. In addition to multiple owners and occupiers, this has identified 'Special Category' land – including open space land, commons and village greens, land held inalienably by the National Trust and Crown land. Special Category land requires special treatment in relation to compulsory acquisition proposals, and so replacement land may need to be provided as part of the Project.
- 6.55 Southern Water's land searches have also considered interactions with land and apparatus belonging to statutory undertakers. The route of the underground water transfer pipeline will also need to interface with national strategic road networks (M3, A3(M) and A27), railways, watercourses and waterways (including River Itchen SSSI/SAC) and significant utilities, which would be dealt with more appropriately and effectively in a DCO with the necessary enabling powers, legislative disapplications and related protective provisions.

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- 6.56 The Project would also interface directly with the Havant Thicket Reservoir project promoted by Portsmouth Water, which is another strategic water resource scheme in its own right. Development of the Project could potentially require some alteration of how the reservoir is used (i.e. the addition of highly treated recycled water), building upon the benefits of the resource, in what is a sensitive location for local communities. Dialogue with Portsmouth Water is ongoing to consider the delivery interfaces between the Project and Havant Thicket Reservoir. This interaction is another significant factor in seeking the section 35 direction to minimise and manage consenting risks.
- 6.57 The 2008 Act regime is therefore considered the most appropriate consenting and delivery route for the Project, which will have the potential to impact sites of such significance, and to deal with the various interfaces between the Project and other existing infrastructure which would be dealt with via DCO powers and related protective provisions. Using the 2008 Act regime would bring together multiple stakeholders (who would otherwise be the competent authorities for development affecting each designation) as part of the assessment of the DCO application. In turn, this would enable the SoS to determine, having regard to all elements of the Project on a comprehensive basis, an application for the granting of the necessary powers, permissions, consents and licences in a coordinated, comprehensive and coherent way with a predictable timeline to decision. This is considered crucial for Southern Water to deliver the Project at the earliest opportunity to meet the urgent need and to meet Southern Water's obligations under the section 20 Agreement.

### **Timely delivery of consents via a single authorisation process**

- 6.58 The 2008 Act regime would provide certainty of timely delivery, and a single process for conferring statutory powers (including compulsory acquisition powers) and the requisite consents, permissions and licences for construction and operation of the Project. These aspects of the regime are considered critical to ensure that this strategic water resource scheme is operational at the earliest opportunity and for Southern Water to meet its 'all best endeavours' obligation under the section 20 Agreement. In the absence of a section 35 direction, the Project would require a wide range of statutory powers, consents, permissions and licences which would have to be sought under a number of different consenting regimes including the Town and Country Planning Act 1990 and the Water Industry Act 1991.

#### ***Planning permission***

- 6.59 In the absence of a section 35 direction, Southern Water would have to submit multiple planning applications for the Project to multiple local planning authorities (potentially as many as seven different local authority areas are affected, including potentially Hampshire County Council and the South Downs National Park Authority). There is currently no efficient procedure outside of the 2008 Act to bring all of these applications (together with land assembly) into a single and coordinated consenting regime, and no fixed timescales for the determination of the planning applications including on any potential appeal or call-in).
- 6.60 Delivering planning permission for the Project using the Town and Country Planning Act 1990 introduces several risks to timely project delivery, including:

- the piecemeal nature of the multiple applications introducing complexity in application documentation, such as in relation to EIA scoping and other EIA considerations;
- the risk of delay to the Project through local planning authority processes not aligning, and delays with one application in one authority area impacting on the progress of other applications being considered by other authorities;
- lack of local plan allocation or support for infrastructure of this scale, cross-boundary geographic extent and type, increasing the potential for refusal of part of the Project, necessitating call-in or an appeal and consequential delay; and
- risk of conflicting planning conditions and/or varying requirements (including section 106 planning obligations agreements) across the pipeline route in relation to mitigation to address different local planning policy and planning authority requirements.

6.61 A refusal of planning permission by one local authority, the need to go through a compulsory purchase order inquiry, or a potential planning appeal or call-in inquiry, could easily add a number of years to the delivery schedule. Any significant delay to the Project would not only impact on the delivery of the environmental benefits and resilient water supply that it is intended to achieve but would also damage the reputation of Southern Water and its regulators for failing to secure efficient and effective delivery of this critical infrastructure.

6.62 A DCO application, supported by the WRSE Regional Plan and WRMPs 19 and 24, would address all of these concerns, and would allow all stakeholders to contribute to a single process in which key information including EIA, HRA and WFD assessment issues, and related mitigation, could be considered efficiently and consistently across the entire project.

6.63 The 2008 Act regime would also be underpinned by a strong national planning policy context for such a DCO application to be considered against, once the draft Water Resources Infrastructure NPS has been designated. This is crucial in filling the policy gaps that exist at the local level for this scale of cross-boundary infrastructure provision.

### ***Other consents, permissions and licences***


6.64 The 2008 Act regime enables a range of additional consents, permissions and licences to be delivered in a single DCO. This would be beneficial to the Project, as Southern Water has noted the potential requirement for over 30 secondary licences and consents<sup>32</sup> for the Project covering such matters as HRA and WFD applications, marine licences, open space, highway orders, traffic regulation orders, powers to temporarily close/divert public rights of way during construction works, powers to construct works in watercourses, consents relating to hedgerows, and many more.

6.65 If planning permission were to be sought under the Town and Country Planning Act 1990, all of these additional consents, permissions and licences would need to be applied for and granted separately, with some only capable of being sought sequentially following the grant of planning permission, introducing the risk of delay whilst all of the separate

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<sup>32</sup> As detailed in Southern Water's Planning & Consenting Strategy for the Project, submitted to RAPID as part of Southern Water's Gate 2 submission in December 2021.






processes to obtain the necessary consents, permissions and licences are completed, including any related public inquiries as a result. This would be mitigated by a section 35 direction, as Southern Water would then be able to “wrap up” most of these consents in a single application for a DCO, involving a comprehensive and inclusive Examination process that all interested parties could fully engage and participate in.

### ***Land assembly***

- 6.66 Although specific site extents and detailed pipeline routes have yet to be confirmed, the site of the WRP, high lift pumping station, secondary pumping station, break pressure tank and underground water transfer pipelines will encompass a significant number of land ownerships and other land interests and rights. Whilst Southern Water has undertaken land referencing and is contacting landowners to seek negotiated access to land for surveys and is committed to negotiating voluntary purchase of the land and rights over land required for the Project, there is a significant likelihood that it will be necessary for some land and rights required to deliver the Project and outcomes to be obtained through compulsory powers.
- 6.67 A DCO can include powers for compulsory acquisition of land and rights over land, and can also provide for temporary possession of land (for example in relation to land required temporarily for pipe laying, or to facilitate diversions of existing utilities to facilitate delivery of the Project). The availability of temporary possession powers will help to reduce the impact on affected landowners and reduce the cost of and necessity for land acquisition.
- 6.68 If a section 35 direction is not forthcoming and the Project is delivered outside of the 2008 Act regime, a compulsory purchase order or orders would be required under the Water Industry Act 1991. Any objections would need to be heard at a public inquiry. This order(s) would need to be made separately to planning applications under the Town and Country Planning Act 1990. Southern Water, as acquiring authority, would need to seek to co-ordinate the delivery of land rights with the procurement process in order for the appointed contractor to complete the detailed design. Unlike with the 2008 Act regime, there are no guaranteed timescales for such inquiries to be held and decisions to be reached, significantly increasing risk and uncertainty.
- 6.69 The 2008 Act regime was specifically designed for the delivery of major strategic infrastructure, and section 35 was included as an enabling provision to allow statutory utilities and others to seek entry to the regime for major infrastructure projects which do not fall within the specific thresholds for automatic inclusion in the regime, such as large scale water recycling schemes that are acknowledged in paragraph 2.6.15 of the dNPS as being capable of qualifying as a project of national significance through a section 35 direction.

### ***Statutory undertakers***

- 6.70 The Project will require utility connections and provision for those connections could also (where necessary) be included within a DCO to ensure that all necessary supporting connections (including electricity supply) are delivered in a single consent.
- 6.71 The linear nature of the proposed pipelines also means that there will be a number of crossings of apparatus and land belonging to other statutory undertakers, including crossings of the national strategic road network, local highways, railways and other



significant utilities. These crossings would be dealt with more efficiently in a DCO, in a single instrument containing the necessary enabling powers and related protective provisions. If there is no section 35 direction then these interfaces would all need to be separately negotiated outside of the Planning Act 2008 regime with each utility, adding potential delay and cost to the Project.

### ***Havant Thicket Reservoir***


- 6.72 A clear and certain programme, and the supportive policy framework of the Water Resources Infrastructure NPS, both afforded by the 2008 Act regime, particularly in the absence of any policy allocation within a local plan or other development plan document, is also necessary given the Project's interface with the Havant Thicket Reservoir being delivered by Portsmouth Water.
- 6.73 The 2008 Act regime would provide certainty to Southern Water and Portsmouth Water in programme timescales, to enable alignment between the Project and delivery of the reservoir and ensure there was no doubt or uncertainty around procurement, and in relation to the interface between necessary consents to match construction timescales, particularly given the dependencies between these two major water resource projects.

### ***DCO scope***

- 6.74 A DCO would authorise the construction, operation and maintenance of all elements of the Project in a single instrument, delivered via a single process.
- 6.75 Southern Water considers that the 2008 Act is far better suited to a project of this complexity, as it was designed to deliver in a single instrument all of the statutory works powers and land powers required for the project, protective provisions for any affected utility apparatus and other interests, deemed consents in relation to secondary consents, permissions and licences, and the disapplication of certain other provisions (e.g. addressing any local legislation including byelaws which may otherwise be an insurmountable obstacle).
- 6.76 The 2008 Act provides a clear timescale for the examination, reporting and determination of an application for a DCO, once accepted for examination. The need for an expedited authorisation of the Project in comparison to the rest of the water industry has already been acknowledged through the RAPID accelerated regulatory process, due to the identified urgent need for the 'largest element' of Southern Water's Water for Life – Hampshire programme to be delivered and operational at the earliest opportunity.
- 6.77 Furthermore, certainty in consenting and onward project delivery timescales would help to reduce costs, borne ultimately by customers, and allow certainty for construction contract bidders via procurement processes, reducing overall consenting and delivery risk.
- 6.78 Southern Water recognises that there is a substantial amount of pre-application work required to prepare a DCO application. Obtaining a section 35 direction in an appropriate form as soon as practicable will enable Southern Water to submit a request for an EIA Scoping Opinion by Q3 2022 and to undertake public consultations on the Project in summer 2022 and Q1 2023. These are the key milestones shown in Southern Water's programme in order for the Project to be consented, constructed and operational at the earliest opportunity.

## 7. Conclusion

- 7.1 The Project would ensure a resilient water supply for a projected population of over 850,000 people across Hampshire during drought conditions and would be a key piece of strategic infrastructure in meeting the supply deficit for a number of Southern Water's water supply zones. It could also provide potential longer-term resilience for Portsmouth Water and its customers, as a neighbouring water company area.
- 7.2 The Project would mitigate against the risks of debilitating water restrictions for both businesses and households in drought conditions, with the consequential socio-economic impacts that these would bring. In addition, it would contribute substantially to the UK's environmental objectives and policy priorities by protecting internationally significant chalk streams and river habitats, removing the environmental risks and impacts from emergency Drought Permits and Drought Orders that would otherwise have to be deployed to maintain essential water supplies.
- 7.3 The Project is a significant infrastructure scheme of substantial size consisting of both pioneering water recycling technology and extensive and large-scale water transfer pipelines and above-ground plant. It will interface with multiple land interests, designations, sites of ecological, landscape and historic interest and other major infrastructure, stretching across multiple local authority boundaries and requiring an extensive range of consents, powers, licences and permits, whilst potentially having a range of temporary and permanent effects.
- 7.4 The Project would make a significant contribution to the UK Government's environmental objectives, international commitments and policy priorities.
- 7.5 This request represents a 'qualifying request' under section 35 of the 2008 Act. The Project is within the field of water and would be wholly within England. The information within this request explains why the conditions in section 35(2)(a) and (b) are met in relation to the development, and why the Project is considered to be of national significance. This request therefore meets the requirements for a 'qualifying request' within the meaning of section 35ZA(11) of the 2008 Act to enable the SoS to give a direction for the Project under section 35(1).
- 7.6 It is also crucial that a section 35 direction is given as soon as practicable. This will enable Southern Water to fulfil its pre-application obligations as an applicant under the 2008 Act regime to achieve the programmed milestones for submission of a request for an EIA Scoping Opinion in Q3 2022, public consultations in summer 2022 and Q1 2023, and submission of a DCO application in late 2023. Consideration of the Project through the DCO consenting route and determined in accordance with the Water Resources NPS will minimise and manage the planning and consenting risks already identified in the RAPID gated process. Those risks could result in significant potential delays to the consenting of the Project thereby delaying the delivery of a resilient water supply for Hampshire residents and businesses, and the environmental benefits of reduced abstractions from the County's rivers.
- 7.7 Fundamentally, the certainty of timely delivery and the largely single authorisation of consents enabled by the 2008 Act regime, within a clear national policy context of the



proposed Water Resources NPS, are considered to be critical to ensure that the Project is delivered and operational at the earliest opportunity and for Southern Water to meet its 'all best endeavours' obligations under its section 20 Agreement with the Environment Agency.

- 7.8 For all of these reasons, Southern Water therefore requests that the SoS gives a section 35 direction for the Project, in the form of the draft at **Appendix B** to this request.



## Appendix A: Glossary

Table A sets out the various terms used in the request and their definition.

Term	Definition
2008 Act	Planning Act 2008.
1 in 200 year (1:200)	A severe drought – the return period of a significant drought and which is the design drought year in WRMP 19.
1 in 500 year (1:500)	An extreme drought - the return period of a significant drought and which is the design drought year in the emerging South East Regional Plan and WRMP24.
AoNB	Area of Outstanding Natural Beauty - an area of countryside in England, Wales or Northern Ireland which has been designated under the Countryside and Rights of Way Act 2000 to protect, conserve and enhance its natural beauty.
DCO	Development Consent Order - a DCO is a statutory instrument that grants consent in accordance with the provisions in the Planning Act 2008 for Nationally Significant Infrastructure Projects or projects of national significance brought into the DCO regime by a section 35 direction. A DCO can combine consent to develop, operate and maintain a project, alongside a range of other approvals that would normally have to be obtained separately such as listed building consent, a marine licence and certain environmental consents. A DCO can also contain powers for the compulsory acquisition and temporary possession of land.
DEFRA	Department for Environment, Food and Rural Affairs.
Drought conditions	Conditions resulting from a shortage of precipitation that has a 0.5% chance of occurring within a 12 month period (defined in s235 of the 2008 Act).
Drought Order	Powers granted by the Secretary of State during drought to modify abstraction / discharge arrangements on a temporary basis.
Drought Permit	An authorisation granted by the Environment Agency under drought conditions, which allows for abstraction / impoundment outside the schedule of existing licences on a temporary basis.
LPA	Local Planning Authority.
NSIP	Nationally Significant Infrastructure Project.
Preferred Strategy	Final strategy for the Western Area as described in WRMP19 (referred to as Strategy A in the draft WRMP19) and is what is required to be delivered by the Section 20 Agreement.
RAPID	Regulators' Alliance for Progressing Infrastructure Development - formed to help accelerate the development of new water infrastructure and design future regulatory frameworks. Made up of the three water regulators: Ofwat, the Environment Agency and the Drinking Water Inspectorate. It was established with the intention of providing a seamless regulatory interface, working with the industry to promote the development of national water resources infrastructure that is in the best interests of water users and the environment.
Ramsar	Wetland site of international importance designated under the Ramsar Convention.
section 20 Agreement	The agreement signed by Southern Water and the Environment Agency during the abstraction licence inquiry in March 2018 under section 20 of the Water Resources Act 1991.
section 35 direction	Direction in relation to a project of national significance under section 35 of the 2008 Act.

Term	Definition
SAC	Special Area of Conservation - land designated under the Conservation of Habitats and Species Regulations 2017 (as amended) in England and Wales and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) in the UK offshore marine area. Important high-quality conservation sites that will make a significant contribution to conserving the habitats and species.
SSSI	Site of Special Scientific Interest - area of land in England notified as an SSSI under the Wildlife and Countryside Act 1981 (as amended) for wildlife and natural features, supporting many characteristic, rare and endangered species, habitats and natural features.
SPA	Special Protection Areas are protected areas for birds in the UK classified under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended) in England, Scotland and Wales; the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) in the UK offshore area; and other legislation related to the uses of land and sea.
SoS	Secretary of State for Environment, Food and Rural Affairs.
WFD	Water Framework Directive 2006/60/EC - a framework for the protection of inland surface waters, estuaries, coastal waters and groundwater brought into effect in England and Wales through the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.
WfL-H	Water for Life - Hampshire.
WRMP, WRMP19, WRMP24	Water Resources Management Plan – a statutory plan setting out how water companies will supply healthy, reliable drinking water to homes and businesses for at least the next 25 years. These plans are reviewed annually and published at least every five years. The plan published in 2019 is WRMP19 and the next update will be WRMP24 which is intended to be published in 2023.
WRSE	Water Resources South East, made up of an alliance of the six water companies that cover the South East region of England, tasked with developing a regional resilience plan for all users of water that will then be used as the starting point for water supply investment by each water company in the region including Southern Water's operational area.
WSW	Water Supply Works - a site whereby raw water is taken from the environment, treated and discharged into the distribution network supplying homes, businesses and industry.
WTW	Wastewater Treatment Works – where raw sewage from domestic and industrial customers is treated to remove contaminants before it can be returned to the water cycle/discharged back into the environment.

## Appendix B: Draft Direction

### Draft Direction

#### HAMPSHIRE WATER TRANSFER AND WATER RECYCLING PROJECT

#### DIRECTION GIVEN BY THE SECRETARY OF STATE UNDER SECTION 35(1) OF THE PLANNING ACT 2008 (AS AMENDED)

By a letter to the Secretary of State dated 06 April 2022 ("the Letter") Southern Water Services Limited ("the Applicant") formally requested the Secretary of State to exercise the power vested in the Secretary of State under section 35(1) of the Planning Act 2008 (as amended) ("the Planning Act") to direct that the Hampshire Water Transfer and Water Recycling Project referred to in the Letter ("the Project") be treated as development of national significance for which development consent is required.

The Secretary of State has made a decision within the primary deadline set out in section 35A(2) of the Planning Act and wishes to convey that decision.

Having considered the Applicant's request and the details of the Project, the Secretary of State is satisfied and has concluded that:

- the Project would not involve the transfer of water resources for the purposes of section 14(1)(n) of the Planning Act or alteration of a reservoir for the purposes of section 14(1)(m) of the Planning Act;
- therefore the Project does not fall within the definition of a "nationally significant infrastructure project" ("NSIP") and therefore it is appropriate to consider use of the power in section 35 of the Planning Act;
- the elements of the Project that are requested to be development for which development consent is required either are, or are a part of, a project in the field of water;
- no application for consent or authorisation mentioned in section 33(1) or (2) of the Planning Act has been made in relation to the development to which the request relates; and
- the Applicant's request therefore constitutes a "qualifying request" in accordance with section 35ZA(1) of the Planning Act.

In coming to these conclusions, the Secretary of State notes that the Project relates to the construction of new infrastructure for the purposes of water supply and thus sits within one of the qualifying infrastructure fields listed in section 35(2)(a)(i) of the Planning Act, namely water.

The Secretary of State notes from the Letter that the Project comprises of the following:

- Underground water transfer pipeline from Havant Thicket Reservoir to Otterbourne Water Supply Works (WSW) to transfer approximately 90MI/d during peak operation (i.e. during severe drought conditions);
- Water Recycling Plant (WRP) in vicinity of Budds Farm Wastewater Treatment Works (WTW) with an output of at least 15MI/d;
- Underground pipeline to transfer at peak operation at least 15MI/d of recycled water from the WRP to Havant Thicket Reservoir;

- Underground pipelines between Budds Farm WTW and the WRP to accommodate minimum 19Ml/d peak transfer volumes in each direction;
- High lift pumping station, either located at the site of the WRP or located along the underground water transfer pipeline between Havant Thicket Reservoir and Otterbourne WSW;
- Second stage pumping station and break pressure tank located along the underground water transfer pipeline between Havant Thicket Reservoir and Otterbourne WSW;

(together, "the Principal Development")

- associated development (within the meaning of section 115(1)(b) of the Planning Act) including, but not limited to: temporary works to support construction, works to support operation and maintenance, site accesses, temporary and permanent utility connections, highway diversions and landscaping, environmental mitigation, enhancement and compensation measures ("the Associated Development"); and
- ancillary matters ("the Ancillary Matters").

The Project does not include the construction of any dwellings.

The Project can therefore be summarised as comprising:

- the Principal Development;
- the Associated Development; and
- the Ancillary Matters,

all as detailed or referred to in the Letter.


The Secretary of State considers that the Principal Development is genuinely nationally significant and would:

- be for a complex and substantial scheme, involving extensive infrastructure works and requiring multiple powers and consents (including multiple planning permissions, compulsory acquisition powers and highway orders), which should be seen as nationally significant development in its own right; and
- benefit from an application being determined in a timely and consistent manner by the Secretary of State, and by removing the need to apply and the uncertainty of applying for a large number of separate powers and consents.

Furthermore, the Project would:

- provide a substantial number of people across Hampshire with a resilient water supply during drought conditions and would be a key piece of strategic regional infrastructure in meeting the modelled supply deficit for Southern Water's water supply zone;
- mitigate against the social and economic risks of debilitating water restrictions for both businesses and households when the weather is dry; and
- make a significant contribution to the UK Government's environmental objectives and policy priorities.





**THE SECRETARY OF STATE THEREFORE DIRECTS** that the Principal Development is to be treated as development for which development consent is required. Any application for development consent for the Principal Development may also include any matters that may properly be included in a development consent order (in accordance with section 120 of the Planning Act) including ancillary matters (section 120(3)) and associated development (within the meaning of section 115(2) of the Planning Act).

**THE SECRETARY OF STATE FURTHER DIRECTS** that the Principal Development is also to be treated as development in relation to which the National Policy Statement for Water Resources Infrastructure, if designated by the Secretary of State, has effect.

This direction is given without prejudice to the Secretary of State's consideration of any application for development consent which may be made in relation to all or part of the Project.

Signed by

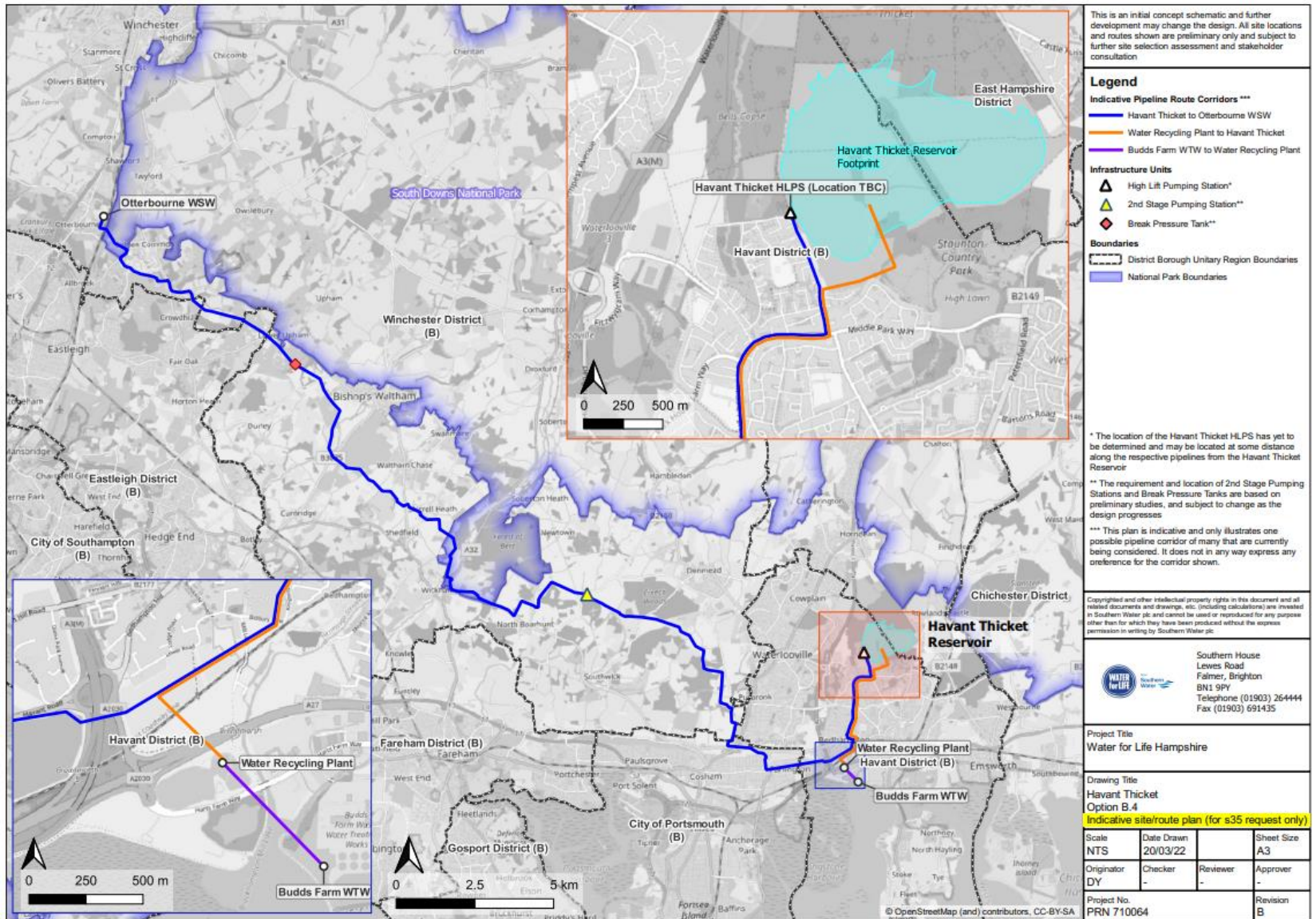
[name of person signing]

[position or role of named person]

Authorised to sign on behalf of the Secretary of State

[date]

# Appendix C: Indicative site/route plan



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