



ADUR DISTRICT
COUNCIL



**ADUR DISTRICT COUNCIL,
BRIGHTON & HOVE CITY COUNCIL,
WEST SUSSEX COUNTY COUNCIL**

Representation Form:

Proposed Submission Shoreham Harbour Joint Area Action Plan

Representations should be provided in writing by completing and submitting the response form using the following methods:

Email: consultation@shorehamharbour.com

Post: Shoreham Harbour Regeneration, c/o Adur District Council, Town Hall, Chapel Road, Worthing BN11 1BR.

Representations on the Proposed Submission Shoreham Harbour Joint Area Action Plan must be submitted between 12 noon on 10 November 2017 and 12 midnight on 22 December 2017. Late submission cannot be accepted.

Please note that at this stage, representations can only be made on whether the plan is sound and/or legally compliant.

This form has two parts:

PART A – Personal details

By law, representations cannot be made anonymously. All representations will be published alongside your name, organisation name (if applicable), agent's name (if applicable), and agent's company (if applicable).

PART B – Your representation

Please fill in separate sheets for each representation you wish to make. You may submit multiple **PART B** sections with a single completed **PART A**.





Representation Form:
Proposed Submission Shoreham Harbour Joint Area Action Plan

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PART A – Personal details

Please note that you must complete Part A as anonymous forms, or those that do not include an address cannot be accepted.

Responses will not be treated as confidential and will be published on the council's websites and in any subsequent statements; however personal details such as address, telephone number and email address will be removed.

	1. Your details	2. Agent details (if applicable)
Title	Mrs	
Forename	Marguerite	
Surname	Oxley	
Job Title (if applicable)	Sustainable Places Technical Specialist	
Organisation (if applicable)	Environment Agency	
Address		
Postcode		
Email address		
Telephone no:		

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Proposed Submission Shoreham Harbour Joint Area Action Plan

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PART B – Your representation

Please answer the questions below and clearly explain your comments in the relevant sections. Please complete a separate Part B for each representation. You may use as many additional sheets as necessary.

1. Which document would you like to make a representation on?

Please indicate **one** document only:

- Proposed Submission Shoreham Harbour Joint Area Action Plan
- Sustainability Appraisal of the Proposed Submission Shoreham Harbour Joint Area Action Plan
- Proposed Submission Policies Map for Adur (as amended by the Shoreham Harbour Joint Area Action Plan)
- Proposed Submission Policies Map for Brighton & Hove (as amended by the Shoreham Harbour Joint Area Action Plan)

2. Which part of the Joint Area Action Plan does this representation relate to?

Please provide a policy number, paragraph number, or map reference:

Policy no:	SH6: Flood Risk and Sustainable Drainage
Map:	

Paragraph no:	1 (Page 46)
Other section:	

3. Do you consider the Shoreham Harbour Joint Area Action Plan to be:

Please indicate **yes** or **no** to each question:

- 3.1 Legally compliant?** **Yes** **No**
- 3.2 Sound?** **Yes** **No**

Please read the Guidance Note for explanations of legal compliance and soundness

If you have answered yes to both 3.1 and 3.2, please continue to question 7

If you have answered no to 3.1, please continue to question 5

If you have answered no to 3.2, please continue to question 4

4. Do you consider the Shoreham Harbour Joint Area Action Plan too be unsound because it is not:

Please complete **only** if you indicated no to 3.2

- 4.1 Positively prepared?**
- 4.2 Justified?**
- 4.3 Effective?**
- 4.4 Consistent with national policy?**

5. Why do you consider the Shoreham Harbour Joint Area Action Plan to be unsound, or not legally compliant?

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Ref:

Please complete **only** if you answered no to 3.1 and/or 3.2.

Please be as precise as possible and refer to background and supporting documents if necessary. Please continue on a separate sheet if necessary.

With reference to Paragraph 1 which reads: '**Development proposals in the regeneration area must comply with the principles and approach to flood risk management set out in the *Shoreham Harbour Flood Risk Management Guide (2015)*, or subsequent updated guidance**'.

As detailed in our comments dated 10 February 2017, new government guidance on climate change allowances came into effect on 19 February 2016 which has meant that some of the guidance contained within the Flood Risk Management guide is out of date. An example is where sites are identified as having a fluvial flood risk, proposed development needs to assess flood risk from a 1 in 100 flood event plus 45% for revised climate change allowances.

In addition, as further research and updates become available, there is the potential for flood levels and climate change allowances for tidal scenarios to change.

We discussed this at a meeting with the JAAP project team on 18 April 2017 and agreed revised wording. This was followed up in an email to you 5 May 2017 and also included in our consultation comments dated 6 July 2017.

6. What change is necessary in order to make the plan sound and legally compliant?

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Please complete **only** if you answered no to 3.1 or 3.2

Please set out suggested or revised wording to address the issue you have raised in question 5. Please explain why this change will make the plan sound or legally compliant. Please continue on a separate sheet if necessary.

In order to ensure that this policy is effective at guiding the design of adequate flooding risk infrastructure, we suggest that the policy wording should read:

‘Development proposals in the regeneration area must comply with the principles and approach to flood risk management set out in the *Shoreham Harbour Flood Risk Management Guide (2015)* or subsequent updated guidance and must take account of the most up to date flood risk management evidence and guidance in consultation with the relevant authorities including the Environment Agency’.

This will ensure that developers are directed to using the principles and approach from the guide but are not using out of date design criteria if the guide (or future updates) are not kept up to date at all times. (Ideally the Guide should be kept up to date so that it could be used as a ‘live’ document by developers).

7. Do you wish to attend and give evidence at the examination of the Shoreham Harbour Joint Area Action Plan?

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Please complete **only** if you answered no to 3.1 or 3.2

- No** – I wish to communicate through written representations
- Yes** – I wish to speak to the Inspector at the hearing session

Please note: The Inspector will determine the appropriate procedure to hear those who have indicated that they wish to participate at the hearing during the examination.

8. Why do you wish to attend the hearing during the examination?

Please complete **only** if you have answered yes to question 7

Please explain why it is necessary for you to attend and give evidence at the examination

Please answer the questions below and clearly explain your comments in the relevant sections. Please complete a separate Part B for each representation. You may use as many additional sheets as necessary.

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2. Which part of the Joint Area Action Plan does this representation relate to?

Please provide a policy number, paragraph number, or map reference:

Policy no:	SH6: Flood Risk and Sustainable Drainage
Map:	

Paragraph no:	12 (Page 47)
Other section:	

3. Do you consider the Shoreham Harbour Joint Area Action Plan to be:

Please indicate yes or no to each question:

- 3.1 Legally compliant? Yes No
- 3.2 Sound? Yes No

Please read the Guidance Note for explanations of legal compliance and soundness

If you have answered yes to both 3.1 and 3.2, please continue to question 7
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With reference to Paragraph 12 which reads **'Where loss of habitat occurs due to construction of moorings or pontoons or from boats resting on intertidal habitat, creation of new compensatory habitat will be required'**.

Having worked closely and in partnership with the JAAP team on the wording for the protection of marine biodiversity over many years, we are disappointed to see that the requirement for 'like for like' compensatory habitat has been removed from the above wording.

Our comments on the 26 February 2016 consultation concluded that we were very happy with the agreed wording and again we were pleased to see the 'like for like' compensatory habitat requirement in the wording for the consultation on 6 July 2017. It is disappointing that it has been removed at this late stage without any further discussion with the EA.

The current wording essentially means that any type of habitat eg a hedge or grassed area could be put forward as compensatory habitat in this circumstance. The wording as currently written has the potential for the Action Plan to directly cause significant loss of marine habitat such as precious intertidal habitat. This clearly would not be effective at conserving and protecting biodiversity and would not be in compliance with Paragraph 018 of the Planning Practice Guidance which states that an equivalent value of biodiversity is required. (Paragraph 018 below).

'Compensation – where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent value of biodiversity?'

We feel that loss of habitat in this way is what the project is striving to avoid as referenced in the wording on Page 19 and Page 48 Objective 7: Natural environment, biodiversity and green infrastructure as follows:

'To add to the natural capital of the Shoreham Harbour Regeneration Area by delivering net gains to biodiversity and a multifunctional green infrastructure network'

'To conserve and protect the area's important environmental assets, wildlife habitats and ecosystem services and to enhance the biodiversity of the area by creating new habitats.'

In addition, page 48, section 3.7.2 – *'New development within the harbour is expected to be outstanding from an environmental perspective and all opportunities to promote biodiversity need to be considered'*.

The current wording in Paragraph 12 is ineffective at achieving the above.

6. What change is necessary in order to make the plan sound and legally compliant?

Please complete **only** if you answered no to 3.1 or 3.2

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Please set out suggested or revised wording to address the issue you have raised in question 5. Please explain why this change will make the plan sound or legally compliant. Please continue on a separate sheet if necessary.

We suggest reinstating the wording that has been agreed throughout the production of the JAAP process as follows:

'Where loss of habitat occurs due to construction of moorings or pontoons or from boats resting on intertidal habitat, creation of new like for like compensatory habitat will be required'

7. Do you wish to attend and give evidence at the examination of the Shoreham Harbour Joint Area Action Plan?

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Please complete **only** if you answered no to 3.1 or 3.2

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2. Which part of the Joint Area Action Plan does this representation relate to?

Please provide a policy number, paragraph number, or map reference:

Policy no:	Policy SH7: Natural environment, biodiversity and green infrastructure
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Paragraph no:	7 (Page 54)
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Other section:	
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Map:	
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3. Do you consider the Shoreham Harbour Joint Area Action Plan to be:

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Please complete **only** if you answered no to 3.1 and/or 3.2.

Please be as precise as possible and refer to background and supporting documents if necessary. Please continue on a separate sheet if necessary.

With reference to Paragraph 7 which reads '**Where impacts on biodiversity cannot be avoided or mitigated, compensatory measures will be required, taking account of an up-to-date ecological survey**'.

Having worked closely and in partnership with the JAAP team on the wording for the protection of marine biodiversity over many years, we are disappointed to see that the requirement for 'like for like' compensatory habitat has been removed from the above wording.

Our comments on the 26 February 2016 consultation concluded that we were very happy with the agreed wording and again we were pleased to see the 'like for like' compensatory habitat requirement in the wording for the consultation on 6 July 2017. It is disappointing that it has been removed at this late stage without any further discussion with the EA.

The current wording essentially means that any type of habitat eg a hedge or grassed area could be put forward as compensatory habitat in this circumstance. The wording as currently written has the potential for the Action Plan to directly cause significant loss of marine habitat such as precious intertidal habitat. This clearly would not be effective at conserving and protecting biodiversity and would not be in compliance with Paragraph 018 of the Planning Practice Guidance which states that an equivalent value of biodiversity is required. (Paragraph 018 below).

'Compensation – where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent value of biodiversity?'

We feel that loss of habitat in this way is what the project is striving to avoid as referenced in the wording on Page 19 and Page 48 Objective 7: Natural environment, biodiversity and green infrastructure as follows:

'To add to the natural capital of the Shoreham Harbour Regeneration Area by delivering net gains to biodiversity and a multifunctional green infrastructure network'

'To conserve and protect the area's important environmental assets, wildlife habitats and ecosystem services and to enhance the biodiversity of the area by creating new habitats.'

In addition, page 48, section 3.7.2 – *'New development within the harbour is expected to be outstanding from an environmental perspective and all opportunities to promote biodiversity need to be considered'*.

The current wording in Paragraph 7 is ineffective at achieving the above.

6. What change is necessary in order to make the plan sound and legally compliant?

Please complete **only** if you answered no to 3.1 or 3.2

Please set out suggested or revised wording to address the issue you have raised in question 5. Please explain why this change will make the plan sound or legally compliant. Please continue on a separate sheet if necessary.

We suggest reinstating the wording that was agreed throughout the production of the JAAP process as follows:

‘Where biodiversity impacts cannot be mitigated, compensatory actions will be required. Compensatory habitat to be like for like basis based upon up to date surveys.’

7. Do you wish to attend and give evidence at the examination of the Shoreham Harbour Joint Area Action Plan?

Please complete **only** if you answered no to 3.1 or 3.2

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