



Appropriate Assessment

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Appropriate Assessment

- What is an Appropriate Assessment?
- When is it required?



- Who undertakes it?
- What needs to be in it?
- Other considerations

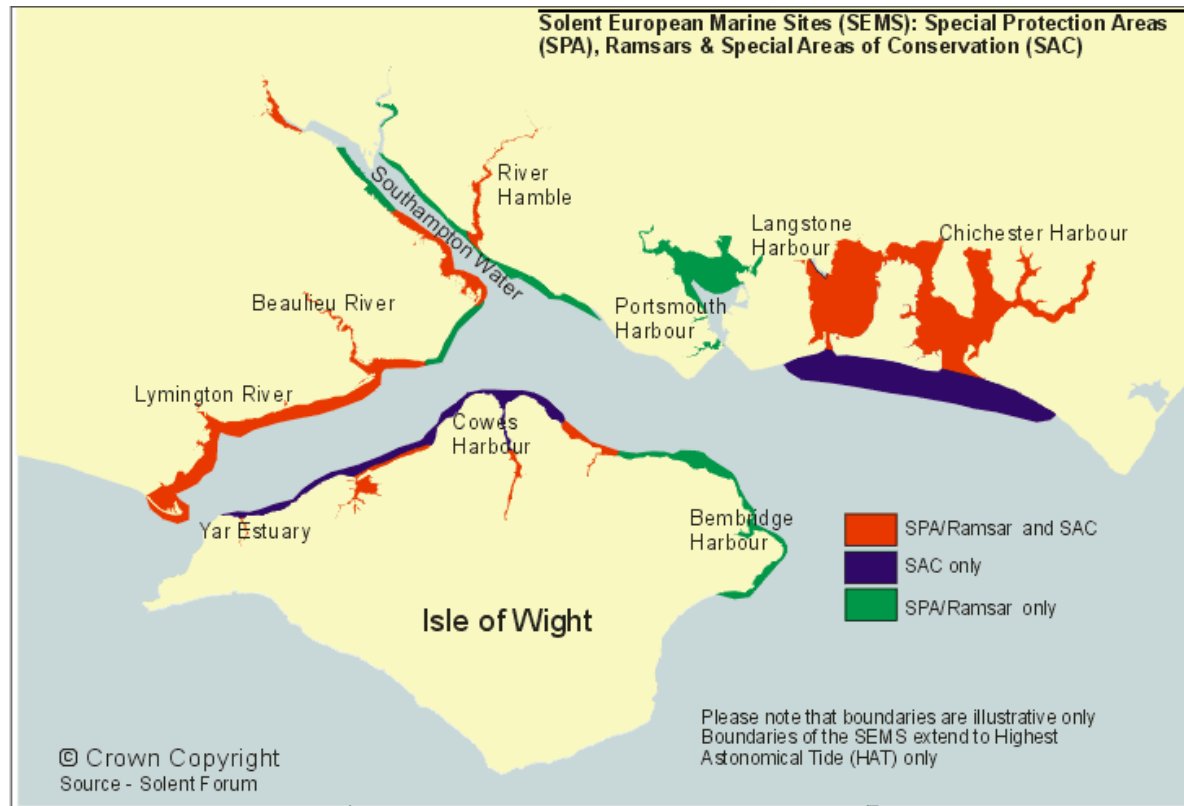
What is an Appropriate Assessment?



- Legal requirement of the Habitats Regulations 1994
- Focuses on protected European habitats and species
- Process for assessing impacts
- Decision making tool



When is it required?



- When European sites or species are likely to be affected
- Protected sites – SACs, SPAs, Ramsar Sites

What does it apply to?

- Applies to all new plans and projects (anything requiring a permission)



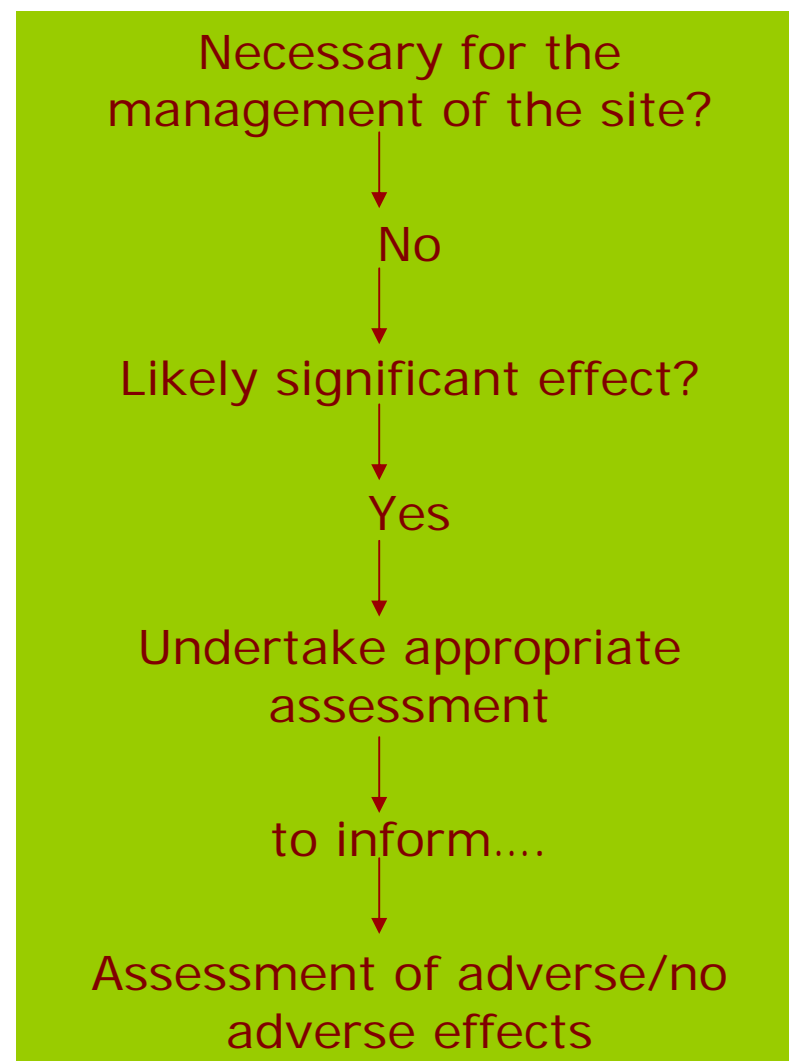
- Note: recent law modification – now LDFs, RSSs etc
- Also applies to existing consents (EA Review)

Follow the legal process

if....

- a plan or project is likely to have a significant effect
- Alone or in combination
- and is not directly connected with or necessary to the management of the site (for nature conservation)

It requires an **Appropriate Assessment!**



Assessment of Likely Significant Effect



- High level – does not necessarily require detailed information
- Case by case assessment, based on proposal
- Option for Competent Authority to seek advice of nature conservation agency (Natural England)
- Intended to ensure that all plans and projects likely to have a material effect are subject to an appropriate assessment
- Include any plans or projects where there is a probability or risk of significant effects
- Are there any potential source-pathway-receptor links – any possibility of significant effects
- Precautionary – if in doubt – LSE!



Appropriate Assessment of adverse effect on integrity of site (AEOI)



- If plan or project likely to have significant effect alone or in combination.....
- Competent authority undertakes Appropriate Assessment of effects against conservation objectives
- Must seek advice of nature conservation agency (Natural England)
- Requires detailed and case specific information
- Based only on scientific considerations
- Precautionary (need to show it won't adversely affect site integrity)



Assess against Conservation Objectives



- All European sites underpinned by Sites of Special Scientific Interest (SSSIs)
- Conservation Objectives exist for all European Sites
- CO's list interest features
- Favourable Condition Tables for all site features
- Tables list site condition attributes and monitoring targets that inform assessment of likely significance



Who does the assessment?



- The Competent Authority
- They make the decision
- Multiple permissions – identify lead Authority



- Applicant provides the necessary information
- Often EIA can inform
- Record of Appropriate Assessment

Appropriate assessment and mitigation



- The competent authority must decide whether the plan or project **as proposed** would have an adverse effect on the site (alone or in-combination)
- Any mitigation incorporated within the proposal therefore accounted for within Appropriate Assessment
- If adverse effects are identified there are 3 options available prior to final decision (non-statutory but accepted practice)
- 1) Applicant may propose mitigation; 2) Competent authority may identify mitigation 3) Nature conservation agency or other may advise mitigation which could avoid AEOI
- If mitigation can avoid AEOI, then permission can be granted (conditional on provision of all necessary mitigation)

Outcome of Appropriate Assessment

- If competent authority can ascertain that the proposal **will not** have an adverse effect on the integrity of the site (with/without mitigation measures secured) - permission may be granted
- If competent authority cannot ascertain that there will be no adverse effects (i.e. adverse effects identified or uncertain) permission should not be granted – subject to the provisions of Reg. 49 & 53 – Alternative Solutions and Imperative Reasons of Overriding Public Interest and Compensation

Note: Waddenzee Judgement by the European Court of Justice (Case C-127/02):

Plan or project may be authorised only if competent authority has made certain there will be no adverse effects: *“That is the case where no reasonable scientific doubt remains as to the absence of such effects”*

Getting it right

- Lots of good practice exists
- Not an add-on
- Follow the process



- Lots of data and info available
- Talk to us early!



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