

SOUTH EAST DEVON JOINT HABITATS MITIGATION COMMITTEE

Date: Monday 23 October 2017

Time: 6.00 pm

Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact [Hannah Whitfield](#), 01395 517542 (or group number 01395 517546).

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Membership -
Councillors Clemens, Gottschalk and Twiss

Agenda

Part I: Items suggested for discussion with the press and public present

1 Public Speaking

2 Minutes

Minutes of the South East Devon Habitat Regulations Executive Committee meeting held on 27 July 2017.

(Pages 3 -
6)

3 Apologies

4 Declarations of Interest

5 Matters of Urgency

6 Confidential/exempt items

There are no items which officers recommend should be dealt with in this way.

7 Financial Report

Habitat Regulations Delivery Manager

The report seeks to update members of the Executive Committee on the overall financial position regarding mitigation payments towards projects identified in the South East Devon European Site Mitigation Strategy (SEDESMS).

(Pages 7 -
12)

8 Review of zones in the Exe Estuary

Habitat Regulations Delivery Manager

The report advises Members of the processes undertaken, including significant engagement / consultation, to arrive at a final set of proposals in respect of protective zones within the Exe Estuary.

(Pages 13
- 140)

Date of Next Meeting

The next scheduled meeting of the Executive will be held on **Wednesday 24 January 2018** at 6.00 pm in the Civic Centre.

A statement of the executive decisions taken at this meeting will be produced and published on the Council website as soon as reasonably practicable.

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Minutes of the meeting of the South East Devon Habitat Regulations Executive Committee held at Civic Centre, Exeter, on Thursday 27 July 2017



Attendance list at end of document

The meeting started at 2.17pm and ended at 3.05pm.

*1 **Public speaking**

The Chairman, Cllr Daniel Gottschalk, welcomed everyone present to the meeting.

Mr Chris Rogers, who resided close to the Exe Estuary, queried the published visitor figures to the Exe Estuary on which the proposed Voluntary Exclusion Zones had been based upon. He felt the figures were grossly over estimated, particularly when compared with visitor numbers to other popular world-wide attractions. He questioned the belief that households within the designation visited the Exe Estuary every other day – this was not behaviour he had personally witnessed. He asked that the published visitor numbers be scrutinised.

In response, the Habitat Mitigation Manager advised that he had been in correspondence with Mr Rogers regarding his comments. The proposed Voluntary Exclusion Zones (renamed Wildlife Refuges) had been drawn up following two studies and were driven by the need to mitigate against additional recreation, which would have a significant impact on wildlife on the Estuary.

Amanda Newsome commented that the disturbance study undertaken showed that the increased development in area would lead to greater disturbance and impact on wildlife on the Exe Estuary, which the partner authorities had a duty to mitigate against. The household study undertaken had covered the special protection areas in East Devon, Teignbridge and Exeter.

*2 **Declarations of interest**

There were none.

*3 **Matter of urgency**

There were none.

*4 **2016-17 Annual Business Plan – Annual report**

The Executive Committee considered the Habitat Regulations Delivery Manager's annual report updating on progress made in delivery of the mitigation measures set out in the 2016-17 Annual Business Plan.

The report highlighted the following progress:

- The introduction of a Delivery Manager, Habitat Mitigation Officers, Project Officer (Devon Loves Dogs) and the review of Voluntary Exclusion Zones on the Exe Estuary.
- Significant progress in the delivery of the Sustainable Alternative Natural Green Space (SANGS) Strategy. The Partnership had agreed prioritisation of sites, secured land for SANGS at Dawlish and delivery of SANGS South West of Exeter was also being progressed.

- Following an investment of £2.9m, 26 hectares of newly accessible countryside in Dawlish was due to open to the public at the end of the summer.
- A complete reassessment of the assumptions made by the Strategy had been undertaken.
- A new Visitor Management Plan for the Pebblebed Heaths.
- There had been a significant reappraisal of mitigation project costs, which had lead to new per dwelling contributions.
- Sustained, meaningful and important progress had been achieved through local authorities and stakeholder organisations working together in partnership.

With the agreement of the Chairman, the Habitat Regulations Delivery Manager invited the Habitat Mitigation Officers, Project Officer and Exe Estuary Officer to give a brief update on their work:

Habitat Mitigation Officers

- Through positive engagement, the Officers provided education to encourage responsible behaviour of visitors to the sites and nature reserves covered in the Mitigation Strategy. They had made over 1000 interactions with members of the public since the project had started 9 months ago.
- The Officers attended a number of local events – these were a good way to engage with members of the public.
- The Officers had met with other mitigation teams across the UK and would be arranging a Mitigation Officer meet up – this was good for networking and an opportunity to discuss best practices with other officers. An online forum was in the process of being set up, which Mitigation Officers would be able to use to share knowledge.

Project Officer (Devon Loves Dogs)

- The Project Officer had worked with partners to develop the Devon Loves Dogs project and learnt from similar projects across the country. A brand had then been established.
- The Project Officer had worked with partners to develop a Code for dog owners which could be used across the SANGS sites.
- A website for the project was now live (although still be developed) and there had been a lot of interactions through social media. A top twenty dog walks leaflet was being produced to encourage members of the public away from protected sites.
- The Project Officer had worked with the Green Spaces Team at Teignbridge District Council on the event to open the new SANGS in Dawlish.
- The Project Officer had attended events, such as family festivals and guided walks, to promote the Code and engage with members of the public.

Exe Estuary Officer - The Exe Estuary Officer spoke of her work on the zone proposals on the Estuary.

- Initial zone proposals covered critical locations which were important bird habitats – the proposals only covered 9% of the Estuary. A public consultation had been held at the end of last year through to the beginning of this year, with an online survey still ongoing. All consultation responses had been taken into consideration; however there was a need to balance wildlife interest with human interest. As a result of the consultation the exclusion zones, renamed Wildlife Refuges, had been reviewed and now covered 7.2% of the Estuary for 14 weeks of the year and 3.58% of the Estuary for the remainder of the year. The new proposals were considered to have a limited impact on users of the Estuary. A final report on the Wildlife Refuge proposal would be brought to the next Committee meeting in October. The Refuge areas would be clearly marked out.

- Existing codes of conduct for water users were currently under review.

RESOLVED: that the progress made towards delivering the 2016-17 Annual Business Plan be noted.

***5 Rebasing the South East Devon European Site Mitigation Strategy – the strategic response**

The Executive Committee considered the Habitat Regulations Delivery Manager's report outlining the work that had been undertaken to re-validate the core assumptions underpinning the Mitigation Strategy. This built on work which had revealed discrepancies between the quantum of new homes that would be making a full financial contribution to the Strategy with those that had assumed when the Strategy was finalised in 2014. In order to ensure that there was a credible and secure financial approach which enabled ongoing delivery, the report outlined a revised financial position. In order to meet legal obligations it was imperative that new per dwelling contributions were based on re-validation of income, cost and expenditure were adopted and implemented by each of the partner authorities.

RECOMMENDATION to the partner authorities:

that the revised per dwelling contributions (as per the committee report and detailed in Appendix 1) should be adopted by each of the partner authorities as soon as possible. The contribution rates to be index linked with an annual increase to be applied from April 2018; Infrastructure charges to be increased annually by BCIS (Building Cost Information Service) and non-Infrastructure charges to be increased annually by RPI (Retail Price Index).

RESOLVED:

1. that the work undertaken to rebase the South-East Devon European Site Mitigation Strategy be noted. The significant deviations from the original assumptions that had been revealed from the work undertaken were acknowledged by the Executive Committee.
2. that the approach to mitigation for CIL exempt development, as detailed in the committee report, be endorsed.
3. that the proposed arrangement to cover the shortfall in funding at Dawlish Warren (as detailed in paragraph 12 of the committee report), subject to the anticipated S106 receipts actually being received by Exeter City Council, be agreed.

***6 Pebblebed Heaths Visitor Management Plan**

The Executive Committee considered the Habitat Regulations Delivery Manager's report summarising the requirement for the Pebblebed Heaths Visitor Management Plan (VMP) as a partial replacement of (and addition to) the South East Devon European Site Mitigation Strategy. There was a high risk that delivery of the Strategy would be significantly compromised or delayed if the VMP was not endorsed.

RESOLVED:

that the Pebblebed Heaths Visitor Management Plan, noting that estimated costs have been adjusted as part of recent rebasing work (outlined in the separate report "Rebasing the SEDESMS – the strategic response"), be adopted.

***7 2017-18 Annual Business Plan**

The Habitat Regulations Delivery Manager presented the report setting out the principles for the on-site projects which had been recommended as a priority in conjunction with the Officer Working Group to ensure delivery of the Mitigation Strategy. These projects were appended to the Annual Business Plan.

RESOLVED:

1. that the 2017 Annual Business Plan (Appendix 1 to the committee report) and commitments and actions set out therein be approved.
2. that the changes to the operational year as specified in the committee report be approved.
3. that the Executive Committee receive a progress update on the delivery of the Annual Business Plan at the next meeting (quarterly basis).

Attendance list

Committee Members:

Cllr Daniel Gottschalk, Exeter City Council (Chairman)
Cllr Humphrey Clemens, Teignbridge District Council
Cllr Phil Twiss, East Devon District Council

Amanda Newsome, Natural England

Officers

Colin Acton, Waterways Team Manager
Stephanie Clark, Exe Estuary Officer
Amelia Davies, Habitat Mitigation Officer
Sama Euridge, Habitat Mitigation Officer
Henry Gordon Lennox, Strategic Lead – Governance and Licensing (EDDC)
Ed Freeman, Service Lead – Strategic Planning and Development Management (EDDC)
Neil Harris, Habitat Regulations Delivery Manager – Growth Point Team
Naomi Hartnett, Principal Projects Manager – Growth Point Team
Anne Mountjoy, Growth Point Communications Officer – Growth Point Team
Julie Owen, Projects Officer (Devon Loves Dogs)
Fergus Pate, Principal Growth Point Officer (TDC)
Andy Robbins, City Development Manager (ECC)
Hannah Whitfield, Democratic Services Officer (EDDC)

Apologies:

Simon Davey, Strategic Lead – Finance (EDDC)
Peter Hearn, Strategic Infrastructure Planning (ECC)
Peter Lacey, Green Infrastructure Board

Chairman Date.....



SOUTH EAST DEVON
HABITAT REGULATIONS
PARTNERSHIP

South East Devon Habitat Regulations Executive Committee

Financial Report

Neil Harris, Habitat Regulations Delivery Manager
October 2017

Legal comment/advice:

There are no legal implications arising.

Finance comment/advice:

No additional comment to the financial update contained in the report.

Public Document:	Yes
Exemption:	None
Review date for release	None

Recommendations

It is proposed that the Executive Committee:

- 1. Notes the quarterly update on the overall financial position including contributions received, contributions not received because arrangements may be in place for contributions to be with-held, expenditure and anticipated contributions (from signed S106).**
- 2. Receives an update on 5 year income forecasts of developer contribution receipts at the HREC meeting in January 2018. This will clearly identify where these have been retained by the collecting authority where any agreement is in place for contributions to be with-held.**

Equalities impact: Low

Risk: Low

This is an update, repeated quarterly, on the current financial position of developer contributions (both collected and anticipated) for Habitat Regulations mitigation across the three partner authorities.

1. Summary

1.1 The purpose of this report is to update members of the Executive Committee on the overall financial position of developer contributions received by the partner authorities as mitigation payments towards measures identified in the South East Devon European Site Mitigation Strategy (“the Strategy”).

1.2 The report set out details of the contributions received from inception until the end of the first quarter of the 2017 financial year.

1.3 The report also contains details of anticipated income from contributions where planning permission has been granted but the contribution has not yet been paid. Details of total expenditure to the end of the first quarter of the 2017 financial year are also provided.

1.4 Updated housing forecasts are not currently available from all partner authorities. Therefore, to avoid inaccuracies, this report does not include a 5 year income forecast of developer contributions. This will instead be included in the next report, due January 2018.

Table 1 Developer contributions received (less expenditure) to end Q1 2017, according to zone of origin/charging period.

Charging zone/period	Total received as at end Q1 2017	Total expenditure as at end Q1 2017	Balance as at end Q1 2017
SANGS	£ 839,480	£ 528,133	£ 311,347
JIA on site ¹	£ 654,074	£ 274,048	£ 380,026
Dawlish Warren On site	£ 278,857	£0	£ 278,857
Exe Estuary On site	£ 90,318	£0	£ 90,318
Pebblebed Heaths On site	£ 66,683	£4,976	£ 61,707
Total	£ 1,929,412	£ 807,157	£ 1,122,255

Table 2. Position of all developer contributions from planning consents granted but not yet received, as at the end of Q1 2017.

Charging zone/period	Position as at end Q1 2017
SANGS	£ 890,743
JIA on site	£ 326,552
Dawlish Warren on-site	£ 53,110
Exe Estuary on-site	£ 85,486
Pebblebed Heaths on-site	£ 108,821
Total	£ 1,464,712

¹ Includes £83,056 for "Cross Site Measures" from Cranbrook 587 Agreement

2. Exemption from Contract Standing Orders

2.1 The Habitat Regulations Delivery Manager sought an exemption to East Devon District Council's Contract Standing Orders (CSO). The exemption related to the contract for the Exe Estuary zonation review and Codes of Conduct work to the Exe Estuary Management Partnership (EEMP).

2.2 The exemption was approved according to CSO procedure, on the grounds of a limited marketplace. The total contract value is £17,000:

- The EEMP have established long-standing working relationships with different user groups on the Exe and have consulted with these groups on other, related projects in the past.
- By awarding the contract to the EEMP, we are able to take advantage of an existing, well respected link directly to the user groups who will be involved with and affected by the work.
- This allowed easy contact with the user groups and also provided interaction with the groups via a known, trusted and identifiable organisation.
- It was considered to be much more difficult to establish these links via a consultancy and for the outcome to be respected and adhered to by the varying user groups

3 Additional costs.

3.1 In response to a high level of public interest in the Exe Estuary zone review, the EEMP agreed to extend the public consultation and arrange additional meetings. This resulted in additional costs of £2,186.06, taking the total cost for the zone review to £9,186.06².

Neil Harris

Habitat Regulations Delivery Manager

South East Devon

Habitat Regulations

Executive Committee

October 2017

² The invoice was received in August 2017 and will be accounted for in the January 2018 financial report.

Natural England comment:

We note progress made towards delivery of cross-site measures (via JIA contributions) but that little expenditure has been made against on-site measures. This is concerning given that the original intention was to focus on delivery of on-site measures to ensure mitigation kept pace with housing numbers, accepting the complexities and therefore likely time delays in delivering SANGS.



SOUTH EAST DEVON
HABITAT REGULATIONS
PARTNERSHIP

South East Devon Habitat Regulations Executive Committee

Review of zones in the Exe Estuary

Neil Harris, Habitat Regulations Delivery Manager
October 2017

Legal comment/advice:

The report identifies the legal background and details the process that has been gone through, including significant engagement / consultation, to arrive at a final set of proposals in respect of protective zones within the Exe Estuary.

The recommendations from the EEMP report (with the further requirement in respect of restricting powerboat usage during certain times) appear sound and are reflected in the recommendations to the Executive Committee.

Essentially, the wildlife refuges are areas that the Partnership will look to estuary users to respect and avoid for the reasons detailed in the report. However this is voluntary and therefore there is no basis for enforcement in the event users disregard what is proposed. The only aspect that might be capable of enforcement relates to the restriction on powerboating in the Exmouth Wildlife refuge during a certain period, however this will be for Exeter City Council to consider, as Harbour Authority, and progress accordingly – Recommendation 3 addresses this.

Otherwise there are no legal implications requiring comment.

Finance comment/advice:

Actions and measures outlined in the report are within the financial resources allocated in the approved Business Plan.

Public Document:	Yes
Exemption:	None
Review date for release	None

Recommendations

It is proposed that the Executive Committee:

1. Notes the outcome of the comprehensive consultation exercise on the introduction of Wildlife Refuges and records its thanks to the Exe Estuary Management Partnership for undertaking the initial stages of this exercise.
2. Approves establishing 2 Wildlife Refuges at Exmouth and Dawlish Warren as recommended in Section 6 of the Exe Estuary Management Partnership's report 'Exe Estuary Zonation Review – Consultation Report' but with a change to preclude the use of powerboats in the Exmouth Refuge between 15 September to 31 December.
3. Recommends that Exeter City Council undertake a review of Byelaw 4a (relating to use of powerboats in the designated 'Powerboat' zone) with a view to precluding use of powerboats in the designated area between 15 September to 31 December.
4. Receives an annual Wildlife Refuge Monitoring Report.
5. Receives an overarching review of monitoring results after completion of the third year of monitoring (2021).

Equalities impact: Low

Risk: High. Evidence as outlined in the report indicates that existing levels of disturbance from recreational activity may be sufficient to result in the Exe estuary being less able to support designated bird populations. Within the context of an increasing human population, it is not permissible to wait until the populations of species protected under SPA legislation are in decline before taking action. Without robust and effective mitigation which enables the partner authorities to be certain of no net impact to protected sites, continued development as outlined in respective local plans and within 10km of the estuary is at risk of legal challenge.

1. Summary

1.1 The Exe Estuary is designated as a Special Protection Area (SPA) for regularly supporting a community of at least 20,000 waterfowl. In simple terms, this affords the estuary legal protection against the deterioration of its habitats and disturbance (and deterioration) of the species for which it has been designated. Evidence reported in the Exe Disturbance Study (2011) demonstrated that:

“Disturbance is currently therefore influencing the distribution and behaviour of birds on the Exe. These impacts may be sufficiently widespread and frequent to result in the estuary being less able to support the designated bird populations”¹

The study is key because it establishes reasonable scientific argument that activities on and around the Exe are causing disturbance to protected features - and have been since at least 2011. The precautionary principle is integral to legislation² and compels the partner authorities to act in such circumstances.

¹ *The Exe Disturbance Study, Footprint Ecology, 2011 (7.15, pg.88)*

² *The Conservation of Species and Habitats Regulations 2010 (as amended).*

1.2 The partner authorities have all established Local Plans which set out housing growth across the region. The South-east Devon European Site Mitigation Strategy (“the Strategy”) describes housing growth in the context of the Exe:

“Housing within 1km of the Exe Estuary is set to increase by 20% (3,138 houses) as a proportion of existing housing within 1km (15,395 houses). Looking at all housing within 10 km, there will be a 29% increase surrounding the Exe...”³

1.3 Using data from the Devon Household Survey (2012) and Exe on-site visitor survey (2010), the Strategy goes on to predict a 20% increase in visits from households within 1km of the estuary. This rises to a 27% increase in visits from households within 10km of the estuary.

1.4 In June 2016, the Habitat Regulations Executive Committee (HREC) approved a review of zonation in the Exe Estuary as part of the 2016-17 Annual Business Plan. Due to their neutral standing, history of involvement, established network of user groups and success in implementing a Voluntary Exclusion Zone in 2009, the Exe Estuary Management Partnership (EEMP) were commissioned to undertake the zoning review.

1.5 Consultation started on 8th December 2016 and consisted of 18 specific user group meetings, 2 general meetings, a dedicated website and 2 online surveys. A number of conversations and informal meetings also took place to enable detailed discussion. Feedback was also received by post and email. Original proposals are included as appendix (A).

1.6 The consultation was promoted through a number of press releases, through social media, the Exe Press newsletter, the EEMP and Devon County Council websites, by email, on-site posters and through direct contact with the Habitat Mitigation Officers.

1.7 Comments, compromises and suggestions put forward by respondents to the EEMP’s consultation were discussed by members of the EEMP and South East Devon Habitat Regulations Partnership (SEDHRP) Officer Working Groups on 6th June 2017. This resulted in significant amendments to the original proposals, primarily in response to concerns of safety and accommodating (as far as possible) existing uses of the areas.

1.8 All final recommendations (map boundaries are shown in appendix (B)) are detailed in the EEMP’s “Exe Estuary Zonation Review Consultation Report” (“the EEMP consultation report”) and were endorsed by the EEMP Management Group on 21st June 2017. They were displayed at a public “drop-in” event at County Hall, Exeter on 29th June 2017, which also marked the hand-over from EEMP to the South-east Devon Habitat Regulations Partnership (SEDHRP). The report is included here in appendix (C).

³ *South-east Devon European Site Mitigation Strategy, Footprint Ecology, 2014 (3.24, pg. 74)*

1.9 From 29th June to 10th August 2017 there was a 6 week period during which a “final options” consultation was carried out by SEDHRP. This was particularly to allow for seasonal estuary users to comment and to allow for comments on the EEMP’s final recommendations.

1.10 The questionnaire was publicised widely using press releases, social media publicity, was sent out to those on the Exe Estuary Management Partnership database and was sent out to those who had taken part in the previous stage of the consultation and gave their email address. Paper copies of the questionnaire were made available on request.

1.11 Given that the EEMP final recommendations were already agreed by the members of both Officer Working Groups and the EEMP Management Group, the main purpose of this report is to consider responses and comments received during the final options consultation, included here in appendices (D) and (E).

1.12 The Wildlife Refuge proposals are essentially a request to the thousands of people using the Exe Estuary to act responsibly and refrain from using two critically important ecological areas. As shown in figure (1) below, these represent just 3.5% (840,548 m²) of the SPA (23,457,100 m²) throughout the year (at Dawlish Warren) and a total of 7% (1,669,295 m²) for 14 weeks of the year (when including the Exmouth refuge area).

1.13 Whilst they remain voluntary area proposals, the continued use of the proposed Exmouth refuge by Powerboats (during mid-Sept to end Dec) is undoubtedly anomalous. Therefore, the Officer Working Group recommend that byelaw 4(a) which permits speeds over 10knots in this area, at that time, is reviewed by Exeter City Council, being the Harbour Authority.

1.14 No fines or enforcement are suggested or recommended. The success of these proposals are inevitably dependent on effective promotion and their adoption by the many responsible users of the estuary.

Figure (1). Wildlife Refuge areas relative to the wider estuary.



Exe Estuary

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2. Evidence and approach

2.1 The Exe Disturbance Study was commissioned in partnership by the Environment Agency, Natural England and the Exe Estuary Management Partnership. Footprint Ecology were chosen as the best consultant to complete the study because of their high-quality, science based ecological work and national breadth of experience in the issues under study.

2.2 A critique of the Exe Disturbance Study was raised with Natural England and the Local Authorities in August 2012 and has subsequently been quoted by a number of people objecting to the current recommendations. Senior ornithologists from Natural England met to discuss these concerns with those raising them in October 2013. Having considered the issues raised, both Natural England and the partner authorities have rejected the critique.

2.3 The critique of the joint approach to Habitat Regulations mitigation fails to recognise the issues relating to the cumulative impacts of new housing over a wide area and implications of gradual but steady increases in access over a prolonged period. It also misses a strategic plan-level assessment and the challenges (and opportunities) presented when assessing the impacts associated with tens of thousands of new dwellings and the recreational needs of their future residents. It did not make reference to site conservation objectives, which are fundamental to informing a Habitat Regulations Assessment (HRA). It fails to reflect or consider the breadth of information used for decision-making and was incomplete with respect to the legislation.

2.4 Any plan-level HRA must consider the effects on the site for the lifetime of the housing, i.e. a permanent potential impact, and one which may even become more intense over time if recreational activities change over time (e.g. with climate change). The assessment must also consider all interest features; both the waterbird assemblage as a whole and individual species, some of which can be present on the estuary from July through to March. Given these considerations, the evidence on visitors and disturbance, and the scale of housing change, there is clear evidence of risk.

2.5 It would be a breach of legislation to wait until disturbance levels are such that the estuary's protected waterbird populations are in decline before taking action. The critique failed to appreciate the requirement for precaution, which is built into the legislation to account for uncertainty. Precaution ensures protection where there is doubt but there should be a credible scientific argument to establish the possibility of an impact. The Exe Disturbance Study clearly established that this is the case on the Exe Estuary and therefore the "do nothing" option must be rejected.

2.6 During 2016-17, EEMP co-ordinated surveys of disturbance activity at Dawlish Warren NNR. Of the direct observations made, more than one third of those recorded were small sail boats, whilst more than half were made up of small sail boats and small fast boats (such as RIBS). The EEMP consultation report states:

“the most notable cause of disturbance arose from canoes / kayaks, which accounted for 45% of all disturbance events recorded, which resulted in flushing the birds from the area (i.e. caused the birds to fly further than 50m away). This further highlights disturbance issues at Dawlish Warren NNR, where a quiet, non-engine powered activity (which might be considered low-impact) can access areas at low tide which other activities cannot, and can actually present a highly disturbing activity if the person in control is not aware of the sensitivities of the area.”⁴

2.7 Additionally, Teignbridge District Council officers based at Dawlish Warren NNR have provided a log of 53 significant disturbance incidents recorded from 2009-2017 (included here in appendix (F)). These direct observations were recorded not as part of a dedicated monitoring programme but during the course of other duties, accounting for their irregularity.

2.8 The records clearly provide evidence of ongoing disturbance by both powered and non-powered craft. Additionally, they also provide evidence of ongoing disturbance to protected species, including:

- Oystercatcher
- Dunlin
- Grey Plover
- Wigeon
- Dark-bellied Brent Goose

2.9 Disturbance can modify the feeding and roosting habits of wildfowl and place additional energetic stress on birds through increased activity and lost feeding opportunities. This is likely to reduce fitness and survival, particularly if it occurs during periods when they are already stressed by other factors, such as poor weather, food shortage or prior to/after long distance migration.

2.10 Given the reasonable, evidence-based scientific argument that disturbance from water activities may be affecting the ability of the estuary to support the designated bird populations, Regulation 61 of the Habitats Regulations requires the local authorities to mitigate the predicted impacts if residential development in the area is to continue. This mitigation must be sufficiently robust for the Local Authorities to be certain that there will be no net impacts to the protected sites.

⁴ Exe Estuary Zonation Review Consultation Report (EEMP, 2017, pg. 14)

2.11 The Wildlife Refuges should be viewed in the context of a wider, interconnected and coordinated approach. This includes a broad range of educational approaches through the Habitat Mitigation Officers, leaflets, signage and interpretation. Other projects promote responsible dog ownership and behaviour across the whole region and significant areas of countryside have been (and will be) brought forward as Suitable Alternative Natural Green Space (SANGS). A comprehensive programme of surveys and monitoring will provide an ongoing measure of the effectiveness of this approach.

3. Safety

3.1 The safety of all users on the estuary is of paramount importance. Any vessel or craft would be able to enter the Wildlife Refuges for reasons of immediate safety. It is considered reasonable to ask users, once safe, to make their way out of the refuge or recover their craft at the shore.

3.2 At the same time, it is also reasonable to expect that, once established, users incorporate the Wildlife Refuges into their plans for visiting the estuary and take personal responsibility to avoid them, subject to 3.1. The presence and location of the refuges should be promoted through new codes of conduct, via marker buoys on the water, leaflets and new signage covering the whole estuary.

3.3 Concerns regarding safety have been raised by users during the consultation process and have been addressed through significant amendments to the original proposals. These are detailed later in the report.

4. Exe Estuary Management Partnership – context.

4.1 A review of behavioural controls in the Exe Estuary was undertaken by the EEMP in 2014, resulting in the Exe Estuary Recreational Framework report. One of the key proposals in this document related to the establishment of a “Sensitive Area” in the estuary to the north of Dawlish Warren, aligned with the existing NNR boundary. This would:

“provide a refuge on the estuary, where wildlife could live undisturbed by human activities.... a zone where all forms of water and land-based activities would be avoided...all year around”⁵

4.2 In 2009, the EEMP had successfully worked in partnership with kitesurfers to establish a Voluntary Exclusion Zone (VEZ) (covering a large part of the Exmouth LNR), in recognition of its importance for feeding birds. Local kitesurfers helped to promote the zone through websites, printed materials and by word of mouth.

4.3 The framework report also highlights a variety of issues relating to lack of awareness or adherence of some measures (including existing zones), lack of resource for public engagement and insufficient promotion and signage.

4.4 There are seven pages of recommended mitigation actions within the report, covering the main types of water activity on the estuary. In addition to the Dawlish Warren Sensitive Area, of particular significance are the following:

- for all activities to avoid roost sites (a 200m buffer drawn around roost sites)
- to introduce a number of VEZ during 1 September to 1 April, at the Clyst, the Bight, Shutterton Creek, Cockle Sand and Lympstone for kayaks, canoes, paddle boarding and rowing.
- The Powerboating area should be only used during the period of April to mid-September.
- To relocate the Powerboating area outside the estuary.

4.5 Underpinning this work are the results of species monitoring via the Wetland Bird Survey (WeBS⁶), which shows that the majority of the internationally important populations of Dark-bellied Brent Goose, Wigeon and Oystercatcher in the estuary are found at Dawlish Warren National Nature Reserve (NNR) and Exmouth Local Nature Reserve (LNR). Coupled with the presence of the *Zostera* (eelgrass) beds (which provide the main food source for some SPA protected species), it is not surprising that EEMP’s initial discussions with key stakeholders quickly identified these two key areas as critical to the ecological function of the SPA.

⁵ *Exe Estuary Recreational Framework, Exe Estuary Management Partnership (2014, pgs.39-40)*

⁶ *The Wetland Bird Survey (WeBS) is the monitoring scheme for non-breeding waterbirds in the UK, a partnership coordinated by the British Trust for Ornithology (BTO).*

5. EEMP – Consultation and final recommendations

5.1. Throughout the consultation period, a number of concerns were raised. Through the questionnaire, approximately 70% of respondents raised issues with the original proposals. However, although concerns were also raised during consultation meetings, the EEMP reported being able to clarify misunderstandings about the proposals and discuss with users what they would like to see amended.

5.2 A total of 57 responses were received which supported the introduction of these zones. Many local users communicated their respect for the environment and supported protection of wildlife and habitats. Some suggested that the proposals do not go far enough to protect such an ecologically important site.

5.3 A total of 222 completed questionnaires were received. The EEMP review addressed a number of concerns raised by users during the consultation as detailed in the EEMP consultation report. The most common responses were:

- Why are the VEZs needed?
- Abandon the proposals.
- There will be less space and freedom to do my water-based activity.
- We don't really disturb birds and wildlife with our non-engine powered activity based on the water.
- There'll be nowhere for novices and beginners to train and practice their chosen activity on the water.
- There is no / very little credible evidence for the reasons behind the proposals.
- I have concerns about being able to safely carry out my activity if the refuges are in place.
- I am concerned that there are further plans for other VEZs, and that there are plans to make these voluntary zones statutory. Is this the "thin edge of the wedge"?

5.4 Comprehensive responses to these concerns are included in the EEMP consultation report⁷ and therefore are not reproduced here.

5.5 The EEMP amended the original proposals in order to address the majority of issues highlighted (for example, safety concerns by allowing small vessels to come out of the navigation channel). All comments and feedback received during the EEMP consultation process were taken into account to form new recommendations. The amended proposals need to balance the legal obligations of the protected areas against the legitimate interests of users.

5.6 The amendments offer substantial compromise; making the Wildlife Refuges smaller to allow continued use of more of the estuary for recreation. This leaves some high-tide roosts and areas of eelgrass unprotected and allows no "buffer" for wildlife.

⁷ *Exe Estuary Zonation Review Consultation Report* (EEMP, 2017) Pgs.35-38

6. Exmouth Wildlife Refuge – EEMP recommendations

1. Temporal restriction: mid-September to end-December.
2. Tidal restriction: all tidal states.
3. Dog walkers to turn left (south) when accessing foreshore from the Imperial Recreation Ground slipway.
4. Current Kitesurfing Exclusion Zone superseded by new Exmouth Wildlife Refuge.
5. Power boats have continued use within their designated area, where the 10 knot speed limit can be exceeded when tidal height is 3.8 metres or more above chart datum, as set out in byelaw 4a.
6. Water skis have continued use within their designated area, where the 10 knot speed limit can be exceeded, as set out in byelaw 5a.
7. Wildfowling to have continued use of areas on Exe, including within the Exmouth Wildlife Refuge, as agreed through consent with relevant authorities who grant lease agreements. Activity is tightly controlled through regulations, agreements, tests and permits.
8. Continued angling from area on shore adjacent to Exmouth Wildlife Refuge, i.e. 'The Gate / Field'. However, anglers to avoid entering Exmouth Wildlife Refuge by boat.

6.1 The compromises and subsequent amendments made to the original proposals are significant:

- Western boundary moved eastwards, allowing an approximate 750m buffer zone to the main channel for safety reasons. This makes the area smaller than the existing Voluntary Exclusion Zone and makes more sheltered area available around the Imperial Recreation Ground in consideration of the needs and safety of novices and learners.
- Temporal restriction changed from September-March, to mid-September to the end of December. This is a 50% reduction, also in consideration of the needs and safety of novices and learners.

7. Dawlish Warren Wildlife Refuge – EEMP recommendations

1. Temporal restriction: all year.
2. Tidal restriction: all tidal states.
3. For dog walking: statutory exclusion already in place through NNR byelaw.
4. For low tide activities (e.g. angling, bait digging, walking): On the foreshore, stay left (north) of line between Cockwood Steps and the southern tip of the wreck.
5. For high tide activities (e.g. canoeing, dinghy sailing, Stand Up Paddleboards (SUP) Buffer zone for water-based activities, which comes in from the navigation channel by 100m, until the mouth of Shutterton Creek, where the boundary re-joins at the mean low water mark.
6. Current Angling Voluntary Exclusion Zone superseded by new Dawlish Warren Wildlife Refuge.
7. Continued access for Eales Dock via Shutterton Creek, with a voluntary agreement to promote responsible use of the Wildlife Refuge.
8. Nine existing crab tilers will continue to work under permit in the northern part of this area, in adherence to the Inshore Fisheries and Conservation Authority (IFCA) byelaw and following robust and updated codes of conduct.
9. Official survey work will be allowed if disturbance is minimal.

7.1 Again, significant compromises have been made to the original proposals:

- The Northern boundary near Cockwood has been moved ½ km south. The area is somewhat less important for wildlife than the rest of the NNR and responses indicated that the area is well used by anglers and dinghies.
- In response to statements relating to the safety of small craft in the main channel, a 100m buffer zone running North-South along the NNR boundary was proposed. 100m is a substantial safety zone for smaller vessels.

8. Other recommendations.

8.1 The EEMP consultation report also included updates regarding ongoing work (revised codes of conduct) and identified additional recommendations, including:

- Promotion of Wildlife Refuges through signage, staff, volunteer wardens, leaflets, websites and social media.
- Marking of the refuges and associated areas through buoyage or “withy”⁸ markers.
- The introduction of permitting systems for crab collectors at Dawlish Warren (and potentially across the whole estuary).
- Monitoring of the refuges, incorporating annual reviews to explore if they are working as intended or whether modifications or amendments are needed.
- Byelaw review following assessment of the effectiveness of the refuges.
- Amendment of the water ski area to extend North by approximately 700m.

⁸ Willow sticks embedded into mud and/or sand as navigational markers.

9. SEDHRP Phase – consultation results

9.1 A total of 157 completed questionnaires were returned and indicated:

- 67% of respondents had been to / used the proposed Wildlife Refuge area near Dawlish Warren one to five times or less in the last 12 months.
- 59% of respondents had been to / used the proposed Wildlife Refuge area at Exmouth one to five times or less in the last 12 months.

9.2 When asked about the changes they would propose, the most common comments were:

- Abandon the proposal.
- There isn't any / enough evidence to back up the proposal.
- Public opinion is against the current proposals / people don't support them so they won't work.
- The Wildlife Refuge areas need to be used for safety reasons, to keep some users out of the strong tidal current.
- Non-engine water users don't have any / much impact so shouldn't be included.
- People using the area don't have any / enough impact on the estuary.

9.3 Other common comments included:

- I support the proposals to protect wildlife, it's a vitally important area for birds / It's a sensible balance between humans and wildlife.
- You haven't listened to comments in previous consultation / you won't listen to what we say.
- Concerned about how the Wildlife Refuge Areas will be managed / policed / enforced.

9.4 Full results and redacted responses (to remove personal details) are included here in appendices (D) and (E). The results and responses were considered and debated by the SEDHRP Officer Working Group on 6th September 2017, in order to agree recommendations to HREC.

10. Analysis of results

10.1 When considering the results of both consultations, it is important to note that the review was heavily focused on attempting to work co-operatively with user groups to reach a sensible compromise.

10.2 It can be seen that responses to the SEDHRP consultation are not substantially different in nature to those received during the first phase. It is evident that a number of respondents still ask for the proposals to be abandoned and claim that the evidence is not sufficient. Section 2 of this report explains the available evidence and why it is not recommended that the proposals are abandoned.

10.3 Some responses are critical of changes made to the original proposals and do not feel that their points have been listened to. The Officer Working Group maintain that significant compromises have been made as a direct result of previous responses. Safety concerns have been addressed and both refuges have been reduced in size as a result. This should provide ample space for those users wishing to use areas adjacent to the refuges.

10.4 Other responses concerned with the (purported) lack of impacts of non-engine powered craft are addressed through the additional evidence provided by the EEMP and officers at Teignbridge District Council (see 2.6-2.8, above).

10.5 In light of the foregoing, the view taken is that the final recommendations of the EEMP report should be adopted, but with one amendment relating to the use of powerboats in the Exmouth Refuge. The proposal is that between the dates of 15 September to 31 December, powerboating should not occur within the refuge area. This could potentially be more rigidly applied if Exeter City Council (as the Harbour Authority) amended byelaws controlling the activities of powerboats to limit the use to outside of these dates.

11. Conclusion

11.1 Thanks are due to everyone who shared their views, without whom the entire process would not have been possible. The issues involved have proven to be contentious and undoubtedly the results of both consultations indicate that some users will be unhappy with the final outcome. Nonetheless, the recommendations are considered to provide the best possible compromise, given the circumstances.

11.2 The partner authorities have a legal obligation to ensure no net impacts to protected sites as a result of local housing plans. To be certain of no net impacts from recreation, robust and effective management of access to and on the Exe Estuary is required.

11.3 Significant amendments have been made to the original proposals. This has been the result of an extensive 9 month consultation period with many different users of the Exe Estuary.

11.4 The wildlife refuges present one of the most significant (albeit voluntary) changes to access in the estuary for a number of years. They are needed in the context of a significant increase in the local human population, associated recreational activities and evidence indicating existing impacts to protected species and habitats.

11.5 The protected species depend on the estuary for their survival. The evidence, coupled with the precautionary approach required by legislation makes it clear that doing nothing is not an option. To work effectively in the interests of everyone, the refuges will depend on the goodwill and education of people using the estuary for their recreational pursuits.

11.6 It is recommended that the Executive Committee receive annual monitoring reports in order to maintain an overview of how effective the refuges are. After a period of 3 years there should be an overarching review of monitoring results to ensure the continued efficacy of the approach.

Neil Harris
Habitat Regulations Delivery Manager

South East Devon
Habitat Regulations
Executive Committee
October 2017

Natural England comment:

We support the recommendations made, however we suggest that recommendation 4 be amended slightly to reflect the need not just for monitoring but also for review of the results of that monitoring, and the opportunity to make changes in the light of those results, which may further address the concerns of users.

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Habitat Regulations Executive Committee

Appendix (A): Original Proposals “Voluntary Exclusion Zones”



Proposed Dawlish Warren Voluntary Exclusion Zone
(all year, all tidal states)

Key

-  Dawlish Warren National Nature Reserve - Statutory
-  Dawlish Warren - Proposed Voluntary Exclusion Zone (drafted December 2016)
-  Dawlish Warren Defined Landing Area



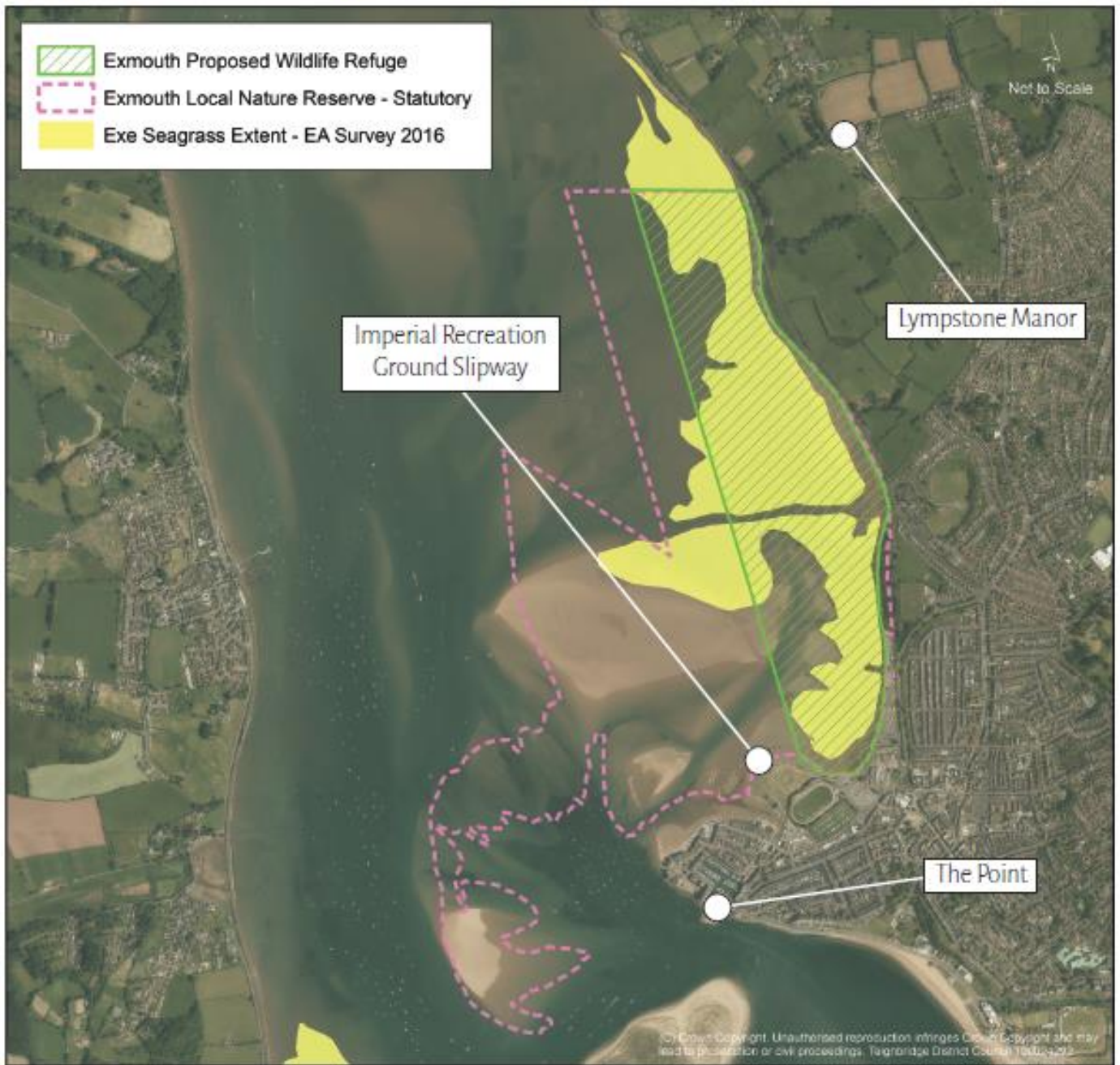
Habitat Regulations Executive Committee

Appendix (B): Final recommendations “Wildlife Refuges”

Proposed Dawlish Warren Wildlife Refuge *(all year, all tidal states)*



Proposed Exmouth Wildlife Refuge (mid-Sept to end-Dec, all tidal states)





SOUTH EAST DEVON
HABITAT REGULATIONS
PARTNERSHIP

Habitat Regulations Executive Committee Appendix (C): EEMP Consultation Report



Exe Estuary Zonation Review Consultation Report

Exe Estuary Management Partnership

Commissioned by:



SOUTH EAST DEVON
HABITAT REGULATIONS
PARTNERSHIP

CONTENTS

1. Executive Summary	2
2. Introduction	
2.1. Exe Estuary Management Partnership	4
2.2. South East Devon Habitat Regulations Partnership	4
2.3. Partnership Working	5
3. Zonation Review	
3.1. Background	7
3.2. Revised zoning on the Exe Estuary: Initial Proposal	15
3.3. Establishment of a Voluntary Exclusion Zone in the Estuary north of Dawlish Warren: Initial Proposal	26
3.4. Summary of Zonation Review	30
4. Consultation Process	
4.1. Introduction to Consultation Process	31
4.2. Consultation Methodology	32
4.3. Next Steps	33
4.4. Codes of Conduct	34
4.5. Summaries of Consultation Responses	34
5. Consultation Feedback	
5.1. Consultation Responses	35
5.2. Summary of Feedback from User Groups	39
6. Final Recommendations on Zonation	44
6.1. Exmouth Wildlife Refuge: Final Recommendation	45
6.2. Dawlish Warren Wildlife Refuge: Final Recommendation	50
7. Recommendations for Ongoing Work	
7.1. Review of Codes of Conduct	56
7.2. Promotion of Zonation and Codes of Conduct	56
7.3. Identification of Additional Management Needs through IFCA	58
7.4. Permitting Systems	59
7.5. Voluntary Agreements	59
7.6. Practical Steps to Mitigating Impact	60
7.7. Monitoring	60
7.8. Byelaw Review	61
8. End Note	62
9. References	63

1. EXECUTIVE SUMMARY

Future housing growth in areas around the Exe Estuary and Dawlish Warren will result in increased pressure on these ecologically important sites. Their designated status requires steps to be taken to mitigate these impacts. The approach to such work is set out in a formal strategy adopted by the South East Devon Habitat Regulations Partnership (SEDHRP) and includes a review of zonation on the Exe Estuary. The Exe Estuary Management Partnership (EEMP) was commissioned to lead this process. Between early December 2016 and late April 2017, The EEMP held a public consultation, gathering knowledge from local users, national bodies and managers of the Estuary, in order to inform this review. The results of this process are set out in this report.

The EEMP has been in place for over 20 years and acts as a neutral body to balance the needs of all legitimate users of the estuary with the legal requirements of its protected wildlife and habitats. Its involvement in this review of zonation aligns well with the objectives and priorities for the EEMP, as set out in its adopted Management Plan.

Initial discussion with key stakeholders suggested that the review should focus on just two critical locations within the Estuary. This resulted in a draft set of proposals which was subject to consultation through 18 separate and specially arranged user group meetings, two collective consultation events and a formal online questionnaire.

The amended proposals suggested through this report, best reflect the feedback received through the consultation, whilst providing adequate protection for the nature conservation interests of the designated Exe Estuary and Dawlish Warren sites. These proposals have been endorsed by the EEMP Management Group, and presented to the SEDHRP, who will undertake the next stage of user feedback before a decision is made by their Executive Committee on whether to approve the proposals.

The report clarifies the changes to the original proposals, suggested by the EEMP, in response to concerns that were raised through local users. These amended proposals are based on two 'Wildlife Refuges' in Dawlish Warren and Exmouth (previously referred to as 'Voluntary Exclusion Zones'), with modified boundaries which allow the users continued safe and responsible use of the Estuary. Modifications include a reduction in area from initial proposals, with boundary buffer zones enabling safe recreational use and continuation of certain named activities which have existing agreements or restrictions. The amendments mean that the proposed Wildlife Refuges cover only 7.12% of the Estuary during 14 weeks, and a mere 3.58% year round, with the rest of the publicly accessible areas of the estuary available for recreational activities. These areas have been reduced by approximately 21% from original proposals, as a result of the consultation.

Feedback through the consultation suggests that amended areas are likely to have low impact on users. The Wildlife Refuges would provide areas of protection for the some of the most vital feeding and roosting grounds for internationally important bird populations, which rely on the Estuary for survival on long migratory journeys. The amended proposals won't provide the perfect outcome for either wildlife or human interests, but they offer the best compromise under the circumstances.

The proposed Wildlife Refuges are based around a voluntary approach. The report confirms that relevant users will be asked to avoid entering these areas; there will be

no enforcement, instead, the recommended approach is to talk to and help to educate people about why these areas are so important, with plans to introduce new signage and markers for the Wildlife Refuges. The EEMP will also be working on new and updated codes of conduct for the Exe, collaborating with local users and national recreational bodies, to ensure safety, consideration of other users and nature conservation. Safety of users on the Estuary is of utmost importance; the report clarifies that users may need to enter the Wildlife Refuges on occasion, to avoid hazardous situations.

The protection of the internationally important Exe Estuary relies on the involvement of local users. The EEMP appreciates the involvement and experience of users during this process, and looks forward to continuing working together to ensure the success of these Wildlife Refuges and make a positive difference to this beautiful place. Detail of how to get involved, and to help inform codes of conduct, will be available on the EEMP website during July to September, at www.exe-estuary.org.

2. INTRODUCTION

2.1. Exe Estuary Management Partnership

The Exe Estuary Management Partnership (EEMP) has existed since the mid-1990s. Due to the complex array of organisations with (sometimes overlapping) management responsibilities for different aspects of the Estuary, a partnership approach is the most effective model by which to achieve consistent management of the Estuary resource as a whole. The EEMP seeks to conserve and enhance the Estuary's special nature and promote sustainable economic and social activity by managing competing demands and addressing any conflicts as they arise, to ensure that interests and activities are harmonised.

The EEMP is the management group responsible for the co-ordination of the Management Scheme of the Special Protection Area (SPA), which identifies policies which aim to achieve favourable condition of the wildlife and supported habitats protected under this designation. The framework for the co-ordinated management of the Exe is provided by the Exe Estuary Management Plan 2016-2021, which can be found on the EEMP website at:

<https://www.exe-estuary.org/web/exe-estuary/partnership-documents5>

Partners of the EEMP include Devon County Council, East Devon District Council, Teignbridge District Council, Exmouth Town Council, Dawlish Town Council, Starcross Parish Council, Woodbury Parish Council, Natural England, RSPB, Lymstone Fishery and Harbour Association, the RYA, Powderham Estate, the Environment Agency, and Devon and Severn IFCA. An Exe Estuary Officer is employed by the EEMP to act on its behalf. The Partnership retains joint authority for the work through quarterly Management Group meetings, with a Forum Chair and Vice Chair representing the views of the local community as elected representatives. The work of the Exe Estuary Officer is guided by an Officer Working Group.

With the wide variety of activities that take place on the Exe, the EEMP strives to work with local users and communities to strike a balance between the interests of different user groups and wildlife.

2.2. South East Devon Habitat Regulations Partnership

Teignbridge, East Devon District and Exeter City Councils have established the South East Devon Habitat Regulations Partnership (SEDHRP), to help protect three internationally important conservation sites for future generations to enjoy: the Exe Estuary, Dawlish Warren and the East Devon Pebblebed Heaths. The SEDHRP will off-set the effects of new development and population growth on these conservation sites, providing safe areas for all users to enjoy and caring for the bird populations they support.

The SEDHRP working group includes the EEMP, Clinton Devon Estates, Devon Wildlife Trust, the RSPB, Natural England and the National Trust, and funding has come via contributions from developers of new housing across the three council areas, within a 10km "zone of influence". The work of this partnership is guided by the South-east Devon European Site Mitigation Strategy, which can be found at: <http://eastdevon.gov.uk/planning/planning-policy/environment-and-green-infrastructure/biodiversity/> and includes projects such as engaging with the public and

recreational users through two Habitat Mitigation Officers, installation of new signage and a number of monitoring initiatives, overseen by the Habitat Regulations Delivery Manager.

The Mitigation Strategy indicates that currently approved Local Plans provide allocations for approximately 30,000 new homes to be developed within the zones of influence, and proposes a package of essential mitigation measures, both on the protected sites and in new areas of accessible countryside. These measures are necessary to protect the integrity of the sites in light of this level of future growth and the predicted increase in recreational pressures. The decisions of this partnership lie with the South East Devon Habitat Regulations Executive Committee, which is made up of one Member from each of the three local councils: Teignbridge District Council, East Devon District Council and Exeter City Council.

The position statement of the SEDHRP can be found in Annex 1.

2.3. Partnership Working

The Greater Exeter Strategic Plan (GESP), which covers the four local authority areas of East Devon, Exeter, Mid Devon and Teignbridge, (and prepared with input from Devon County Council), provides a joined-up vision to meet the area's future housing needs, going beyond the timescale of current plans. The plan aims to secure economic growth and increased prosperity, through the provision of new homes, jobs and infrastructure for existing and future generations.

Growth of the scale proposed in Local Plans and envisaged by the GESP will have a significant impact upon the Districts' local infrastructure, and bring additional pressures to environmentally sensitive sites. The GESP and Local Plans ensure that transport and infrastructure improvements are provided to support sustainable growth, achieve an improved quality of life for local communities and ensure environmental, economic and social wellbeing.

The Community Infrastructure Levy (CIL) is a levy that local authorities in England and Wales can charge on new developments in their area and is the system of agreeing planning obligations between local councils and developers, which was previously carried out under section 106 (S106) of the Town and Country Planning Act 1990. The money raised from the community infrastructure levy (along with that still raised through S106 agreements) can be used to support development by funding infrastructure that supports neighbourhoods, like new or safer road schemes or park improvements, whilst ensuring that the area's environment is conserved and enhanced.

Without these developer contributions, sustainable growth would not be achievable. The levy and S106 funding allows for the improvements in infrastructure that are needed with the increased population that new homes and jobs bring to the area. They also ensure that increased pressure is managed on European wildlife sites, such as the Exe Estuary, Dawlish Warren and the Pebblebed Heaths.

In order to mitigate for the potential impacts of new housing development on the Exe Estuary and Dawlish Warren, the EEMP is working closely with the SEDHRP. With a history of managing the Exe in a co-ordinated and cost-effective manner, the EEMP is considered to provide an effective route through which to progress a number of the

proposed management measures from the South-east Devon European Site Mitigation Strategy.

The EEMP have been commissioned to take forward some of the work of the SEDHRP for 2016/17, which include revised zoning on the Exe Estuary, including the establishment of a Voluntary Exclusion Zone (VEZ) in the Estuary north of Dawlish Warren, and improved codes of conduct for specific user groups. The following chapters include detail of the proposals for the zonation work, which quote and are informed by the South-east Devon European Site Mitigation Strategy.

3. ZONATION REVIEW

3.1. Background

The Exe Estuary is recognised locally, nationally and internationally in its importance for wildlife, habitats and for its food source for bird populations. Identified as one of the most important estuaries in Europe for the wintering and passage waterfowl that it supports, the estuary itself is designated internationally as a Ramsar site and Special Protection Area (SPA), as well as nationally as a Site of Special Scientific interest (SSSI). In addition, Dawlish Warren is recognised as a Special Area of Conservation (SAC), SSSI and National Nature Reserve (NNR), with Exmouth recognised at a local level as a Local Nature Reserve (LNR).



Figure 1: Designated Sites on the Exe Estuary.
(Note: The boundary of the Ramsar Site is the same as that of the SPA)

Details of the features which are protected through the various designations can be found in the Exe Estuary Management Plan 2016-2021, and in more detail through Natural England's Designated Sites System (DSS) at <https://designatedsites.naturalengland.org.uk/>. As an example, the overwintering / non-breeding species of international importance, protected through the SPA designation, includes Avocets; Slavonian Grebe; Black-tailed Godwit; Dark-bellied Brent Goose; Dunlin; Grey Plover and Oystercatcher. The site also qualifies for its internationally important assemblage of wintering wildfowl and waders. The main species in this assemblage include, but are not limited to, Oystercatcher, Grey Plover, Black-tailed Godwit, Dunlin, Dark-bellied Brent Goose, Wigeon, Ringed Plover and Greenshank.

The objective of the EU Habitats Directive is to protect biodiversity through the conservation of natural habitats and wild fauna and flora. The Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") transpose the Habitats Directive in England and Wales (and to a limited extent Scotland) by ensuring that activities are carried out in accordance with the requirements of the Directive, which lays down rules for the protection, management and exploitation of habitats and species on Natura 2000 or European sites (such as SPAs and SACs).

Within the Habitats Regulations, authorities involved with local planning are given specific duties as 'competent authorities' with regard to the protection of sites designated or classified for their species and habitats of European importance. To summarise, all 'competent authorities' have a duty to ensure that habitats, along with qualification features of designated sites, are maintained in favourable condition and, where possible, enhanced. Regarding planned growth and development within the 10km 'zone of influence' around the Exe Estuary, Dawlish Warren and Pebblebed Heaths, Exeter City Council, East Devon District Council and Teignbridge District Council are working together as 'competent authorities' in recognition of these duties to ensure Habitats Regulations compliance.

The relevant policies within the Exe Estuary Management Plan 2016-2021 that relate to recreation and the environment are outlined below:

- WBR1:** Continue to work with recreation organisations (e.g. those representing sailing, mooring and angling) to optimise opportunities, increase awareness and understanding of other user's needs and to minimise conflict and environmental damage.
- WBR2:** Develop a flexible, responsive and effective framework for recreation management to address activities that are causing disturbance or have an adverse effect on the SPA, SSSI or SAC, through appropriate controls, codes of conduct and speed limits within the Exe Estuary.
- EI5:** Improve awareness and understanding on the issues that impact on the management of the Estuary.
- EI6:** Explore opportunities in developing new educational programmes, working in partnership with other organisations and the recreational and tourism sectors, and improving links with the Exe Catchment.
- EI7:** Raise awareness of the value of the Exe's habitats and designated sites to ensure local communities and visitors understand the importance of the site in terms of its natural values.
- EI8:** Promote the ecosystem services that the Estuary provides including the health and wellbeing benefits that can be gained from its natural spaces.
- WHD4:** Work with the South East Devon Habitat Regulations Partnership (SEDRHP) to minimise and manage harmful impacts of development and activities that take place on and around the Exe Estuary, developing best practice guidance

to ensure that the nature conservation features of the designated sites are not adversely affected.

WHD5: Work with Estuary users and groups to achieve greater appreciation of biodiversity and increase awareness and compliance of legislation for designated sites.

WHD6: Encourage the recognition and designation of any additional areas of high conservation value.

The designations on the Exe Estuary and Dawlish Warren provide protection for a variety of features, including eelgrass beds, dune grassland habitats, a variety of overwintering / non-breeding bird species, and assemblages of wintering wildfowl and waders. Natural England assessments state that some areas are recognised as unfavourable recovering / declining condition, which are partly due to poorly understood declines of some wintering bird populations across the sites. There are also declines specifically in Oystercatcher, Grey Plover and Dunlin. The Dawlish Warren SSSI condition assessment particularly highlights that bird declines at the Warren, an important high tide roost, may be the cause of declines across the Estuary, thus indicating that suitable, good quality high tide roosting sites may be critical to the ecological integrity of the SPA.

Natural England has published Conservation Advice for the Exe Estuary SPA, which, in general, includes targets for the maintenance of populations of qualifying species and habitats. Targets set by Natural England include:

- Restoring the non-breeding populations of Dark-bellied Brent Goose, Oystercatcher and Slavonian Grebe
- Reducing disturbance caused by human activity to Oystercatcher and Dark-bellied Brent Goose

With increased development and a growing population, there is likely to be more human activity on significant conservation sites in the future. The South-east Devon European Site Mitigation Strategy estimates that, based on current houses, there are 8.8 million annual visits to the Exe Estuary from residents within 10km. With approximately 30,000 new homes likely to be developed within this 10km “zone of influence” (according to data supplied by the three local authorities), household visits to the Exe from this area are estimated to increase by approximately 27%, which equates to an approximate 2.4 million additional annual visits.

Protecting these sites from the potential impacts of increased use is important for residents and visitors alike for a number of reasons, including providing safe areas for all users to enjoy and caring for the bird populations they support. Human activity at these sites has been shown to cause disturbance to birds, which restricts habitats, feeding ground and roost sites available to the protected bird species.

To cite the Mitigation Strategy: “Impacts relating to recreation on the Exe Estuary SPA primarily relate to disturbance (though note that some activities such as bait collection result in the removal of prey for birds and boats and other craft can cause damage to the habitat, through for example their moorings or wake).

“Recent work reviewing risks to European Marine Sites in England by Natural England has identified disturbance as a generic issue across many sites, including the Exe Estuary (see Coyle & Wiggins 2010). Disturbance to wintering and passage waterfowl can result in:

- A reduction in the time spent feeding due to repeated flushing/increased vigilance (Fitzpatrick & Bouchez 1998; Stillman & Goss-Custard 2002; Bright et al. 2003; Thomas, Kvitek, & Bretz 2003; Yasué 2005)
- Increased energetic costs (Stock & Hofeditz 1997; Nolet et al. 2002)
- Avoidance of areas of otherwise suitable habitat, potentially using poorer quality feeding/roosting sites instead (Cryer et al. 1987; Gill 1996; Burton et al. 2002; Burton, Rehfisch, & Clark 2002)
- Increased stress (Regel & Putz 1997; Weimerskirch et al. 2002; Walker, Dee Boersma, & Wingfield 2006; Thiel et al. 2011)

Birds have to strike a balance between having the energy they need to fly / migrate / survive and their ability to fly, so they carry only the body fat that they need. Using up these fat reserves by avoidable flights threatens their survival either directly, or impacts their survival on migratory journeys or impedes their breeding when they arrive on their breeding grounds (if they are in poor condition they cannot put energy into raising young).

A variety of published work relates to waterbirds on the Exe, much of which references disturbance issues, some stretching back to the early 1990s (Goss-Custard & Verboven 1993). Although it is difficult to determine the extent to which disturbance affects the health and survival of bird species (due to variations in weather conditions, prey abundance, migration distances, how often they are flushed, etc.), disturbance is shown to influence the distribution and behaviour of birds on the Exe (Goss-Custard & Verboven 1993; Liley et al. 2011). These impacts may be sufficiently widespread and frequent to result in the Estuary being less able to support the waterbirds for which it is protected. Goss-Custard & Verboven (1993) in particular state that “It is possible that disturbance has reached a critical level on the Cockwood beds at which birds are driven away...”. “With continuous intense disturbance of this kind, birds may desert the mussel bed, as has virtually happened on two small beds on the west side of the estuary”. “...some vulnerable sections of the population may now find it more difficult to obtain their food requirements”. “This could be significant, because modelling shows that the overall population size can be much affected by the winter mortality rates of young birds”.

The Wetland Bird Survey (WeBS) is a partnership which monitors non-breeding waterbirds in the UK, to identify population sizes, determine trends in numbers and distribution, and identify important sites for waterbirds. WeBS has carried out monthly counts of Estuary birds since 1969, more detail about WeBS (including data and reports) can be found on their website at <https://www.bto.org/volunteer-surveys/webs>. The WeBS Alerts system provides a method of identifying changes in numbers of waterbirds at a variety of spatial and temporal scales. Species which are designated due to their conservation value at sites in the UK, that have undergone major changes in numbers are flagged, by the issuing of an Alert. Currently, of the 10 species that have been evaluated for the Exe Estuary by the WeBS Alerts system, High and Medium Alerts have been triggered for five species over different timescales:

- High alert: Oystercatcher (since classification) and Lapwing (short term, long term and since classification).

- Medium alert: Dark-bellied Brent Goose (since classification), Red-breasted Merganser (medium term and since classification), Grey Plover (medium term and since classification), Oystercatcher (medium and long term) and Lapwing (long term).

These Alerts highlight that Oystercatcher populations are now 57% lower than in 1992, Dark-bellied Brent Goose has declined by 27%, Grey Plover by 25% and Dunlin by 21%. Slavonian Grebes have declined from a mean of 20 birds to just two.

There are a number of possible reasons for the decline in these species, including climate change, variation in habitat quality and food supply, and disturbance. Disturbance can be defined as any human activity that influences a bird's normal behaviour or survival. Disturbance can affect bird populations through changes to feeding areas or roost sites, energy loss due to increased flight or desertion of supporting habitat. Human activity can impact on a species by permanently changing local distribution and/or abundance.

There are a wide variety of studies which review disturbance effects, a large number of which are discussed within the Exe Disturbance Study (Liley et al. 2011), which can be found on the EEMP website at https://www.exe-estuary.org/studies_and_research, or a summary of the report can be found in Annex 2. The studies demonstrate a range of different impacts, in different circumstances, to different species. These impacts include behavioural effects, such as birds changing their feeding behaviour, and physiological impacts, such as changes in levels of stress hormones.

Due to the designations in place on the Exe Estuary, 'competent authorities' have international obligations to protect it and the waterbird populations for which it is classified. In simplified terms, the SPA objectives ensure that the extent & quality of habitat are maintained, birds are allowed to feed in these habitats, and secure roost sites are available. This enshrines the precautionary principle, i.e. it is not acceptable to wait until disturbance levels are such that the Estuary's waterbird populations is in decline before taking action; measures must be put in place to avoid harm in the first place.

It is also important to note that under the Wildlife and Countryside Act (as amended) it is an offence for any person to intentionally or recklessly destroy or damage any of the special interest features (for which the site was designated) of a SSSI, or intentionally or recklessly disturb the fauna. Doing so in the knowledge that the site is a SSSI incurs a greater penalty. Anyone found guilty is liable to a fine ranging from £200 up to £20,000 at the Magistrates Court or an unlimited fine at the Crown Court.

The Exe Estuary regularly supports an assemblage of at least 20,000 waterfowl, with most birds found at a few important roost locations. Of these, the majority of internationally important populations of Dark-bellied Brent Goose, Wigeon and Oystercatcher are found at the Dawlish Warren NNR and Exmouth LNR.

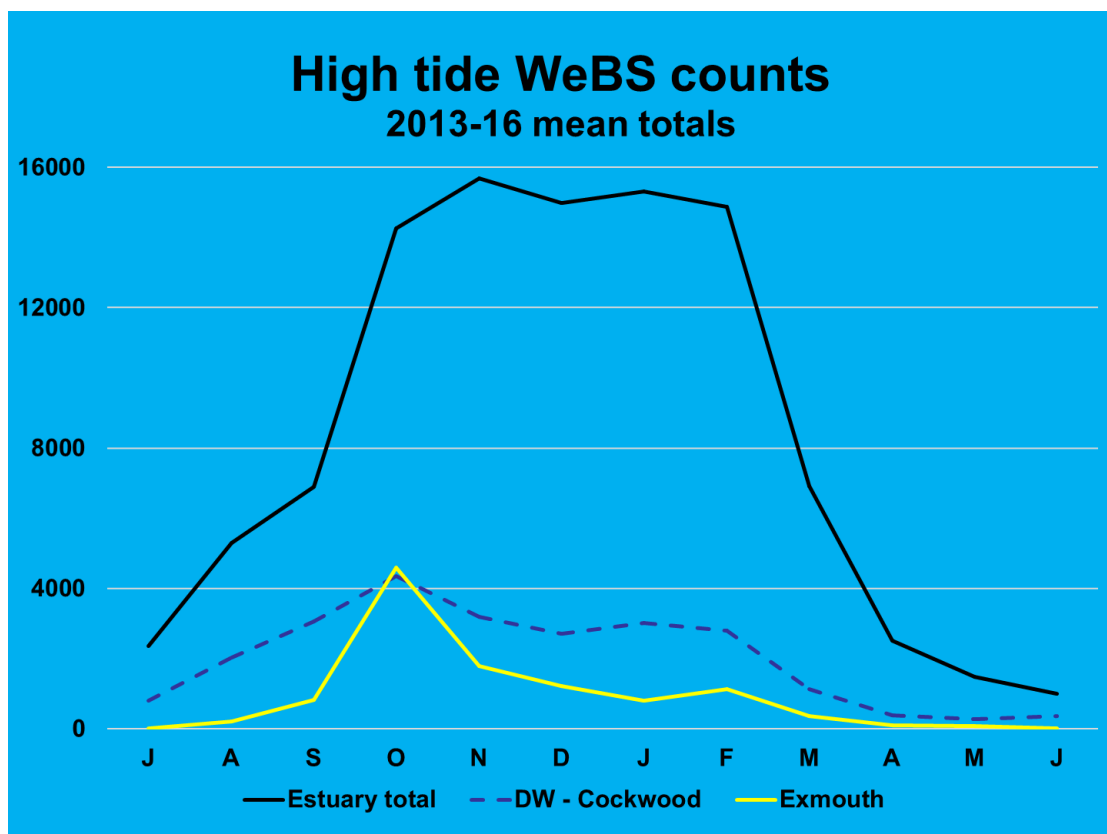
Wintering bird numbers at the Exmouth LNR start building from August, sharply rising during September and peaking in December. Numbers fall again during March. About two-thirds of the Estuary's birds roost at Dawlish Warren NNR and Exmouth LNR in October, with Dawlish Warren recognised as one of the most important roost sites on the Estuary during high tide.

At the Warren bird numbers are rising from late July when birds that have failed to breed return. Some species, such as Ringed Plover and Curlew, reach nationally

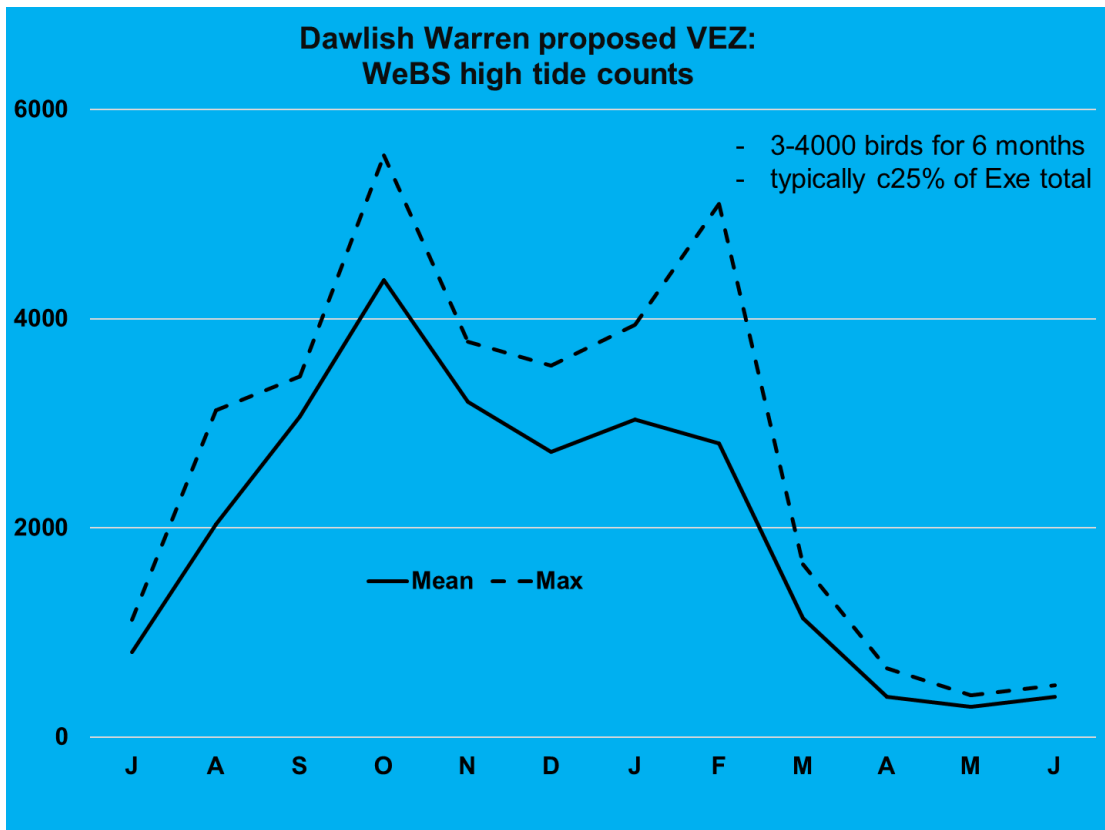
important numbers during August, remaining until late March, during which other species like Dunlin and wildfowl arrive. From March to early June, although the numbers of birds have fallen, those that are here are migrating from Africa or Europe to the Arctic Circle, so energy levels are critical. Some species, such as Shelduck and Ringed Plover, breed on site. Dawlish Warren is therefore a vital site all year round for important bird species.

On the falling tide, roosting birds initially stay around their roosting sites at Dawlish Warren, whilst many waders move to the lower Estuary and Exmouth to feed. Wildfowl such as Dark-bellied Brent Geese and Wigeon continue to feed until the tide recedes. Although the majority of birds feed in the Estuary at low tide, many of the wildfowl prefer to feed at high tide (by up ending in shallow water) and therefore at low tide there are notable numbers of roosting wildfowl. The WeBS data shows that a high number of birds that feed on mudflats, such as Dark-bellied Brent Geese and Wigeon, feed on *Zostera* (eelgrass) on the rising tide at Exmouth and the north side of Dawlish Warren. This highlights that the feeding patterns of wildfowl and waders are not simply restricted to low tide in the lower Exe.

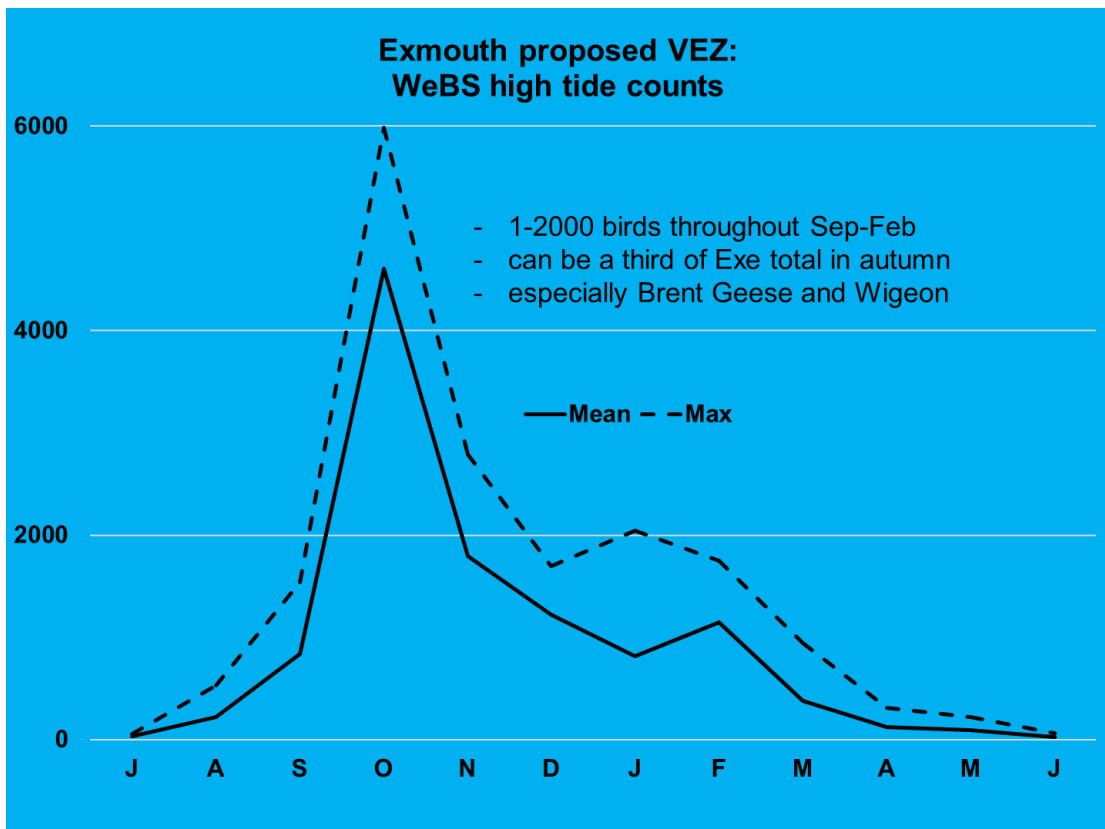
The maps below illustrate the bird trends on the Exe, as well as at the Dawlish Warren NNR and Exmouth LNR (the sites of the initial proposed sensitive areas) courtesy of the WeBS counts.



Graph 1: High tide WeBS counts for the Exe Estuary



Graph 2: High tide WeBS counts for the proposed Dawlish Warren VEZ



Graph 3: High tide WeBS counts for the proposed Exmouth VEZ

Evidence provided by bird counts indicates that bird distributions are related to access. Numbers of birds appear to be low at the Duck Pond and Topsham, where there is easy access to the foreshore, whilst higher counts of birds are found at areas with the lowest levels of access, for example, at Shutterton Creek. Additionally, surveys carried out at various locations through the Exe Disturbance Study (Liley et al. 2011) show that the number of birds varied in response to the levels of access over the previous 45 minutes, i.e. when more people had been present, fewer birds were recorded. A range of activities can result in areas of intertidal habitat being 'unavailable' to the waterbirds for which the Estuary is protected.

According to the Exe Disturbance Study (Liley et al. 2011), the activities which account for the majority of major flight events (in order of highest to lowest percentage of major flights) were dog walking with dogs off leads on the intertidal (31%), bait digging on the intertidal (16%), walkers without dogs on the intertidal (15%) and kitesurfing (4%).

During 2016-17, surveys of disturbance activity were carried out at Dawlish Warren NNR. The surveys were intended to supplement the work carried out for the Disturbance Study to give further insight into activities that take place in the area. More detailed monitoring is planned for the next few years. Of the activities recorded in the area during the 2016-17 period, more than one third of those recorded were small sail boats alone, whilst more than half were made up of small sail boats and small fast boats (such as RIBS). The most notable cause of disturbance arose from canoes / kayaks, which accounted for 45% of all disturbance events recorded, which resulted in flushing the birds from the area (i.e. caused the birds to fly further than 50m away). This highlights a potential issue at the Dawlish Warren NNR, where a quiet, non-engine powered activity which might be considered low-impact, can access areas at low tide which other activities cannot, and can actually present a highly disturbing activity if the person in control is not aware of the sensitivities of the area. This highlights a need to promote areas which are important for wildlife to users of the Exe, particularly to visitors from other areas who may not be aware of the sensitivities.

The proposals within this report aim to provide areas within the Estuary to protect the environment whilst keeping users safe. Two areas in particular are recognised as important through their statutory designations and due to their importance as feeding grounds and high tide roosts for wildlife. These are Exmouth Local Nature Reserve and Dawlish Warren National Nature Reserve.

3.2. Revised zoning on the Exe Estuary: Initial Proposal

As well as being a site of great importance for nature conservation, the Exe Estuary is a popular tourist destination, is vital to the local economy and highly valued by local people. Protected from the open sea by the sand spits of Dawlish Warren and Pole Sands, the Estuary makes a perfect open space for a wide range of recreational activities and shellfish cultivation. The Exe is home to local kitesurfing champions and supports a number of recreational businesses. It also provides an excellent way for the public to enjoy the open spaces, to appreciate the environment, and to engage in a healthy lifestyle.

During the 1990s the Estuary's commercial shipping gave way to recreational boating and water sports. Growth of the popularity of water based recreational activities, as well as increasing development, has led to increased competition for space on and around the water, leading to potential conflicts between users and with wildlife. With the projected increase of approximately 30,000 new properties in the 'zone of influence' around these European wildlife sites, there will be continued increase in people visiting and using the Estuary. It is important to ensure that all water users of the Estuary are given optimum space to enjoy their recreational activity without threatening or causing undue damage to the wildlife, the Estuary's conservation status, or other users.

A variety of management measures are suggested in the South-east Devon European Site Mitigation Strategy to mitigate for the in-combination impacts of new housing development on the Exe Estuary, Dawlish Warren and Pebblebed Heaths European wildlife sites. The measures range from soft measures and proactive work with local residents, to enforcement. The proposed amendments to voluntary zones, supported by a suite of new and updated codes of conduct, is considered to be a soft measure that would likely be preferable for local users, rather than statutory management measures. Advantages of voluntary measures include stakeholder involvement, retained flexibility to respond to any change in circumstances, cost effectiveness and the potential for self-regulating and self-policing, rather than statutory measures which rely on regulation and enforcement. Disadvantages of voluntary measures come down to a risk of lack of cooperation from all users. Their effectiveness and success rely on the involvement and support of all recreational users. Where voluntary schemes have failed, statutory approaches, such as the introduction of byelaws, are generally used instead (DEFRA, 2004).

The introduction of Voluntary Exclusion Zones are not a new concept. Similar zones that allow space for important wildlife can be found on a variety of sites. For example, Poole Harbour canoe guide (which can be found at https://www.dorsetforyou.gov.uk/media/216111/Canoeing-in-Poole-Harbour/pdf/2201_DCF_Poole_Harbour_Kayak_Information_Map_FINAL_WEB.pdf) includes a map which identifies sensitive areas for birds and outlines the issue of disturbance. The guide asks that users avoid overwintering bird sensitive areas between November and March, and breeding bird sensitive areas between April and June. This is the same approach that these proposals are taking, apart from using different names for the areas. Another example is included in the Pembrokeshire Marine Code, which specifies sensitive areas and maps boundaries which restrict access within these areas to reduce disturbance to wildlife. Maps of access restrictions can be found at <http://www.pembrokeshiremarinecode.org.uk/maps/>.

Simple identification of areas that are important for wildlife is essential when communicating which areas users can use and which areas they should avoid. National recreational bodies are keen to promote responsible behaviour around

wildlife to users, with a variety of guides available which supports this message. For example, The Green Blue produces 'The Green Wildlife Guide for Boaters' which ask users to keep disturbance to a minimum and suggest that boaters stay at least 100m away from marine wildlife in the water. British Canoeing also have very useful resources (available at <https://www.britishcanoeing.org.uk/guidance-resources/waterways-environment/environmental-good-practice/>), such as 'You, your canoe and the environment', which asks users to "Keep a safe distance away from wildlife to avoid causing disturbance... especially... wildfowl and sea birds as well as their nesting, shelter and feeding areas". 'You, your canoe and the marine environment' also outlines good environmental practice throughout the guide, and states that users should find out about sensitive places or protected area designations, where human activities have the potential to damage or disturb wildlife. They also mention that human activities may be restricted at certain times of the year due to breeding, resting or feeding seasons. The proposals within this report aim to provide simple and clear areas that are the most important for the protected species on the Estuary, and suggests only two areas that users avoid rather than expecting users to understand the complex designations across the entire Estuary.

A Voluntary Exclusion Zone for kitesurfers exists already at Exmouth LNR, which was introduced by local kitesurfers in partnership with the EEMP in 2009, to allow space for feeding birds in the area. Local kitesurfers have helped to promote this zone through websites, printed material such as the kitesurfing code of conduct and tide tables, and by word of mouth.

A review of existing behavioural controls on the Exe Estuary, such as byelaws (statutory measures), codes of conduct (voluntary) and zoning schemes (some statutory and some voluntary) was undertaken for the Exe Estuary Recreational Framework (2014), which can be found on the EEMP website (in 'Partnership Documents'). Several of the local authorities around the Estuary – notably Exeter City Council as Harbour Authority – have created byelaws intended to control the impacts of human activity on the water, with several voluntary measures also in place, such as codes of conduct and voluntary exclusion zones. Details and maps of existing zones and controls can be found in the Recreational Framework. This report presents an analysis of the perception of the existing behavioural controls that manage activities on the Exe, and highlights a variety of issues with the controls that are in place. The issues include lack of awareness or adherence of some measures (including codes of conduct and zoning schemes), lack of resource for enforcement of statutory controls and insufficient promotion and signage for existing measures.

Below is an excerpt from the South-east Devon European Site Mitigation Strategy, which outlines the recommendations for zoning on the Exe Estuary:

"Zoning partitions different types of access, determining the overall distribution of visitors on land and water, in both time and space. Zoning is positive in that it creates dedicated areas for particular activities, rather than limiting access.

"There are numerous examples from around the UK coast of zones for particular water based activities, such as water-skiing or kitesurfing. These zones are often set out in codes of conduct, usually developed with local users and user groups. The codes of conduct are sometimes also linked to byelaws, and the implementation of the zones is often driven by safety issues rather than with the aim to minimise disturbance.

"Clubs can address a wide range of issues and adapt quickly to change, particularly where members communicate through forums and electronic discussion rooms.

Working with local groups or clubs is a good way to resolve a lack of awareness or to highlight conservation issues or coastal byelaws. Clubs can provide a means for getting information across and help implement any zoning if they have been involved from the outset.

“Zones are usually established to reflect local conditions, safety issues and site specific factors, and there appears to be little information available to recommend sizes of zones, the space needed for particular activities, etc.

“There are existing zones for particular activities on the Exe Estuary. Details of these zones can be found on a range of different websites, leaflets and signs. There are a number of issues with the current zones”, according to the Mitigation Strategy:

- “They are mapped differently on websites and in various leaflets. For example the existing code of conduct for kitesurfers shows a voluntary exclusion zone between Exmouth and Lympstone that is markedly different from the zone mapped on the Exe Kiteboarders website.
- “They are not communicated to users very well. There is little information available as to how and why the zones have been established, meaning users have relatively little understanding of why they are there.
- “There is relatively little enforcement of the use of particular zones, for example water-skiing frequently takes places in the upper parts of the estuary.
- “There are some overlaps with different zones which creates a potential conflict between users, for example the dedicated water-ski and powerboating areas shown in the Exe Activities leaflet both overlap with the buoyed voluntary exclusion area for kitesurfing.”

Existing zonation of the Exe Estuary is illustrated in Figure 2, with more accurate boundaries of the water ski and power boat areas in Figure 3.

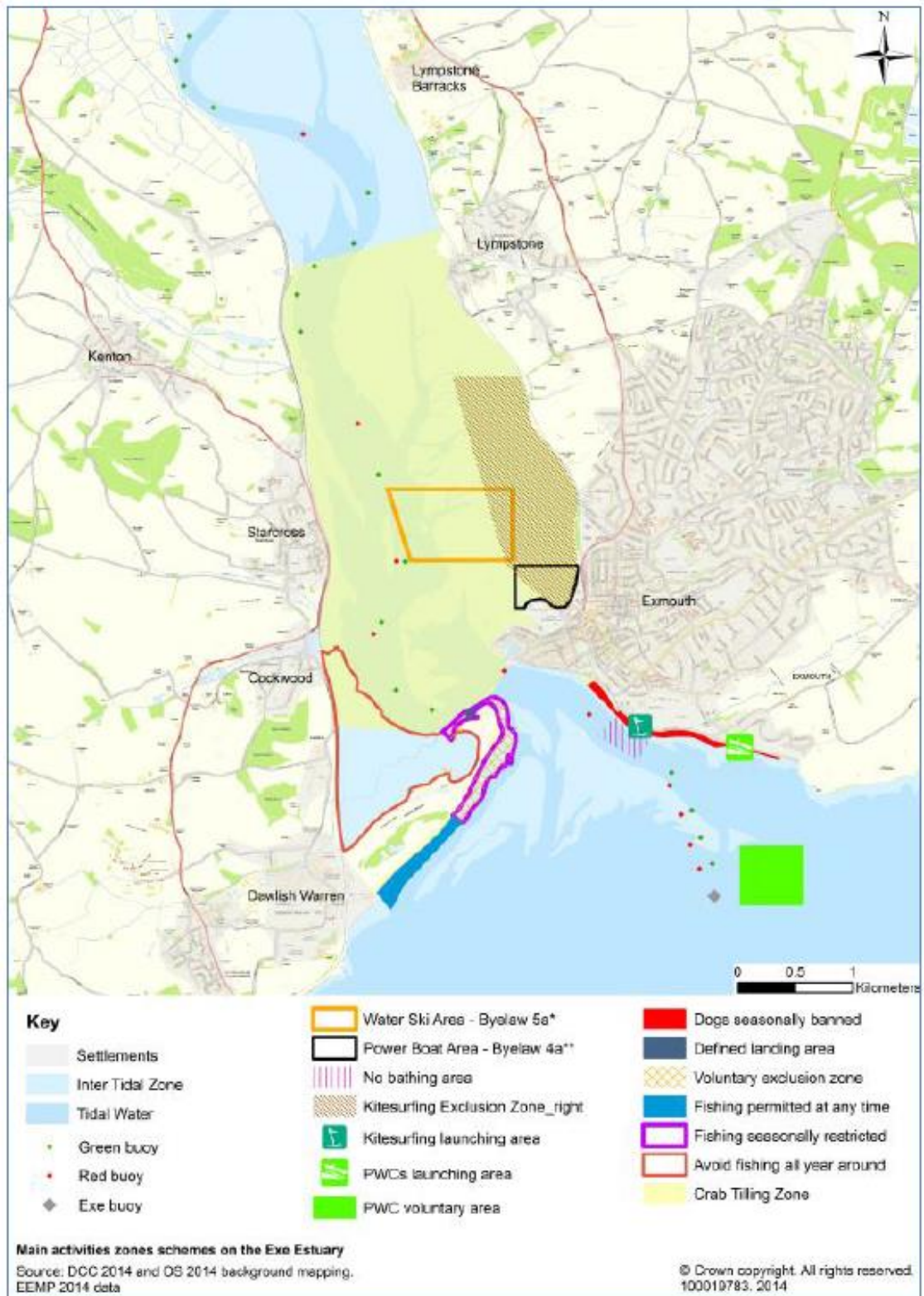


Figure 2: Main land and water-based activity zoning schemes currently on the Exe Estuary (from Exe Estuary Recreational Framework 2014).

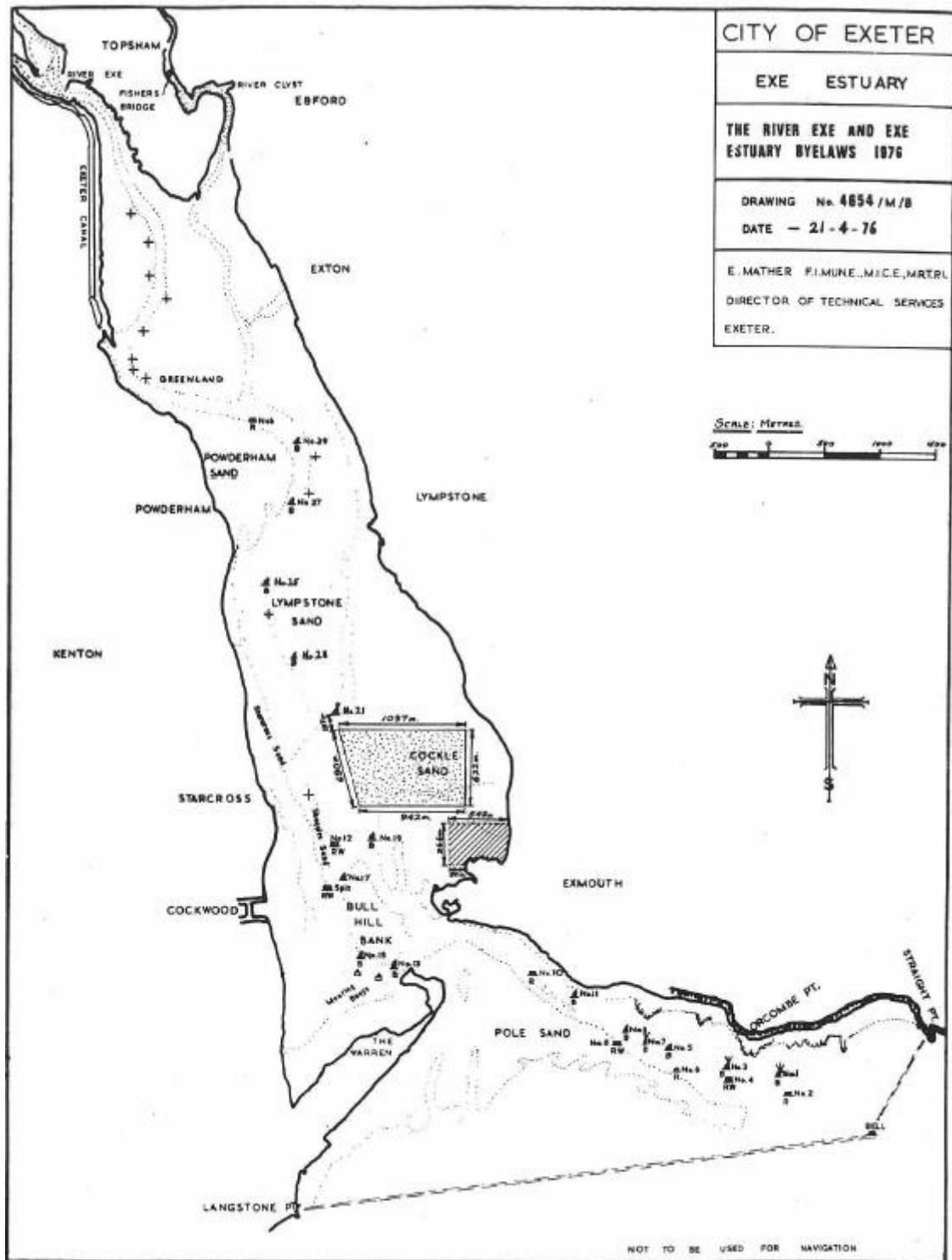


Figure 3: Accurate boundaries of Water Ski Area (Byelaw 5a) and Power Boat Area (Byelaw 4a) on the Exe Estuary, courtesy of Exeter City Council.

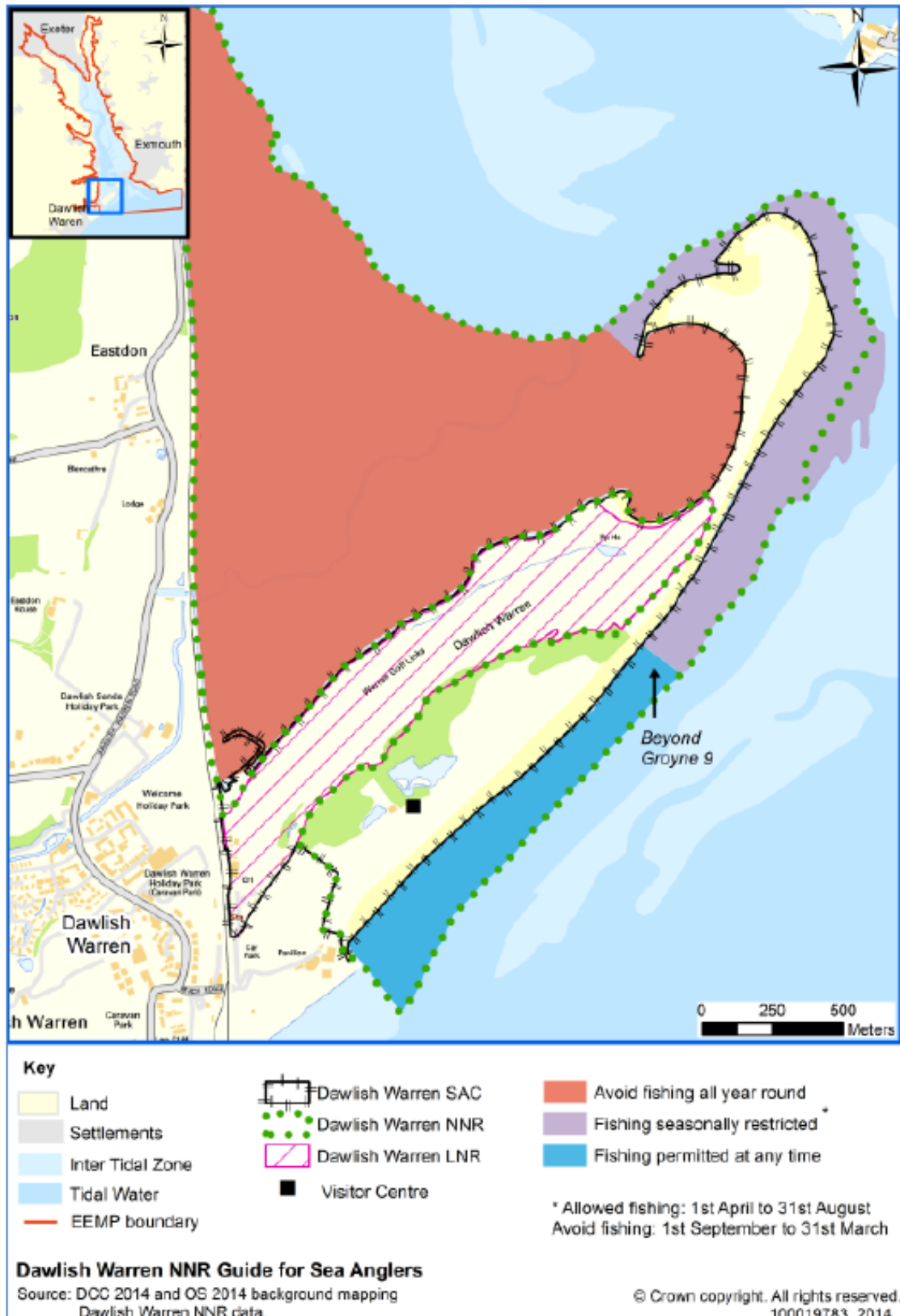


Figure 4: Dawlish Warren voluntary fishing zones established by the Guide for Sea Anglers.

The suggested review of zonation, as informed by the Mitigation Strategy should include:

- A dedicated kitesurfing/windsurfing zone off the Duck Pond. The zone would ensure kite/windsurfers were not going up the river and ensure the area disturbed by such activities is minimised.
- The kite/windsurfing voluntary exclusion zone to be reviewed to explore whether it should be discontinued if a dedicated kitesurfing/windsurfing zone is created, or whether the Voluntary Exclusion Zone should be extended to all users. The necessary area of *Zostera* bed should be covered by the zone.
- The powerboating zone is positioned accordingly to ensure no overlap with the kite/windsurfing Voluntary Exclusion Zone. The use of the powerboating zone should be for the period 1 April to 1 September only.
- The existing water-skiing zone positioned in approximately the same place, slightly modified to fit alongside the kite/windsurfing Voluntary Exclusion Zone.
- Off the Exmouth Seafront a line indicating a western limit for all watersport / personal water craft / boating activities, ensuring the areas around Dawlish Warren/Warren Point and off-shore are undisturbed.
- A dedicated zone (all year round) for personal water craft remaining in the current location.

Any additional zoning needs should be explored.

“These zones... can be shown clearly on a single map and can be designed so as to provide space for users while also ensuring key areas for birds (such as the mussel beds, *Zostera* beds and freshwater channel near the Duck Pond) are outside the zones.”

The zones should be backed up within the byelaws where appropriate and a clear explanation provided for why they are necessary. The zones should be marked with buoys in the Estuary where possible and details of the locations circulated among Estuary users.

Zones should be promoted through codes of conduct and through future work that the EEMP proposes it takes forward with signage, interpretation boards and leaflets.

At Dawlish Warren, a voluntary landing zone is currently used at Warren Point to restrict visitors to Soft Sand Bay. The water users' code of practice at Dawlish Warren should be included in the review and options to restrict landing of craft on Warren Point should be explored in depth.

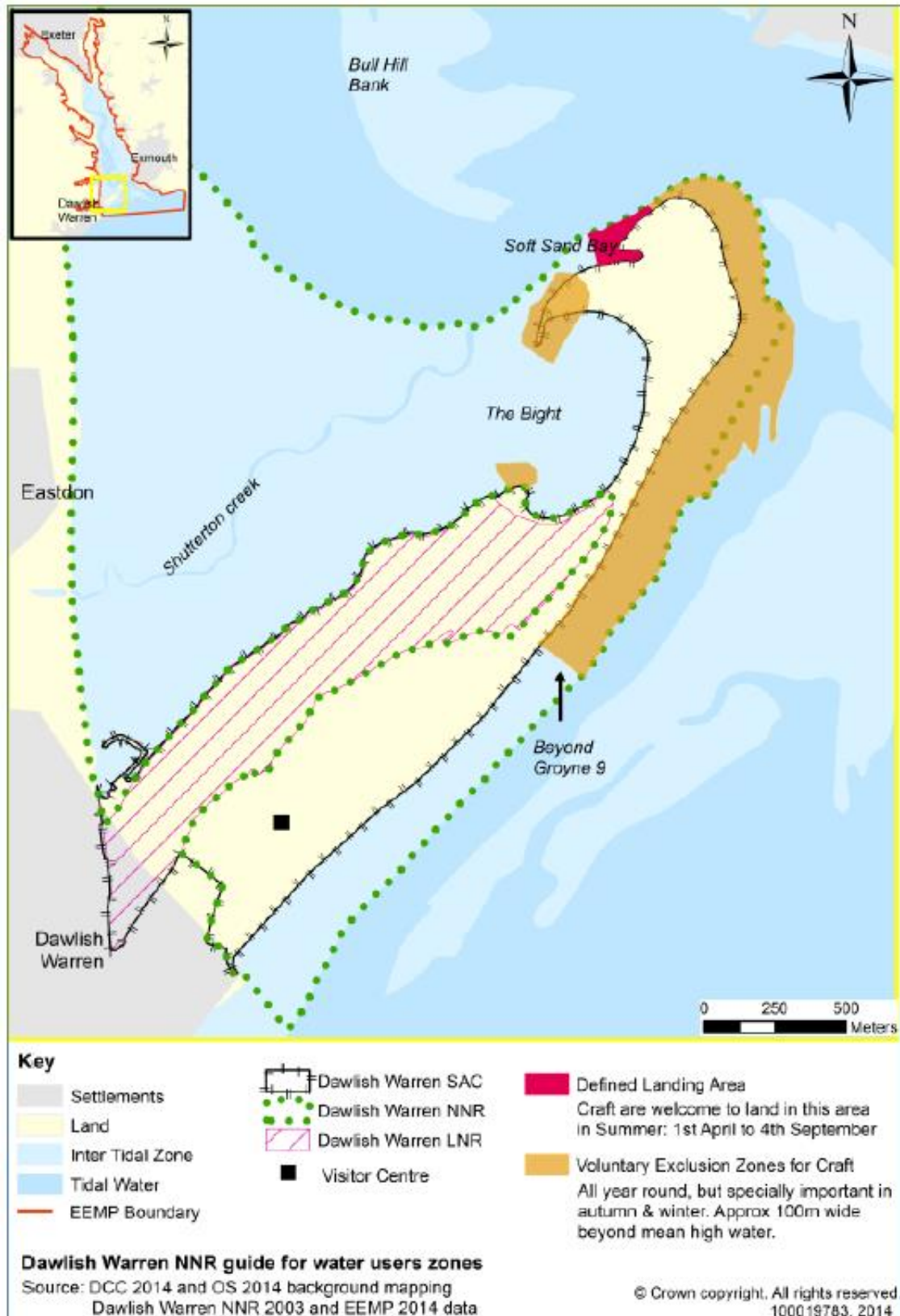


Figure 5: Dawlish Warren voluntary boat zones established by the Dawlish Warren Guide for water users.

A Voluntary Exclusion Zone (VEZ) in our context is an area of the Estuary which has been identified as having particular importance for protected species and habitats. It is by agreement that there should be the minimum possible recreational access in these areas, preferably no recreational activity at all. Depending on the area, this agreement will either be year round or through certain months of the year.

Following a series of meetings of the EEMP and SEDHRP, a VEZ was proposed at Exmouth LNR, to provide protection for the area of eelgrass beds which provide a rich food source for the bird populations. Thousands of birds visit the Exe during winter, some on long migratory routes from places as far as Siberia. These birds rely on the Exe as a feeding and resting ground, which is vital for their survival on their journeys, with some areas of particular importance to the birds. Eelgrass is a type of seagrass found on the Exe, and is a main food source for birds such as Dark-bellied Brent Geese (a protected species on the Exe). The Environment Agency carries out an annual survey on the extent of seagrass on the Exe. Figure 6, below, shows the result of the 2016 survey.

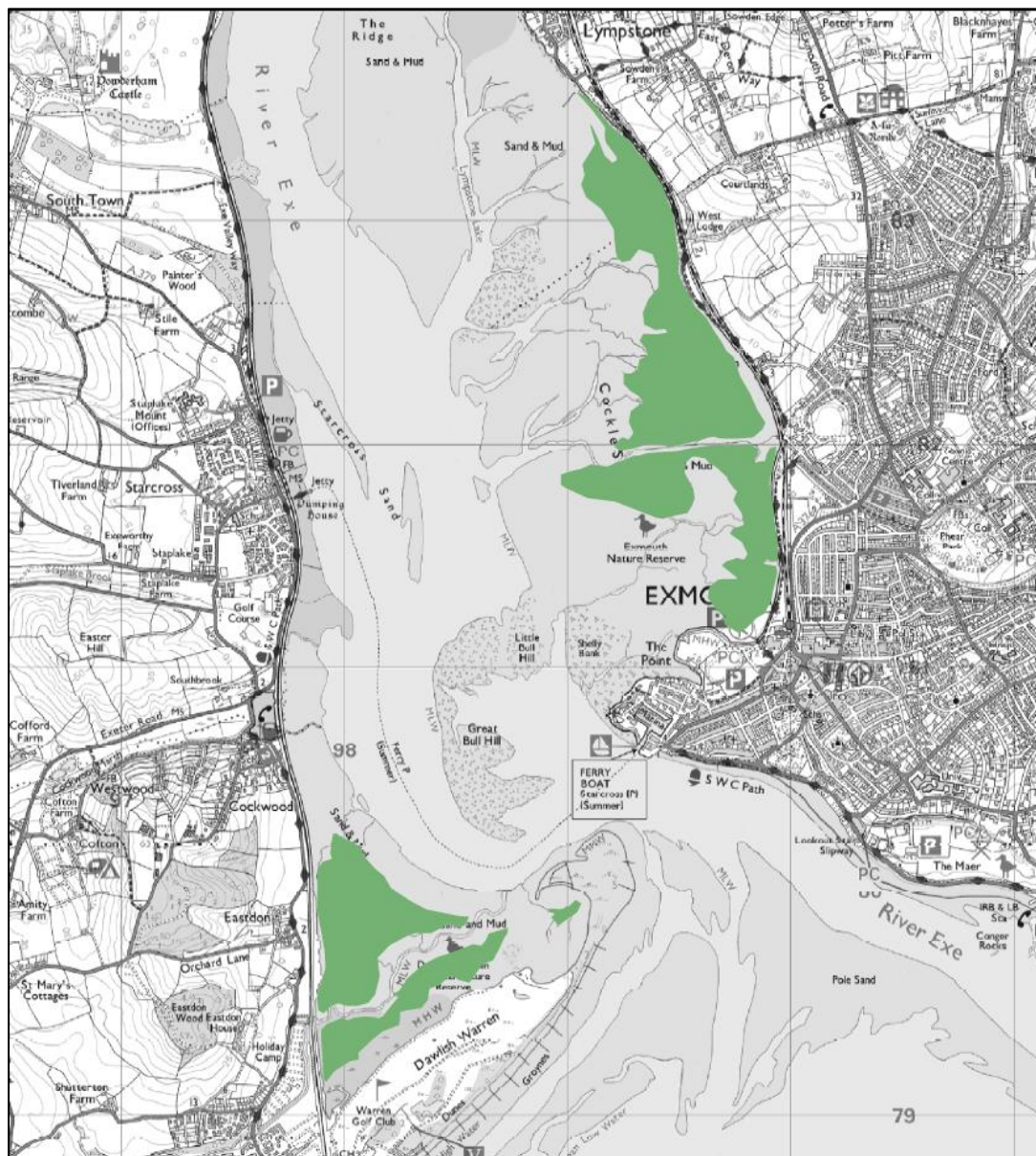


Figure 6: Exe Seagrass Survey 2016, Environment Agency

The Exmouth VEZ was proposed to lie within the existing boundary of the LNR and cover the eelgrass bed in this area. The new zone essentially covered the area of the already established Kitesurfing Voluntary Exclusion Zone (which kitesurfers helped to create in 2009, working alongside the EEMP) but extended slightly to the west to include the Imperial Recreation Ground slipway as a visible reference point for users. The proposal extended this VEZ to other users of the Estuary (including kayakers, canoers, dogwalkers, bait diggers, etc.), when the area is used by over wintering birds, at all tidal states, due to the feeding patterns and roost sites mentioned in the background information. The exclusion was originally proposed to cover September to March, due to the large number of birds present during this period (evidenced through WeBS counts) and encourages use of the foreshore to the left of the Imperial Recreation Ground slipway. Below is the original proposal from December 2016:

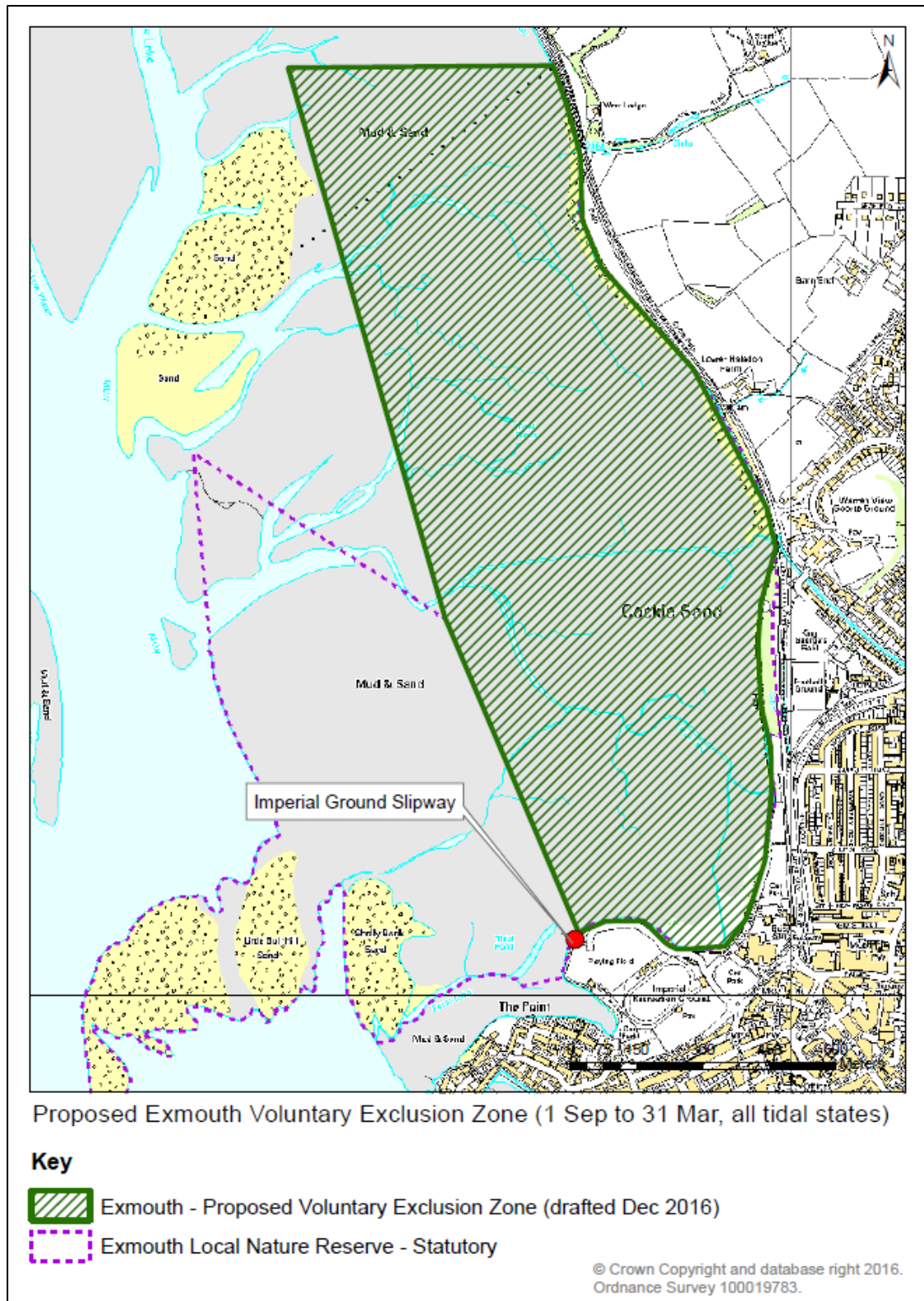


Figure 7: Initial proposal for Exmouth Voluntary Exclusion Zone (drafted December 2016).

3.3. Establishment of a Voluntary Exclusion Zone in the Estuary north of Dawlish Warren: Initial Proposal

The Warren is internationally important for its fragile dune grassland habitats and for the species of both flora and fauna they support. The intertidal area to the north of Dawlish Warren is the most important high tide roosting site on the Exe Estuary. This area is significant for a high proportion of the Estuary's Dark-bellied Brent Geese, Oystercatchers, Bar-tailed Godwits, Wigeon and Teal birds in providing both a feeding area and is of particular importance in providing a high tide roosting area. Ringed Plover, which gather in nationally important numbers from late July to mid-September, use the Bight for feeding and roost on the beach or shores of the Warren. As a result of coastal changes at Dawlish Warren foreshore, land drainage and sea level rise, undisturbed feeding and roosting areas on the Estuary are becoming increasingly difficult for birds to find. It is important to remember that roost sites are important for birds to rest at high tide and also at night. The most vital high tide roost sites at Dawlish Warren are illustrated in Figure 8. Please note that birds use a greater area of the Dawlish Warren NNR as a high tide roost all year round, but this map indicates the areas that are the most important and need the most protection from disturbance.

Identified in a report by the Exe Estuary Management Partnership, informed by the Exe Estuary Recreational Framework (2014), the opportunity exists as part of an overall revision of zones to create a largely undisturbed high tide roost in an area aligned to the boundary of the National Nature Reserve, owned by the Devon Wildlife Trust. This will provide a refuge of significant importance for overwintering birds against increases in recreational activity.

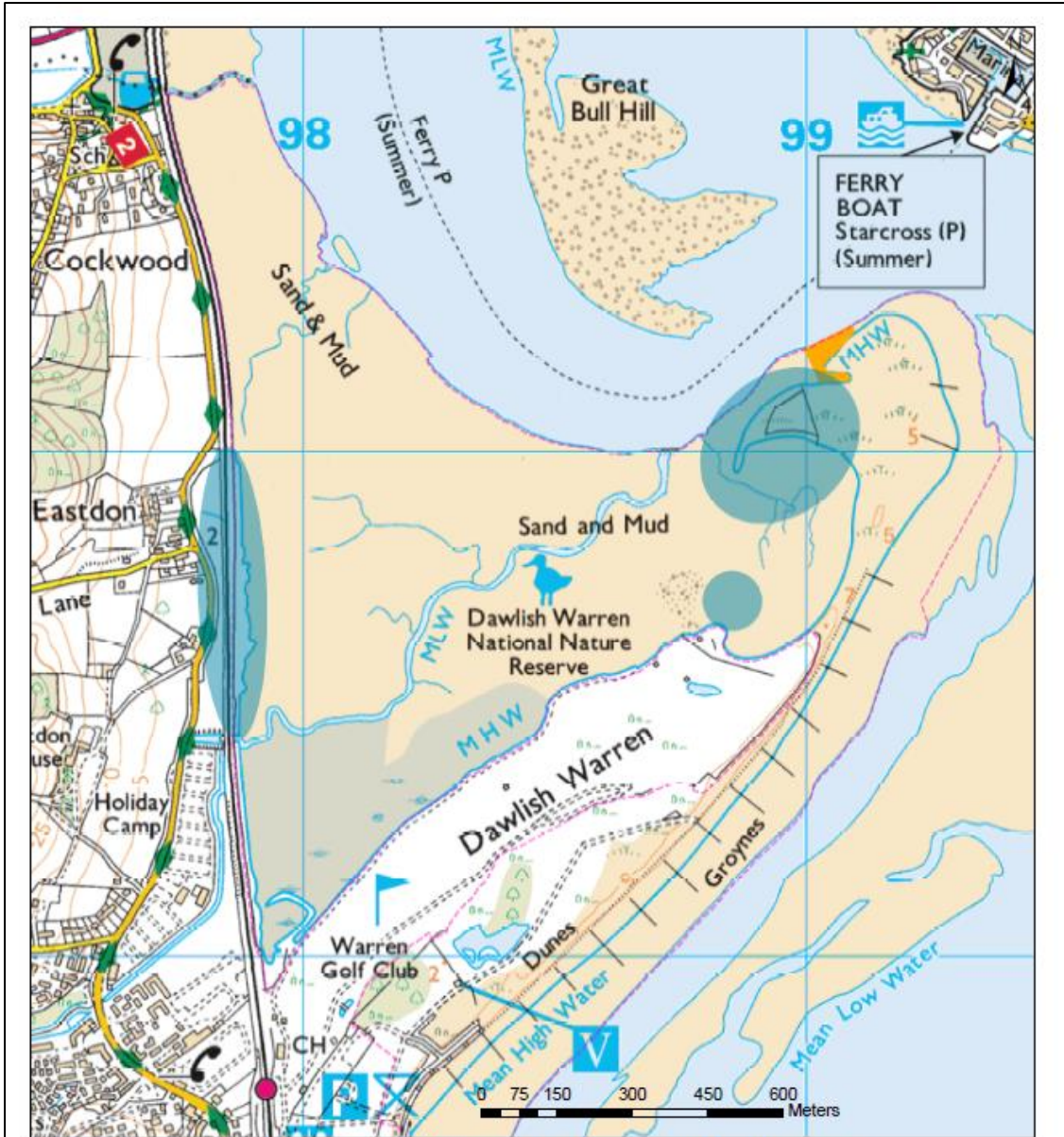
The report does, however, point out that the area is well used by crab tilers and bait diggers, with more than 4,500 tiles laid within the proposed boundary. Considered negotiations with crab tilers and bait diggers will be required, regarding the extent & timing of their exclusion from the area. There should be no new crab tiles laid and existing tiles in the existing IFCA exclusion zone should be removed, unless the process of removal is shown to be more damaging to the intertidal area.

The Exe Disturbance Study by Footprint Ecology (2011) states "The parts of the Estuary with the lowest levels of access (the Bight to the north of Dawlish Warren and at Powderham) are also the parts of the Estuary with the highest bird counts."

Furthermore, results from the study show that "Bait digging on the intertidal, dog walking with dogs off leads on the intertidal, walking on the shore and intertidal and kitesurfing are the activities which account for the majority of major flight events."

Any plan to establish a Voluntary Exclusion Zone in this location will need to take into account the existence of Eales Dock, which is a small, privately owned dock at the end of Shutterton Creek, on the landward side of the railway. Research shows that there is established use of the site as a dock and that the current owner is looking to develop the business. Careful negotiation with the owner will be required in order to ensure that any potential disturbance by water craft launching from here is minimised. This might include the distribution of a code of conduct for water users that use the dock, if necessary.

It is proposed that all recreational activity within the Voluntary Exclusion Zone would be restricted all year round, with the exception of allowances for water craft accessing Eales Dock (launching/recovery exclusion for 2 hrs either side of high tide).



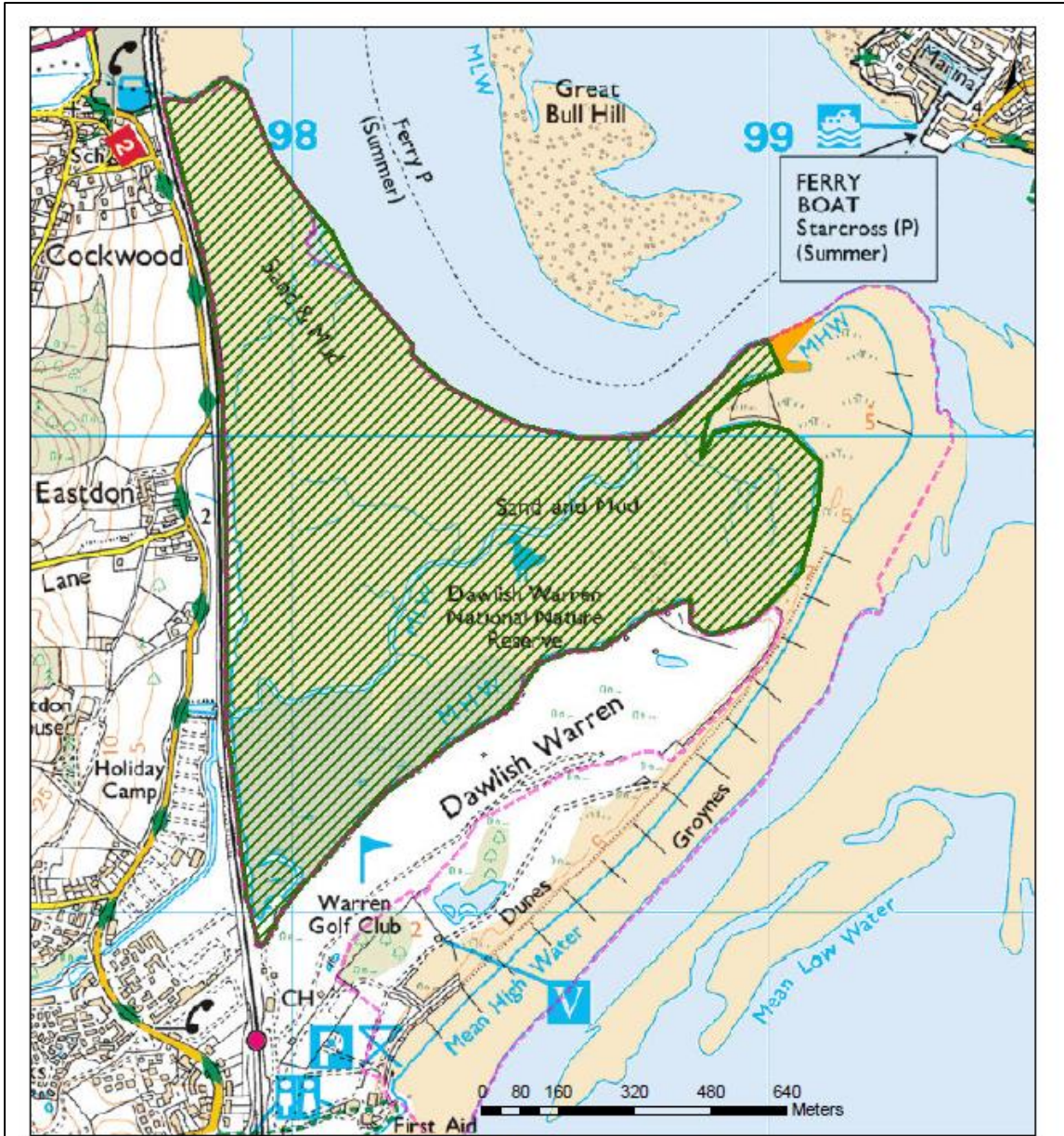
Most vital bird high tide roosts at Dawlish Warren
 (Please note this does not include all high tide roosts in the area)

Key

- Main High Tide Roost Sites
- Dawlish Warren National Nature Reserve - Statutory
- Dawlish Warren Defined Landing Area

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 Ordnance Survey 100019783.

Figure 8: The most vital high tide roost sites at Dawlish Warren (please note that birds use a greater area of the Dawlish Warren NNR as a high tide roost all year round, but this map only illustrates the most important and sensitive roost sites), informed by Dawlish Warren Rangers.



**Proposed Dawlish Warren Voluntary Exclusion Zone
(all year, all tidal states)**

Key

- Dawlish Warren National Nature Reserve - Statutory
- Dawlish Warren - Proposed Voluntary Exclusion Zone (drafted December 2016)
- Dawlish Warren Defined Landing Area

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Ordnance Survey 100019783.

Figure 9: Initial proposal for Dawlish Warren Voluntary Exclusion Zone (drafted December 2016).

Any other existing restrictions and access at Dawlish Warren remain in place. For example, dog walkers will continue to use the area as they have done before this consultation. Figure 10 shows existing dog walking areas and restrictions at Dawlish Warren, including the existing byelaw which bans dogs from the proposed VEZ.

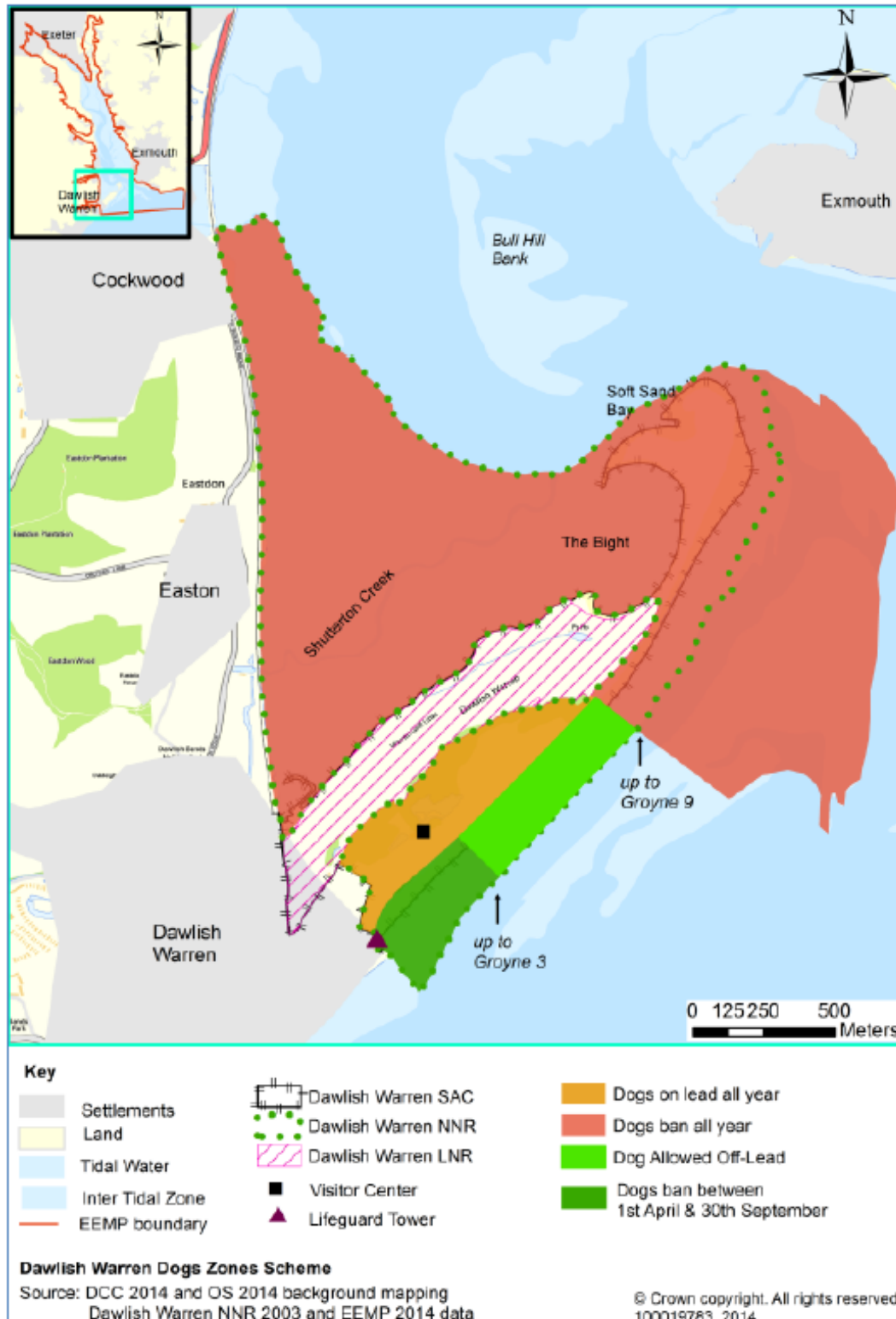


Figure 10: Dawlish Warren Dogs Zones established through the byelaws for dogs on the seashore and in the National Nature Reserve at Dawlish Warren.

3.4. Summary of Zonation Review - Initial Proposals

The EEMP was commissioned by the SEDHRP to revise zones for water activities on the Exe. These zones are to very closely adhere to those recommended in the Mitigation Strategy, outlined in the chapters above, or for alternatives to be suggested, with sound and clear reasons given.

In recognition of the area as the main roosting site on the Estuary, a Voluntary Exclusion Zone is to be established to the north of Dawlish Warren, aligned to the NNR boundary. The EEMP will liaise with key stakeholders, for example, Devon Wildlife Trust, crab tilers, bait diggers, Devon & Severn Inshore Fisheries Conservation Authority (D&SIFCA) and Eales Dock.

The EEMP will work with user groups to identify the new zones. In order to achieve the objectives of the SEDHRP, revised zones must function to serve the protection of SPA features. To avoid potential user conflict, no zones should overlap where possible.

Zones are to be shown clearly on a map and be designed so as to provide space for users while also ensuring key areas for birds (such as the mussel beds, *Zostera* beds and freshwater channel near the Duck Pond) are outside activity zones. The revised activity zones should be backed up within the byelaws where appropriate (detailed in the Mitigation Strategy) and clear explanation provided for why they are necessary. Details of the locations should be circulated among Estuary users.

A safe, clear, buoy or other marking system is required to establish the areas visually, the funding for which would need to be explored, particularly if large areas of the Estuary require buoys to highlight zones. Ongoing maintenance costs of the buoy or marking system will need to be taken into consideration in the longer term.

Suggestions for monitoring the effectiveness of zones on the Estuary is also required. If amended zonation is not effective, necessary alternatives will have to be explored.

4. CONSULTATION PROCESS

4.1. Introduction to Consultation Process

The Exe Estuary Management Partnership (EEMP) led the consultation on the review of zonation, commissioned by the South East Devon Habitat Regulations Partnership (SEDHRP). With a history of managing the Exe in a co-ordinated and cost-effective manner, the EEMP is considered to be an effective route to progress with management measures such as this which require high levels of stakeholder input. As stated in the Mission Statement, the EEMP provides a communication route between local stakeholders and relevant authorities who manage the Exe. The Partnership aims to ensure that the interests of wildlife and humans are harmonised, by managing competing demands and addressing any conflicts as they arise.

The recommendations given above, which stemmed from the South-east Devon European Site Mitigation Strategy and a number of meetings of the SEDHRP, provided a useful starting point for consultation with recreational users, residents, local businesses, visitors, user groups and interested organisations. Some degree of flexibility was required to allow users to help define zones, providing the designated natural features are protected and safe space is allowed for other users and safe navigation. People were invited to share their views about the future use of this natural resource through the public consultation. The comments received helped to inform new or updated Voluntary Exclusion Zones and codes of conduct that will ensure people and wildlife can continue to share and enjoy this special area for years to come.

With the wide variety of activities that take place on the Exe, the EEMP endeavoured to work with as many local users and communities as possible to strike a balance between the interests of different user groups and our important wildlife. Table 1 shows the main recreational activities which take place on the water, on the intertidal and shore areas.

Activities taking place on:	Water	Intertidal	Shore
Angling		x	x
Bait Digging		x	
Beach recreation		x	x
Birdwatching		x	x
Canoeing	x		
Cycling			x
Dog walking		x	x
Fishing	x		
Horse Riding			x
Kitesurfing	x	x	
Metal Detecting		x	x
Motor Boating	x		
Personal Water Craft (jet ski)	x		
Rowing	x		
Sailing	x		
Paddle boarding	x		
Swimming	x		
Walking / rambling		x	x
Water skiing	x		
Wildfowling		x	x
Windsurfing	x	x	

Table 1: The main recreational activities taking place on the water, intertidal and shore of the Exe, taken from the Exe Estuary Recreational Framework (2014).

4.2. Consultation Methodology

The public consultation began at the beginning of December 2016. The review of zonation was promoted in the lead up to the consultation, via emails through the EEMP and articles in the Exe Press newsletter. The consultation was formally launched at the 'Management & Zonation of the Exe Estuary' event on 8 December 2016 at County Hall. Local residents, business and recreational users were invited to meet the people who take care of the Exe Estuary, to better understand the different roles of organisations and comment on the proposed zones. The public consultation ended on 28 April 2017.

A number of meetings were organised to encourage input into the consultation, with the Exe Estuary Officer meeting with a high number and variety of users during consultation meetings. The process included 18 meetings with different user groups, two general meetings and a formal online questionnaire which closed on 28 April 2017. The intention of the questionnaire was to gather in people's text comments in a more structured way, rather than to find out percentages of people that would be affected by the proposals. Additionally, a number of conversations and informal meetings took place to allow detailed discussion of proposals. Feedback was also received via post and through the EEMP email address. The consultation was promoted via a number of press releases, through social media, the Exe Press newsletter, the EEMP and Devon County Council websites, by email and through the Habitat Mitigation Officers whilst on-site. Posters were put up around the Estuary, including at the following places:

- Exmouth: Along shore at LNR; Exmouth Imperial Recreation Ground; Exmouth Town Council Offices; Pets at Home; East Devon Pet Supplies; Corner House Vets; Raddenstile Vets; White Lodge Vets.
- Dawlish Warren: three notice boards.
- Cockwood: Cockwood Steps; The Anchor Inn notice board: Cockwood Parish notice board.
- Starcross: notice board by the bus stop; under the thatch arch; Spar; Starcross Fishing & Cruising Club.

The final recommendations were discussed by the EEMP Officer Working Group and SEDHRP officers on 6 June, before being presented to the EEMP Management Group on 21 June for their decision on whether to endorse the amended proposals. Once endorsed by the EEMP Management Group, the final recommendations will be made available on the South East Devon Habitat Regulations Executive Committees' (SEDHREC) website.

4.3. Next Steps

The EEMP zonation consultation will end with a post-consultation drop-in event on 29 June from 2pm to 8pm at County Hall. At this event the final recommendations of the Exe Estuary Management Partnership will be displayed and staff will be in attendance to answer questions on the report. This will formally mark the date that the EEMP recommendations are handed over to the SEDHRP. The SEDHRP will then carry out an additional stage of consultation, with a six week period between 29 June until 10 August during which people and organisations can look at and help refine the final recommendations online. This is particularly to allow for seasonal Estuary users to comment, and to allow for any comments on any amendments made to the proposals following the previous consultation. Details of this will be available on the SEDHREC website at: <http://eastdevon.gov.uk/council-and-democracy/committees-and-meetings/south-east-devon-habitat-regulations-executive-committee/>

Following the close of the survey, all comments will be reviewed for the final report. The report will be published by SEDHRP prior to the October SEDHREC meeting which will decide whether to approve the proposals.

Details of the next steps are outlined below (these may be subject to revision):

- 29 June, 2pm-8pm: Drop-in event at County Hall for display of final recommendations – no booking required.
- 29 June – 10 Aug: 6-week online survey for comment on recommendations, carried out by SEDHRP.
- Aug-Sept: Analysis of results and accompanying report produced by SEDHRP.
- October: Final report of EEMP and SEDHRP presented to SEDHREC for consideration.

4.4. Codes of Conduct

In addition, codes of conduct for users of the Exe Estuary are being reviewed by talking to local user groups. The codes will be updated to ensure safety, consideration of other users and nature conservation. Each user group, as well as national recreational bodies, are being asked to share with us their experience and expertise, so we can understand different perspectives and take on board their views.

Codes of conduct are important for the Exe Estuary because there are a wide range of users who may not be linked to a particular club. They may have different interests, where activities overlap.

The next steps for review of codes of conduct are as follows:

- May-Aug: Drafting of updated codes of conduct, based on existing codes and national guidance (working with user groups and national recreational bodies).
- Sept: Draft codes publically available for feedback.

Further detail of the review of codes of conduct will be added to the EEMP website as it becomes available.

4.5. Summaries of Consultation Responses

The EEMP has taken all responses and comments into consideration, including meetings, informal talks, emails and the online questionnaire, to help inform these final recommendations.

Further information about the review of zonation, including minutes and detail about the various groups involved, is available on the EEMP website at <https://www.exe-estuary.org/national-and-local-consultations>. Minutes of user group meetings are also included in the Annex.

The results of the online questionnaire and comments which were received by letter and email are included in Annex 23, 24 and 25, and are also available on the EEMP website.

5. CONSULTATION FEEDBACK

5.1. Consultation Responses

All comments and feedback received through the variety of means available during the consultation process were taken into account to form new recommendations. The amended proposals needed to balance the legal requirements of the protected areas against the legitimate interests of users. All comments that were received that were given permission to be published are included in Annex 25. Any comments received that we didn't receive permission to publish were still taken into consideration, but were not made publically available. All minutes from consultation meetings can be found in the Annex or on the EEMP website at <https://www.exe-estuary.org/consultation-meetings>. A summary of the feedback received is below.

Throughout the consultation period, a number of concerns were raised. Through the questionnaire, approximately 70% of respondents raised issues with the initial proposed VEZs. However, although concerns were also raised during consultation meetings, the EEMP was able to clarify any misunderstandings about the proposals and discuss with users what they would like to see amended. The meetings generally resulted in users largely accepting the approach, as long as their concerns and suggestions were taken on board. The amended proposals aim to address the majority of issues highlighted, for example, safety concerns by allowing small vessels to come out of the navigation channel. The amendments offer substantial compromise; reducing the area of the VEZs to allow continued use of the Estuary for recreation, leaves some high-tide roosts and areas of eelgrass unprotected and allows no buffer for wildlife.

A number of responses were also received which supported the introduction of these zones. Many local users communicated their respect for the environment and supported protection of wildlife and habitats. Responses indicated that users are mindful of wildlife and appreciate and enjoy the natural environment of the Exe. Some respondents indicated that these proposals are important for the conservation of the beauty and biodiversity of this special place, which could in turn enhance opportunities for those that enjoy the varied wildlife. Protection provided through these proposals could therefore benefit local businesses that benefit from the local environs. Some of those who responded through the consultation process even suggested that the proposals do not go far enough to protect such an ecologically important site.

Below are the most common comments received and the responses offered:

C: Why are the VEZs needed?

R: Detail of why these zones are needed is given in the background of this report. To summarise, the Exe Estuary is one of the most highly designated estuary in South West England, and is internationally important for birds. The Exe Estuary is also a very popular site for a variety of human activities. 69% of local people living within 1 km, visit roughly every other day. Evidence shows that disturbance from recreational activity is currently influencing the distribution and behaviour of birds on the Exe. Bird watches at Dawlish Warren roost found that the roost was flushed around five times per hour. When more people were present, fewer birds were recorded. Currently there are 8.8 million visits per year to the Exe Estuary from people living within 10km. This is predicted to increase by 2.4 million by 2030 as a result of providing much-needed homes for local people. The protection of internationally important wildlife is a legal obligation. Relevant authorities cannot wait until disturbance reaches a critical point before taking action, a precautionary approach is taken to make sure these

species are protected by providing them with space in the most important roosting and feeding areas.

C: There will be less space and freedom to do my water-based activity.

R: The initial proposed zones account for only (approximately) 9% of the Estuary, with the remaining 91% available for human activity (VEZs account for approximately 213ha, whilst the SPA designation has an area of 2366.83ha). Amended proposals are likely to be reduced in size, so will cover even less area of the Estuary. Additionally, the Exmouth VEZ will only be in place for 14 weeks of the year. Surveys and discussions about various activities show that not many activities take place within these two areas. Additionally, approximately 60% of respondents to the consultation questionnaire used both proposed VEZs less than six times in the last 12 months, therefore the new zones would have very low impact.

C: We don't really disturb birds and wildlife with our non-engine powered activity based on the water.

R: There is evidence that shows that non-engine powered activity does cause disturbance, with significantly higher incidences of disturbance from non-engine powered activity. This could be for a variety of reasons, including a greater number of people taking part in non-engine powered activities than engine powered activities; less requirement for the activity to be carried out through a club and adhere to more stringent rules and best practice; greater likelihood of visiting users not checking local best practice / codes of conduct; and the ability for non-engine powered vessels with shallow draught to enter shallow water and disturb feeding or roosting birds in these areas.

C: There'll be nowhere for novices and beginners to train and practice their chosen activity on the water.

R: This concern was taken into account when amending proposals. Additionally, the Exmouth VEZ is only in place during the winter months, when fewer beginners tend to be in the water.

C: There is no / very little credible evidence for the reasons behind the proposals.

R: These are voluntary measures and therefore do not require the evidence base that statutory measures need. However, there are a number of studies (such as the Exe Disturbance Study) that indicate that birds are displaced from important feeding and roosting areas due to human activity. The designations that are in place on the Exe mean that all 'competent authorities' have a duty to ensure that habitats, along with qualification features of designated sites, are maintained in favourable condition and, where possible, enhanced. 'Competent authorities' need to take into consideration the planned growth and development of areas that surround protected sites, and provide mitigation against the effects of increased use of the Estuary. The Habitat Regulations requirements of Local Plans mean that housing development cannot proceed without appropriate mitigation.

C: I have concerns about being able to safely carry out my activity if these VEZs are in place.

R: Proposals have been amended to take into account the safety concerns that users raised during the consultation. National bodies have been consulted to highlight and address safety issues. Safety of users on the Estuary is paramount.

The RYA helped to inform amendments to the proposals, and supplied the following information which outlines the rules that all must comply with when in narrow channels (note no set distance):

International Regulations for Preventing Collisions at Sea (COLREGs)

Rule 9 (Narrow channels)

(a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(b) A vessel of less than 20 m in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within such channel or fairway.

The latter vessel may use the sound signal prescribed in Rule 34 (d) if in doubt as to the intention of the crossing vessel.

(e)

(i) In a narrow channel or fairway when overtaking can only take place if the vessel to be overtaken has to take action to permit safe passing, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34 (c)(i). The vessel to be overtaken shall, if in agreement, sound the appropriate signal prescribed in Rule 34 (c)(ii) and take steps to permit safe passing. If in doubt she may sound the signals prescribed in Rule 34 (d).

(ii) This rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34 (e).

(g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

C: What happens if the weather changes and my water craft ends up in the Wildlife Refuge?

R: If anyone's safety is at risk, all precautions should be taken to stay safe. This could mean that you have to enter the VEZ. As soon as possible and when it's safe, please recover your craft at the shore or make your way out of the VEZ.

C: Will I receive a fine if I accidentally cross into the VEZ?

R: No. These are voluntary areas and are not subject to enforcement. Habitat Mitigation Officers are in place to help people understand why the areas are important for wildlife and where the VEZs are located.

C: I am concerned that there are further plans for other VEZs, and that there are plans to make these voluntary zones statutory. Is this the "thin edge of the wedge"?

R: There are no plans for other VEZs on the Estuary. Any plans that you may have come across in the past are old proposals that have since been amended by the EEMP and SEDHRP to the proposals that you see today. There are no plans to make these voluntary zones statutory, the EEMP and SEDHRP want to work with users to ensure that these zones are given the best chance of success. The effectiveness of these zones will be monitored over the next few years and reviewed. Statutory approaches would only be explored if these voluntary measures have failed.

C: Can a tidal exclusion be considered?

R: No. Roosts are important at high tide to allow birds to rest when the rest of the Estuary is under water. Additionally, the feeding patterns of wildfowl and waders are not simply restricted to low tide. Different birds will feed on a falling tide, will continue to feed until the tide recedes, will feed on a rising tide, and some even prefer to feed at high tide (by up ending in shallow water).

C: Why is Dawlish Warren VEZ all year round?

R: The most important high tide roost is at Dawlish Warren, and is used by birds for feeding and roosting all year round.

C: I am concerned that I will not be able to carry out my activity.

R: Concerns about certain activities ceasing on the Estuary have been taken into consideration during the consultation process. Proposals have been amended to allow activities to continue, whilst still providing protection for the most important roosting and feeding areas. We have worked closely with users to discuss modification of certain activities to allow space for wildlife at particularly sensitive sites, whilst still allowing activities to continue in the remainder of the Estuary. This discussion will continue following the publication of these amended proposals. We are not looking to stop human activities on the Exe, but would like to encourage them in areas which aren't as vital to the health of the important wildlife.

C: I understand the needs to protect the wildlife and habitats and am respectful of this in my activity, so why do we need VEZs?

R: Through the consultation, it was apparent that a lot of local users act responsibly towards wildlife when carrying out their activities. However, visitors to the area may not realise what an important site this is for wildlife and habitats and may not know which sensitive areas to avoid. These proposals aim to agree boundaries for the most sensitive areas, which can be marked by buoys and promoted clearly through signage and codes of conduct to raise awareness with those that might not know better.

5.2. Summary of Feedback from User Groups

Eales Dock

- Need continued access through the Dawlish Warren VEZ for business use, via Shutterton Creek. Is happy to work with EEMP & SAEDHRP to mark Shutterton Creek for those accessing the dock.
- Launch / recovery approximately 3hrs either side of high tide.
- Will promote correct use of VEZ to users of the dock, via signage at their exit point and distributing codes of conduct. EEMP & SEDHRP to provide content for sign and Eales Dock will produce. Detail to include: why area is important; map of VEZ; explanation of designations; importance of high tide roost and feeding ground; boats to avoid prolonged use of VEZ (enter/depart VEZ as quickly as possible); adhere to speed limit; no diverting from the creek; launching/recovery 3hrs either side of high tide.
- Will sign a site-specific voluntary agreement to outline responsible use within the VEZ.

Crab Tilers

- No crab tilers identified through consultation in proposed Exmouth VEZ.
- There are nine crab tilers that use the Dawlish Warren area, with two that rely on crab tiling for a living.
- Complete reestablishment of crab tiles in a new area could take several years.
- Displacement of activity to another area is likely to create additional pressure in the other area.
- Crab tilers use the area responsibly and adhere to a code of conduct which they helped to create several years ago.
- Supported by the response from D&SIFCA, the amended proposal recommends that crab tilers aren't moved out of the proposed Dawlish Warren area.
- The Exe Estuary Bait Collection Literature Review (2017) states that various evidence sources suggest that crab tiling and bait digging have the potential to effect estuaries and overwintering species they support through a variety of direct and indirect mechanisms. The report isn't able to suggest site specific management measures, but recommends continued dialogue between local anglers, bait collectors and management authorities in future management of activities.
- Current crab tilers would like to see regulation of number of tilers, happy to have introduction of a permit system.
- Offered to act as voluntary wardens.
- Happy to remove unused tiles from below the IFCA byelaw line, working with D&SIFCA.
- Information needed on signage at access point to explain why crab tiling is permitted in area (and history).
- Marker sticks could be put in place for people to follow straight out to the wreck.

Power Boaters

- Power boats have continued use within their designated area, where the 10 knot speed limit can be exceeded when tidal height is 3.8 metres or more above chart datum, and during times as set out in byelaw 4a (in operation since 1977).
- Exe Power Boat and Ski Club are an RYA affiliated club. Rules are in place for events, to minimise the effects on any other water users.

- The powerboat area is used almost all year, about 18-20 times per year, at two hours either side of high water. Organised events take place up to the end of November and restart late February.
- Usage does not normally extend right over to the areas of eelgrass. Power boaters should be encouraged to voluntarily stay away from eelgrass beds during the important feeding periods for birds.
- The club (Exe Power Boat and Ski Club) has one of the biggest fleets of powerboats of this kind in the country with people coming from as far as Barnstaple to take part. No suitable site for an alternative power boat area could be identified within the estuary. The power boat area could not be moved outside the mouth of the estuary, due to safety concerns of such high-speed craft in unsheltered, open water.
- Power boaters are opposed to Exmouth proposal, due to concerns about displacement of water users into power boat area. However, there is no tidal restriction within the VEZ, so there should be no displacement into their area, and should result in a decrease in users within the VEZ.

Water Skiers

- Water skis have continued use within their designated area, where the 10 knot speed limit can be exceeded, as set out in byelaw 5a (in operation since 1977).
- Request to amend water ski area (1097m by 622m) to be extended north some 700m by 700m, stretching from around 21 buoy up the Estuary towards Starcross (ending before any moorings and to the east of the channel), allowing more usable area for water skis out of the navigation channel and avoiding an overlap with the VEZ. This suggestion has been passed to the Harbour Authority for their consideration.

Wildfowlers

- Activity is tightly controlled through regulations, general agreement, formalised lease agreements (club rules, etc.), club tests, management plan, codes of practice and have permit areas.
- Group carries out conservation work and surveys on-site.
- Poole Harbour disturbance study showed that wildfowling accounted for just 0.04% of the disturbance activities on Poole Harbour.
- Rules state that they are not to take watercraft into the LNR.
- This report recommends that wildfowlers have continued use of areas on the Exe, including within the Exmouth VEZ, as agreed through consent with relevant authorities who grant lease agreements and review this activity every five years.
- Offer from Devon Wildfowl and Conservation Association (DWCA) to act as voluntary wardens, helping to hand out codes of conduct, raising awareness about sensitivities of area, completing surveys, etc.
- Need to raise awareness about why certain activities such as these have consent to continue. DWCA may have scope for a small donation towards a sign (of approximately £10-20).

Kitesurfers / Windsurfers

- A dedicated area for kitesurfers would not work, as kitesurfers use a variety of areas due to the influence of wind direction and tide which constantly change.
- Don't really use Dawlish Warren VEZ, but suggested boundary brought in approx. 100m for canoe / SUP for safety reasons.
- Want Exmouth VEZ to be Oct to end-Dec. Confusion about date of current Kitesurfing Exclusion Zone, but stated in tide tables as Sept to Dec. Propose

mid-Sept to end-Dec (as high volume of wintering birds mid-Sept), have compromised from original dates of beginning Sept to end-March

- Exmouth VEZ: If a tidal exclusion is not an option, three alternative options were suggested by kitesurfers at different stages in the consultation process.
 1. Keep the current Kitesurfing VEZ boundary.
 2. Remove the power boat area from the proposed VEZ.
 3. Move the western boundary of the proposed VEZ east.
- Concerns over user safety with power boats having use of bottom of Duck Pond.
- Edge Watersports and Exe Kiteboarders can help to advertise VEZs via websites and Facebook pages.
- Signage needed at seafront, launch points and near parking machines. Exe Kiteboarders can help with content and location of signage. Avoid putting signs at hazardous sites for kites.
- Dawlish Warren landing zone: promote landing to east if zone is full (less sensitive than west).
- Contact Chamber of Commerce to include information for visitors in guide.

Sailing

- Suggested Dawlish Warren VEZ to follow IFCA byelaw line. However, this would allow use on an area which is important for feeding and roosting birds.
- Suggested Exmouth VEZ to follow existing kitesurfing VEZ.
- Suggested Exmouth VEZ to have a tidal time restriction, either HW +/- 3 or a tidal gauge/post. However, feeding pattern of birds is not as simple as low tide feeding (e.g. Brent geese feed on a retreating tide; some birds feed through water column), so tidal restriction would not work.
- Disturbance Study and last year's surveys do not reveal small sailing boats to cause a high incidence of disturbance. However, Rangers at Dawlish Warren note a high number of incidences of disturbance from small sailing boats, so suggest that they should stay out of the zones along with other users.

Anglers

- Request to move northern boundary of Dawlish Warren VEZ to run from Cockwood Steps to wreck, to allow angling at wreck. Agreement from group to go left as you exit the steps, but not right. Both the steps and the wreck are easily identifiable landmarks for boundary.
- Continued angling from area on shore adjacent to Exmouth VEZ, 'The Gate / Field' where fishing competitions held frequently (sheltered in bad weather and used by younger anglers).
- Avoid entering Exmouth VEZ by boat. Extent of VEZ to be marked with buoys to indicate where they should stay out.
- All in attendance satisfied with proposals above and in support.

Bait Diggers

- As well as disturbance, bait diggers have the potential to damage eelgrass beds through their activity, as evidenced in 2015. Promotion of areas of eelgrass to avoid could help address this.
- Move northern boundary of Dawlish Warren VEZ to run from Cockwood Steps to wreck.
- Happy to stay to the left of initial Exmouth VEZ. Would therefore propose that they turn left after accessing foreshore from Imperial Recreation Ground slipway, to avoid digging on eelgrass.
- The Exe Estuary Bait Collection Literature Review (2017) states that various evidence sources suggest that crab tiling and bait digging have the potential

to effect estuaries and overwintering species they support through a variety of direct and indirect mechanisms. The report isn't able to suggest site specific management measures, but recommends continued dialogue between local anglers, bait collectors and management authorities in future management of activities.

- Happy with no bait digging within both VEZs. Promote within Code of Conduct: "Please don't dig where the eelgrass is."

Sandeel Fishermen

- No conflict between sandeel fishing and the proposed VEZs.

Exmouth Mussel Company

- Exmouth Mussels do not carry out any activity or moor any boats within the proposed VEZs, therefore there is no conflict.

Personal Watercraft (PWC)

- No conflict between PWC users and the proposed VEZs.
- Suggested a registration system and can act as wardens if costs are covered.
- The existing dedicated PWC zone is to remain in place at the current location all year round, with further promotion to encourage use.

Canoe / Kayak / SUP

- Main issue of safety
- Dawlish Warren VEZ: agree with boundary moved down to Cockwood Steps.
- Dawlish Warren VEZ: RCUG meeting on 16 March suggested that canoes and kayaks need to come out of main navigation channel for safety, suggested minimum 10m in from channel. Canoe meeting on 22 March suggested that code of conduct should state that users can enter 50m into VEZ to avoid fast flowing channel.
- Exmouth VEZ: Following suggestion of tidal restriction from RCUG meeting on 16 March and canoe meeting on 22 March, group informed that this will not work due to feeding activity of birds. The groups could not agree to the proposed VEZ for safety reasons. Want reduced area for safety well out of navigation channel, and to allow use of sheltered area at bottom of Duck Pond.
- Code of conduct needs to state that if necessary for safety, water users can enter the areas to escape channel.
- Make use of clubs (including those in RCUG) to disseminate information to members / users.
- Install sign (with board which can be changed) to show when Brent Geese are in the area.
- Promote positive message and have an educational approach, rather than having a negative message (saying no all of the time).
- Suggest a different area for shore based users (incl. dog walkers) to only go left when accessing the foreshore from the slipway.

Gig Rowers

- Some portions of the VEZs are used by Gig Rowing during certain conditions.
- A proposal to provide a junior rowing section this year may only be possible using part of the proposed VEZ.
- Biggest risk is collision with motor boat users in the main channel.
- Tides impact their activity, heavily limiting usable areas.
- Restriction of the area west of the landing area would prevent the activity of the Gig Club.

Dog Walkers

- Not much response received.
- Dawlish Warren VEZ: existing dog ban on NNR, behind the Warren.
- Exmouth VEZ: Recommendation to turn left from Imperial Recreation Ground slipway, for users who are accessing foreshore at low tide (e.g. dog walkers).

Moorings

- There would be no proposed change to existing moorings on the Exe and there are no moorings currently in the proposed VEZs.
- Exmouth Sailing Club have right to moorings within the lower section of the Exmouth VEZ. However, they don't use this right at the moment and would not exercise it if the voluntary zone was agreed.

General Feedback

- The initial proposal from the Mitigation Strategy, to include a line off the Exmouth Seafront to indicate a western limit for all water sports to ensure the areas around Dawlish Warren / Warren Point and off-shore are undisturbed, was not deemed practical. Responses through the consultation process indicated that this suggestion was too excessive.
- Any existing restrictions or activities permitted through byelaws or formal agreements with authorities should remain in place. For example, all dog walking areas and restrictions at Dawlish Warren will remain in place.
- The exclusion at Exmouth was originally proposed to cover September to March when high numbers of birds are present. Feedback from the majority of users has suggested that they prefer the exclusion to end in December and some suggested a later start. Following the consultation, the recommended dates of the exclusion should be amended to mid-September to end-December.
- Install sign at Exmouth VEZ (with board which can be changed) to show when Brent Geese are in the area over winter.
- There is no national guidance on safety zones for small craft out of navigation channels. There have been a variety of suggestions from user groups from 10m to 100m. To ensure the safety of water users at Dawlish Warren VEZ, a 100m buffer zone out of the navigation channel is recommended.
- Voluntary Exclusion Zones to be instead named Wildlife Refuges, as suggested by a number of users, to clarify why the areas are protected and to foster a more friendly approach with users.
- Back up proposals with codes of conduct (to include the message to "Stay away from eelgrass and feeding birds").
- Promote positive message.
- Make use of voluntary wardens and clubs to promote.

6. FINAL RECOMMENDATIONS ON ZONATION

The final recommendations are informed by feedback received through the public consultation. The recommendations aim to provide protection for protected wildlife through the consistent and coordinated promotion of two sensitive areas that are important feeding and roosting sites for birds. Amended zones aim to address a lot of the main issues highlighted through the consultation, with safety of users taken into consideration and more space available for human use of the Estuary. Whilst the recommendations won't be the perfect outcome for either human or wildlife interests, they offer the best compromise under the circumstances.

It is recommended that these proposals are not withdrawn entirely. If voluntary measures are not trialled, 'competent authorities' would need to explore other options to provide protection for the designated areas. This may include the consideration of statutory measures, which users have strongly indicated that they do not want. Effective promotion of these sensitive areas to users, via signage, codes of conduct and other means, along with agreement to recognise these areas by users, should sufficiently provide protection for the wildlife that depend on these areas, and therefore avoid the need to introduce statutory areas. However, this is heavily reliant on user compliance. Monitoring will be required to measure the success of these voluntary areas over the next few years, with the opportunity to review if the areas aren't achieving the intended benefits for wildlife or are proved not to be practical for users.

The consultation revealed that not many activities take place within the two proposed areas. Additionally, approximately 60% of questionnaire respondents used both proposed VEZs less than six times in the last 12 months, therefore the new zones would have very low impact.

Any existing restrictions or activities permitted through byelaws or formal agreements with authorities should remain in place. For example, all dog walking areas and restrictions at Dawlish Warren will remain in place.

The recommended name for these areas is Wildlife Refuge, rather than Voluntary Exclusion Zone, in response to suggestions by a number of users.

The introduction of Wildlife Refuges are not a new concept, with similar areas that allow space for important wildlife advertised at other sites, such as Poole Harbour and Pembrokeshire. Both of these sites promote maps of sensitive areas for birds and ask users to avoid these areas during important times of the year. This is the same approach that these proposals are taking.

The aim was to keep the Wildlife Refuge areas as simple as possible, to allow visiting users to easily understand which areas to avoid. It is for this reason that we are not including dog walking exclusion zones on maps, but will instead include text on signage and codes of conduct that states the dog-walking restrictions in simple terms. In the following sections, Wildlife Refuges are illustrated on the most up to date Ordnance Survey maps, aerial images and Admiralty charts, for ease of reference.

The amended Wildlife Refuge areas account for only 7.12% of the Estuary during 14 weeks, and a mere 3.58% year round, with the rest of the Estuary available for human activity (Wildlife Refuges account for 166.93ha, whilst the SPA designation has an area of 2345.71ha).

Please note that safety of users on the Estuary is of paramount importance. The EEMP are aware that users may need to enter the voluntary zones on occasion, to avoid hazardous situations.

6.1. Exmouth Wildlife Refuge: Final Recommendation

Recommended temporal restriction: mid-September to end-December.

Recommended tidal restriction: all tidal states.

Recommended spatial restriction: see maps below.

Datum given in brackets is from the Ordnance Survey National Grid reference system.

Start datum (NGR SX 99660 81171) at the Imperial Recreation Ground establishes the start of the boundary line, which runs northerly to the northern limit of the Local Nature Reserve (NGR SX 99084 83101), then easterly to the shoreline (NGR SX 99463 83101), then follows the shoreline (mean high water mark) back to the start datum (NGR SX 99660 81171).

Dog walkers are to turn left when accessing foreshore from the Imperial Recreation Ground slipway. This allows for a buffer zone for feeding and roosting birds, as dog walkers with their dogs off lead on the intertidal caused the highest percentage of major flights from all the observed potential disturbance events. The slipway is also an easy reference point to communicate to the high number of dog walkers that visit the area. This buffer zone also includes other low tide activities, such as walking and bait digging.

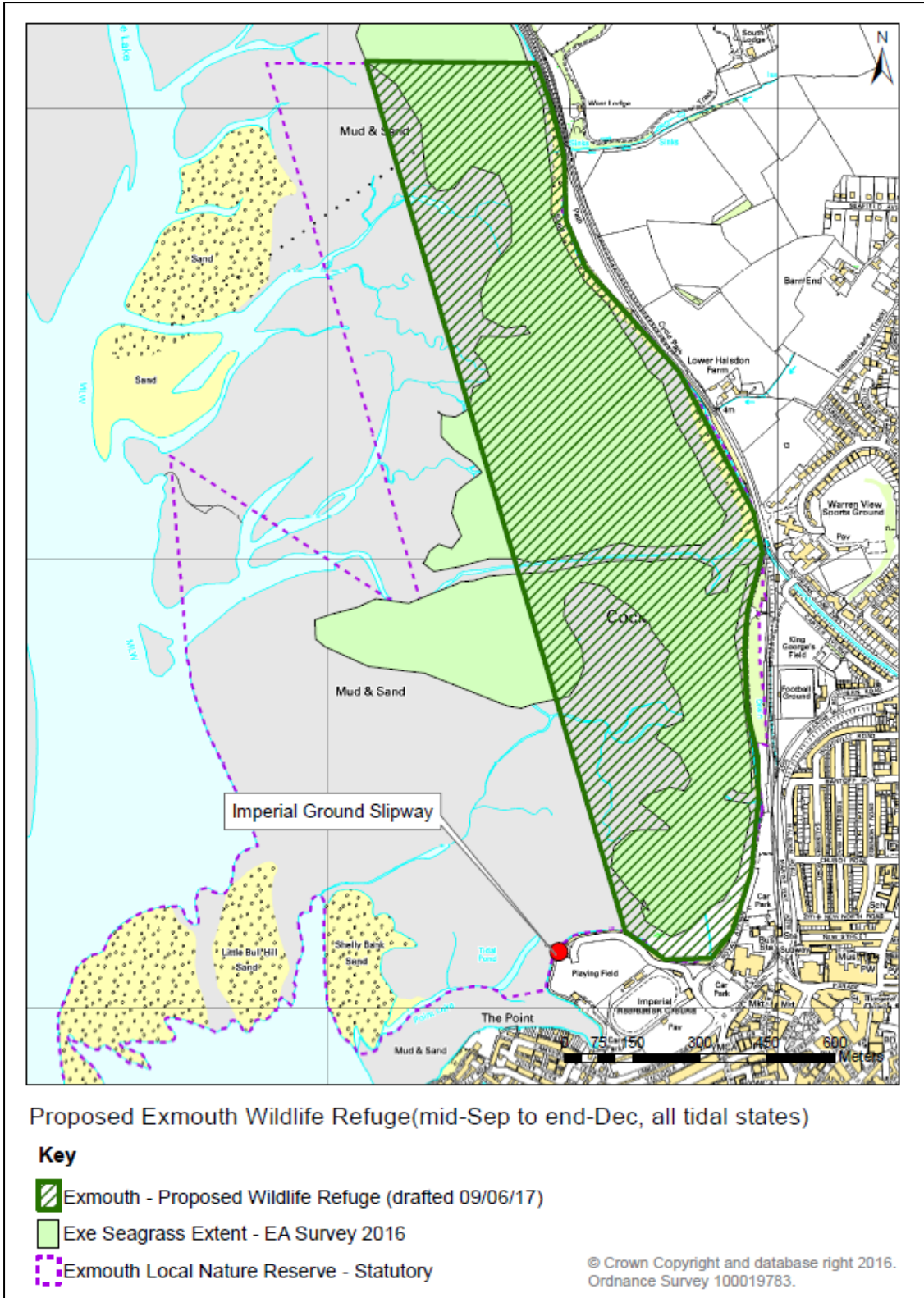


Figure 11: Amended proposal for Exmouth Wildlife Refuge (drafted June 2017) – background OS map.

Proposed Exmouth Wildlife Refuge (mid-Sept to end-Dec, all tidal states)

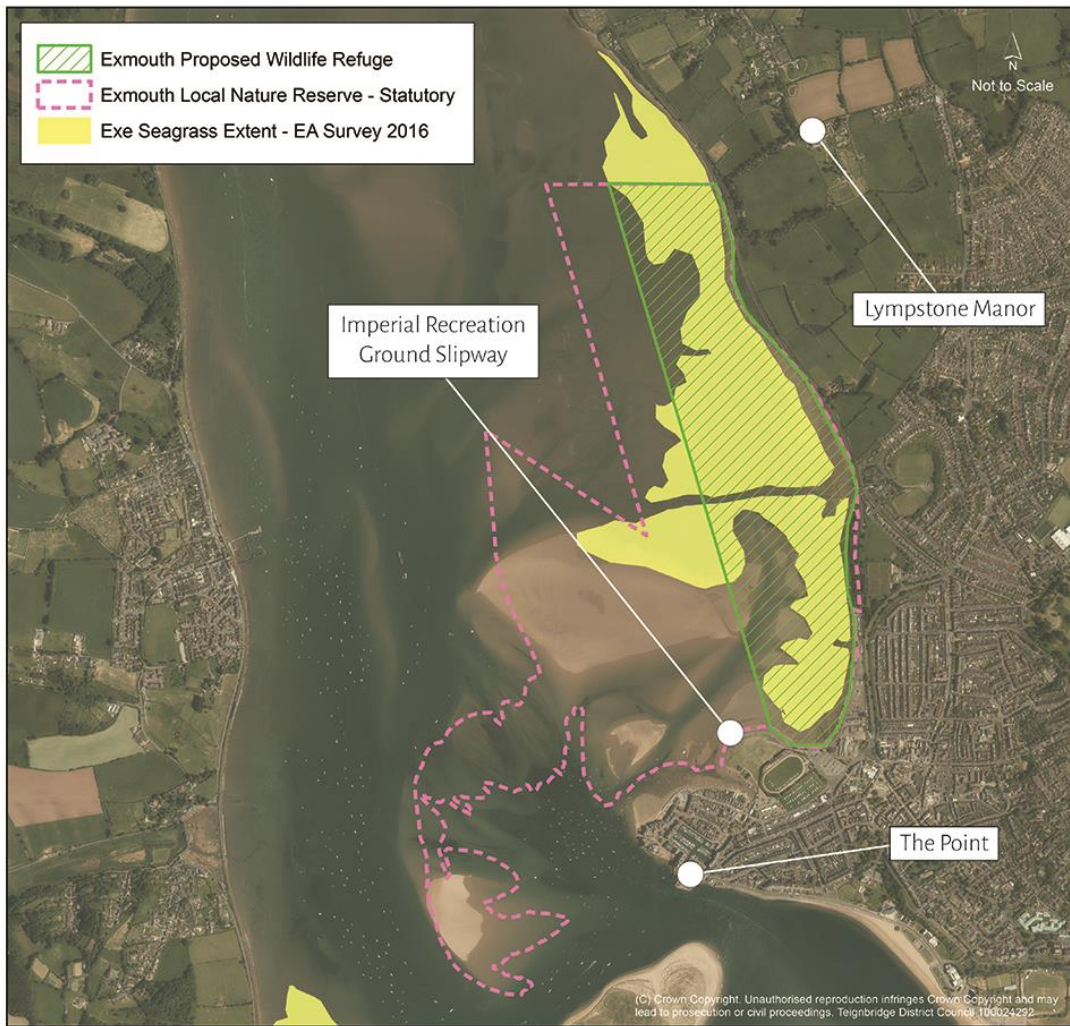


Figure 12: Amended proposal for Exmouth Wildlife Refuge (drafted June 2017) – background aerial map.

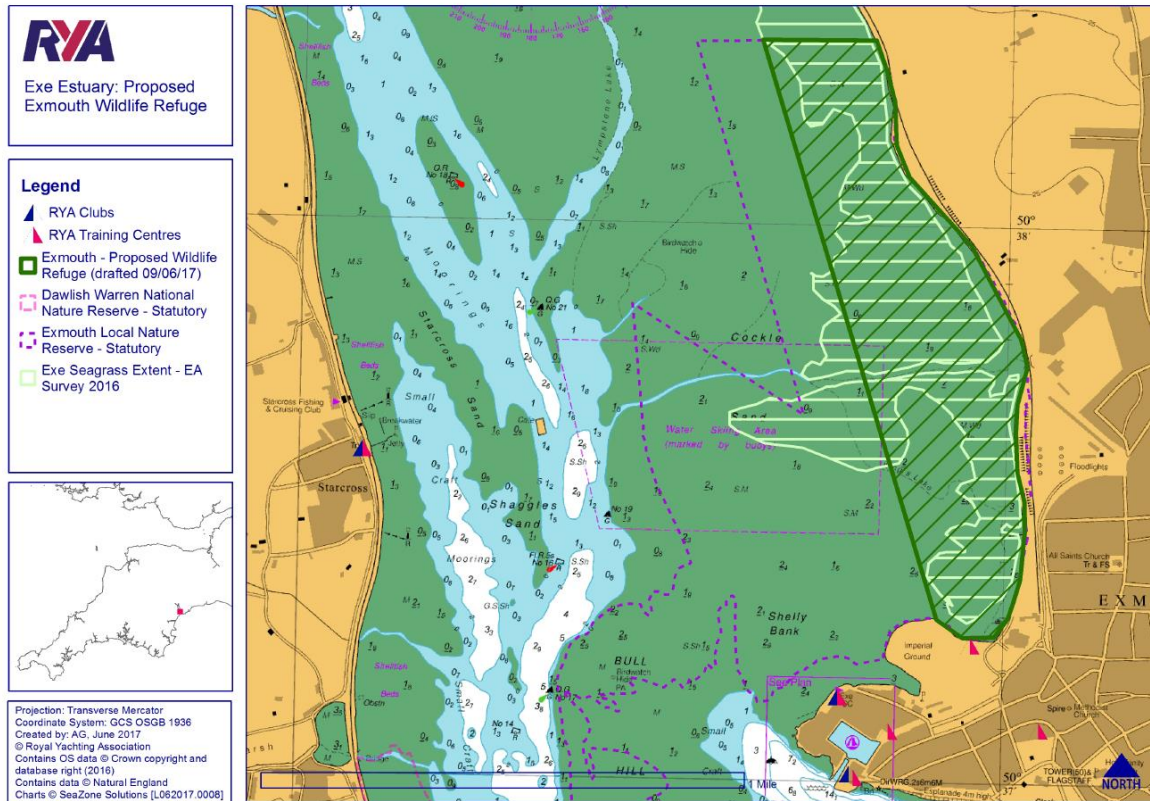


Figure 13: Amended proposal for Exmouth Wildlife Refuge (drafted June 2017) – background Admiralty chart, courtesy of the RYA.

Justification of recommendations:

The western boundary of the Wildlife Refuge was moved east in response to suggestions received through the consultation, including one of the main recreational businesses at Exmouth. This was to allow for kitesurfing activities to take place at various wind conditions, with the anticipation that the resulting reduction from the existing Kitesurfing Exclusion Zone will encourage more kitesurfers to acknowledge the Refuge. The movement of this boundary also allows smaller vessels to come further away from the main navigation channel for safety reasons, allowing a minimum 750m buffer zone to the channel and closer access to shore in emergency situations. This amended boundary also makes more sheltered area available around the Imperial Recreation Ground for certain activities and in consideration of the needs and safety of learners and novices.

The temporal restriction at Exmouth, originally proposed as September to March when high numbers of birds are present, has been amended to mid-September to end-December. This amendment was in response to feedback from the majority of users that suggested that they prefer the exclusion to end in December. Kitesurfers indicated that September was still a busy period for them, due to the fair weather after summer holidays. However, September is important for wintering birds, with WeBS counts showing bird numbers increasing during this month, with high numbers arriving halfway through the month. A compromise is recommended to begin in mid-September. This is a substantial compromise from seven months to three and a half months. This takes into account the peak usage time for tourists and learners, with full access available to novices during summer and early September.

The Exmouth Wildlife Refuge is smaller than the original proposal, allowing users more sheltered space and more space away from the navigation channel. The new Wildlife Refuge protects key feeding areas for a short period of time (only 14 weeks) during low season when many users said they do not normally use the area. The Imperial Recreation Ground slipway is still available for users during these winter months and access to the foreshore via this slipway is encouraged.

Existing restrictions:

- Current Kitesurfing Exclusion Zone superseded by new Exmouth Wildlife Refuge.

Allowances within Exmouth Wildlife Refuge:

- Power boats have continued use within their designated area, where the 10 knot speed limit can be exceeded when tidal height is 3.8 metres or more above chart datum, as set out in byelaw 4a. We would request that power boats stay away from the eelgrass beds when using the area during mid-September to end-December.
- Water skis have continued use within their designated area, where the 10 knot speed limit can be exceeded, as set out in byelaw 5a.
- Wildfowling to have continued use of areas on Exe, including within the Exmouth Wildlife Refuge, as agreed through consent with relevant authorities who grant lease agreements. Activity is tightly controlled through regulations, agreements, tests and permits.
- Continued angling from area on shore adjacent to Exmouth Wildlife Refuge, i.e. 'The Gate / Field'. However, anglers to avoid entering Exmouth Wildlife Refuge by boat.
- Official survey work.

6.2. Dawlish Warren Wildlife Refuge: Final Recommendation

Recommended temporal restriction: all year.

Recommended tidal restriction: all tidal states.

Recommended spatial restriction: see maps below.

Datum given in brackets is from the Ordnance Survey National Grid reference system.

Start datum (NGR SX 97802 80423) at Cockwood Steps / railway crossing which establishes the start of the boundary line, runs easterly to the south-eastern tip of the wreck (NGR SX 98048 80414), then south-easterly along the mean low water mark to the defined landing area (NGR SX 98989 80204), follows the defined landing area south to the mean high water mark (NGR SX 99026 80139) then follows the mean high water mark along the sand spit back to the shoreline (NGR SX 97924 78932), then follows the shoreline (mean high water mark) back to the start datum (NGR SX 97802 80423).

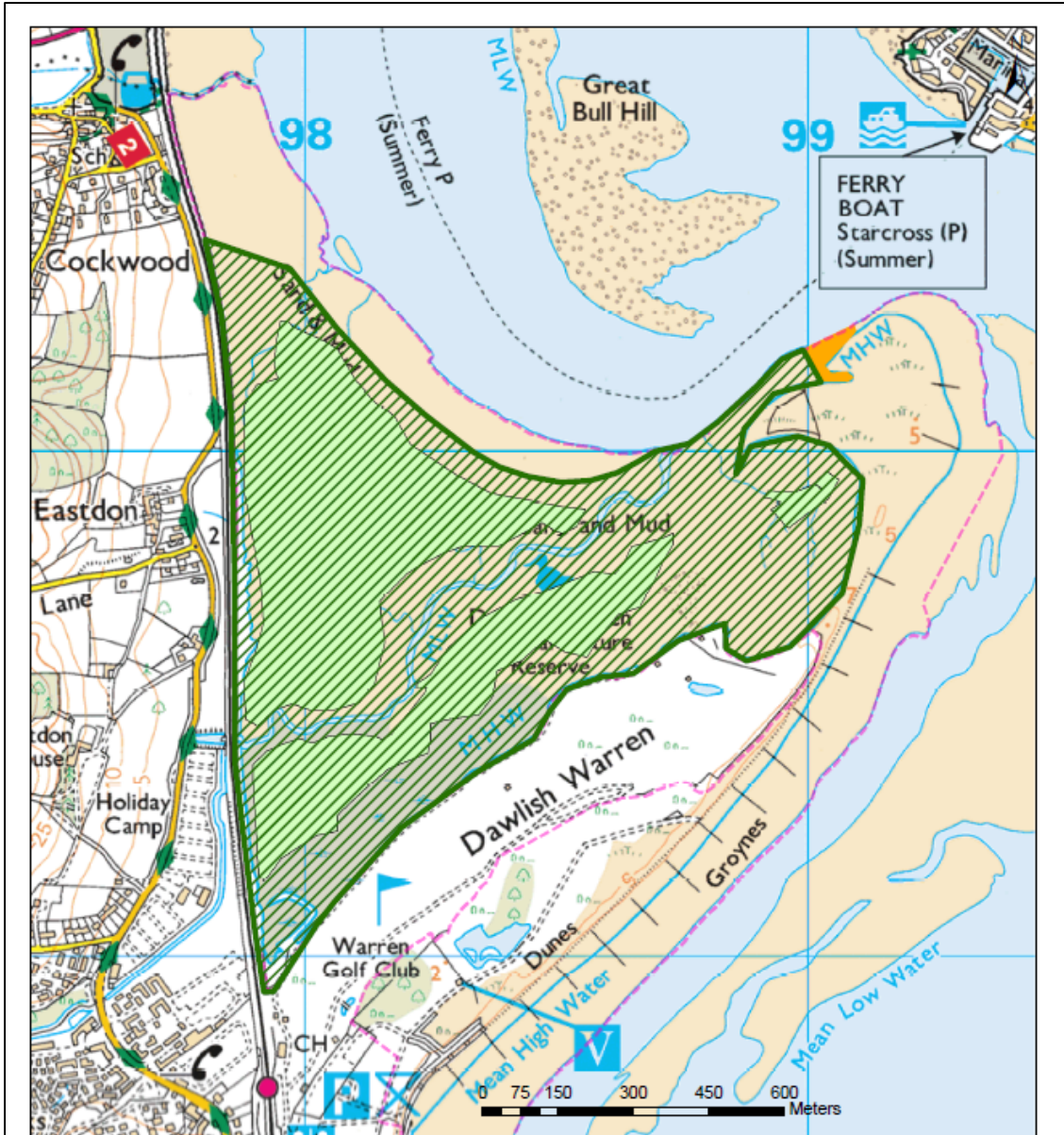
For dog walking: statutory exclusion already in place through byelaw.

For low tide activities (e.g. angling, bait digging, walking):

On the foreshore, stay left of line between Cockwood Steps and the southern tip of the wreck.

For high tide activities (e.g. canoeing, dinghy sailing, SUP):

Buffer zone for water-based activities, which comes in from the boundary outlined above (and therefore the navigation channel) by 100m, until the mouth of Shutterton Creek, where the boundary re-joins at the mean low water mark (NGR SX 98697 80008).



**Proposed Dawlish Warren Wildlife Refuge
(all year, all tidal states)**

Key

- Dawlish Warren - Proposed Wildlife Refuge (drafted 09/06/17)
- Dawlish Warren National Nature Reserve - Statutory
- Dawlish Warren Defined Landing Area
- Exe Seagrass Extent - EA Survey 2016

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Figure 14: Amended proposal for Dawlish Warren Wildlife Refuge (drafted June 2017) – background OS map.

Proposed Dawlish Warren Wildlife Refuge (all year, all tidal states)



Figure 15: Amended proposal for Dawlish Warren Wildlife Refuge (drafted June 2017) – background aerial map.

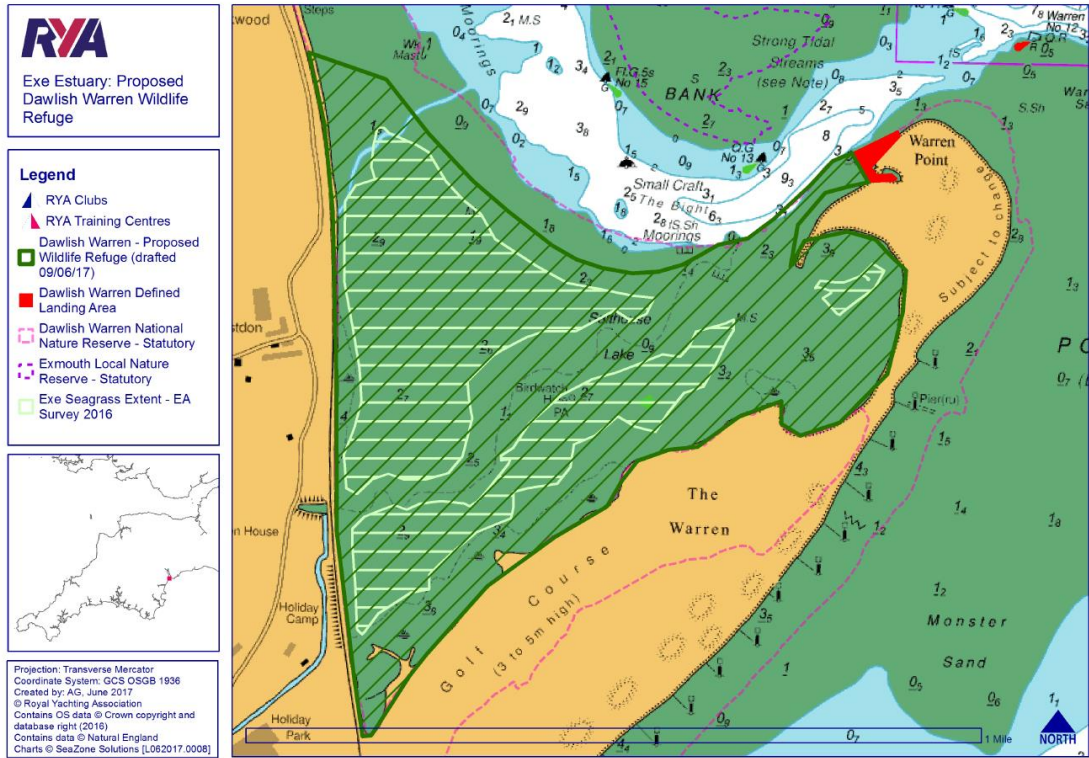


Figure 16: Amended proposal for Dawlish Warren Wildlife Refuge (drafted June 2017) – background Admiralty chart, courtesy of the RYA.

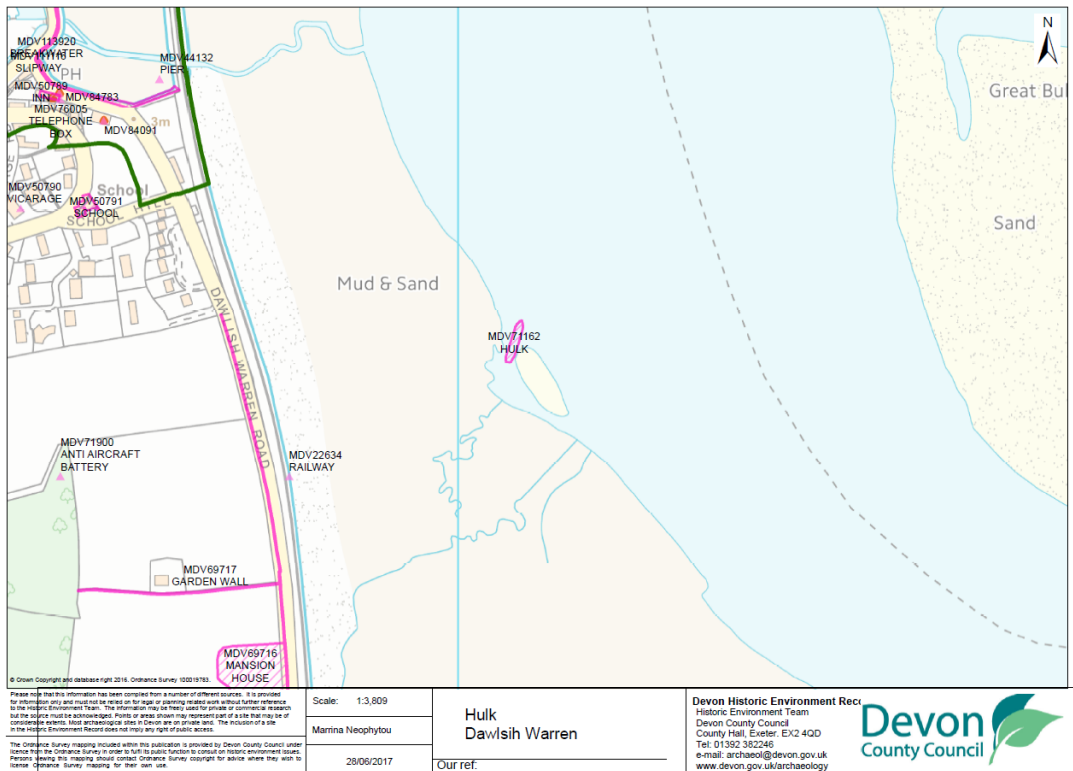


Figure 17: OS map showing location of wreck (outlined in pink, as a 'hulk') at Dawlish Warren, alongside the proposed Wildlife Refuge, courtesy of Devon County Council.

Justification of recommendations:

The Dawlish Warren Wildlife Refuge is recommended at all tidal states, due to the complicated feeding patterns of birds and due to the importance of the high tide roost (detail of this can be found in section 3.1). The Refuge is in place all year round, due to the fact that this area is the most important high tide roost throughout the year.

The northern boundary of the Wildlife Refuge has been moved almost 0.5km south, making the refuge smaller than before. The northern boundary of the Refuge now runs from Cockwood Steps (at the railway crossing) to the southern tip of the wreck. This was in response to a number of different users, including anglers and sailors, who indicated that the top area of the National Nature Reserve was important for their activity and is a well-used area. Since the top part of the NNR isn't deemed to be as important for wildlife as the lower part, this amendment is considered to be agreeable.

This amendment offers a considerable compromise with sailing clubs, who suggested a boundary that follows the IFCA byelaw line. This suggestion couldn't be fully accommodated due to overlap with important feeding and roosting sites. A similar amendment to that shown on the map above was presented at the public consultation event on 20th April, and was much better received than the original proposal.

For water-based activities, such as canoeing and dinghy sailing, a buffer zone for watercraft has been recommended, to allow safe passage out of navigation channel and away from moorings. A variety of widths were suggested by users for this buffer zone, from 10m to 100m. There are no national guidelines for buffer zones such as this, but further research suggested that at least a 50m buffer might be advisable. For example, 'Plymouth Waterways – A guide for small craft' states that "recreational and other small craft users are advised to keep well clear of the main channel". Rule 9 of the International Regulations for the Prevention of Collisions at Sea, although it refers to ships and vessels at sea, states that "all vessels under 20m in length and all sailing vessels must give way to vessels over 20m long". It also states that "all vessels are to keep at least 50m clear of all military vessels (100m submarines) both alongside and at anchor". The British Canoeing guide, 'You, your canoe and the environment', only states "In confined waters keep to the edge of the deep water navigation channel".

Section 5.1 of this consultation report includes an extract from the International Regulations for Preventing Collisions at Sea (COLREGs), which outlines rules that all must comply with when in narrow channels, supplied by the RYA. Although no set distance is referred to, a few rules in particular helped to inform the amendments to proposals:

- (a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit or the channel or fairway which lies on her starboard side as is safe and practicable.
- (b) A vessel of less than 20 m in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway.

To ensure the safety of water users in this area, based on broad guidance available and feedback through this consultation, a 100m buffer zone is recommended for these proposals. This offers a substantial safety zone for smaller vessels, outside of the navigation channel and away from moorings.

Some portions of the VEZs are used by Gig Rowing and there are concerns that restrictions to the west of the landing area would prevent the activity of the Gig Club. However, this area is the most important and sensitive high tide roost on the Exe Estuary and the small buffer is required to maintain the health of the wildlife. Discussions with the Dawlish Warren Rangers have indicated that gig rowing has caused disturbance events at this very sensitive area. Further discussions with the Gig Club are required to address this issue and to allow gig rowing activity to continue on the Estuary in a responsible way.

Existing restrictions:

- Dog walkers will continue to follow to existing dog walking areas and restrictions at Dawlish Warren, including the existing byelaw which bans dogs from the National Nature Reserve, behind the Warren. The map which shows existing dog zones can be found on page 29 (Figure 10).
- Current Angling Voluntary Exclusion Zone superseded by new Dawlish Warren Wildlife Refuge.

Allowances within Dawlish Warren Wildlife Refuge:

- Continued access for Eales Dock via Shutterton Creek, with a voluntary agreement to promote responsible use of the VEZ to users of the dock.
- Nine existing crab tilers will continue to work under permit in the northern part of this area, in adherence to the Inshore Fisheries and Conservation Authority (IFCA) byelaw and following robust and updated codes of conduct.
- Official survey work.

7. RECOMMENDATIONS FOR ONGOING WORK

7.1. Review of Codes of Conduct (informed by the South-east Devon European Site Mitigation Strategy)

Codes of conduct are important to ensure the safety of the wide range of users of the Exe Estuary, whilst taking consideration to nature conservation. Codes set out clearly how users undertaking a particular activity should behave, and are most relevant to sporting activities, including watersports. Codes of conduct are particularly relevant where there are a wide range of users, potentially not linked to a particular club, and a range of complicated issues, or where multiple activities overlap. Casual visitors, who visit a location sporadically, are unlikely to be fully informed of all local issues and politics. A code of conduct serves to set out where there are particular issues and provides the user with all the information they need to undertake their chosen activity safely, within the law and without creating conflict with others.

There are existing codes of conduct for the Exe Estuary, for some of the activities that take place. The existing information for particular users is not easily accessible and there is relatively little guidance on how to reduce impact on nature.

Existing codes will be reviewed and updated by the EEMP (commissioned by the SEDHRP), with new codes created where necessary. New and updated codes will be drafted over the next few months, working directly with local users and national recreational bodies to ensure that national guidance is followed whilst capturing the local needs of users and nature. Existing codes from other areas will also be taken into consideration, to ensure that the Exe codes incorporate the best elements of existing examples. Developing good, clear codes with user groups ensures that safety issues, insurance, consideration of other users and nature conservation issues can be accommodated, ensuring users can enjoy their chosen activities whilst minimising any impacts.

Codes will be created / updated for kitesurfing/windsurfing, Personal Watercraft (PWC / Jet Skiing), sailing, power boating, water skiing, canoeing/kayaking/SUP (and other paddlesports), crab tiling, bait collection/shellfishing, and dog walking. Clear codes of conduct are required for the Exe Estuary and offshore area, so a general code of conduct for all users will also accompany the above, as well as a code of conduct for Dawlish Warren.

The codes will be consistent in how they look and in their content, and written in a friendly style. Codes of conduct will be promoted on interpretation panels, websites, newsletters, through local clubs and water taxis, and will need to be reviewed and promoted regularly.

Draft codes are expected to be publically available for feedback by September.

7.2. Promotion of Zonation and Codes of Conduct

Following the review of zonation and codes of conduct, a coordinated approach should be taken in the promotion of the outcomes.

Signage

To ensure that new information is consistent and complementary to existing information, an audit of signage around the Estuary should be carried out (to include

the Exe Estuary Trail signage). A draft inventory of interpretation and signage was carried out by the EEMP in 2012, this should be updated and a brief report should be produced to outline which existing signage needs to be updated and identify where additional interpretation needs to be sited, particularly at Estuary access points. A review of Dawlish Warren signage should be carried out simultaneously. Signage should clearly communicate which areas are important for nature and should be avoided by recreational users, with reasoning why. Signage should also give detail about certain activities that take place in or near sensitive areas, and the reasoning why. Codes of conduct should also be promoted on new and updated signage.

Via Wardens / Officers

All existing staff who help to manage and warden the Exe Estuary should communicate a consistent message in the promotion of zones and codes of conduct. Staff in particular who can promote these messages include the Habitat Mitigation Officers, Dawlish Warren Rangers, East Devon District Council Countryside Team Rangers and Exe Estuary Officer.

Via Volunteer Wardens

A number of local user groups have indicated, through the consultation process, that they would be keen to act as voluntary wardens to help monitor activities and raise awareness of best practice / codes of conduct. The groups include crab collectors, Wildfowlers and PWC users, to name a few. Groups would need to receive training from local authorities and would need to work closely with the Habitat Mitigation Officers.

Existing Routes of Communication

The SEDHRP should ensure that full use of existing routes of communication are made use of. This includes the existing EEMP website and Exe Press newsletters, through local recreational club websites, social media and email distribution lists, and through communication routes of national recreational bodies, such as the RYA and British Canoeing. Codes should also be promoted in the EEMP's suite of leaflets, to include Exe Explorer, Exe Wildlife and Exe Activities. There will be costs associated with updating the designs.

Marking of Zones

To ensure that all zones are identifiable to users of the Estuary, they should be marked out with the appropriate marker system, be that buoyage, with markers or any other marker system. In particular, any new Wildlife Refuges which are put in place need to be clearly marked out. There should be no implications for safe navigation. Correct permissions need to be sought, with land owners and managers, such as the MMO. Buoys and markers should be marked with an identifiable design to deter theft, and should clearly convey the function of marked zones, where possible.

At Exmouth Wildlife Refuge, buoys would be recommended to mark out the proposed area. A minimum of three buoys should mark the area at the southern end of the Duck Pond, with the third buoy in the small creek which runs into Kings Lake, with a fourth buoy or post with signage marking the zone at the larger creek which also runs into Kings Lake. A fifth buoy should mark the northern boundary of the area, potentially with signage.

For the steep sided narrower mud channels, it is a common practice to use sticks or perches to mark areas. A mooring buoy on an anchor only marks the channel at high water, when the riser is straight up and down. Below that point the buoy is subject to the tide and weather conditions, so being washed / blown off in the direction of the

water / wind. Therefore, the buoy could be marking an incorrect area depending upon the necessary length of riser.

Bearing this in mind for Dawlish Warren Wildlife Refuge, withy markers may be preferable to buoys, due to the site being exposed at low tide, which will bring difficulties in marking a fixed area on changing tidal states. Buoys could be used to separate the Refuge from the deeper navigation channel, with withies indicating the 100m buffer zone for smaller vessels which need to come out of the channel. A marker system is also needed for Shutterton Creek, for access to Eales Dock, with marker posts likely to be the preferred option. Advice on the best option should be taken from local council departments that have been involved with installation of existing buoys / markers. Withy markers are also suggested to mark the northern boundary of the Wildlife Refuge, from Cockwood Steps to the wreck, for users accessing the foreshore from land.

Buoys are to delimitate the defined craft landing area at Soft Sand Bay, to encourage users to avoid the very sensitive bird roosting and feeding areas around Warren Point and the Bight.

Costs of markers are to be taken into consideration by the SEDHRP, and need to include purchase, placement, cleaning, replacement, etc. Local authorities may also have existing budgets to cover costs of markers within their areas.

Note regarding withy pole navigational marks:

A withy or withe is a strong flexible willow stem - typically used in thatching and for gardening it is also used to describe any type of flexible rod used in rural crafts such as hazel or ash.

Withies traditionally serve to mark minor tidal channels in UK harbours and estuaries. In many places they remain in use and are often marked on navigation charts. At high tide the tops of a line of withies stuck in the mud on one or both sides of a channel will show above water to indicate where the deeper water lies. There are international navigation-chart symbols for withies (port and starboard).

As a navigation mark, usually found on estuaries and on mud flats, no planning permission should be required, as confirmed by Exeter City Council Harbour Authority. The United Kingdom Hydrographic Office need to be informed to ensure the marks are included on charts, and Trinity House should be made aware of new marks.

7.3. Identification of Additional Management Needs through IFCA

Through Devon & Severn IFCA's consultation response, they have outlined the following planned next steps, which relate to this proposal and recommendation 7.4:

Following Defra's "Revised Approach" to European Marine Site (EMS) management, IFCAs are required to complete Habitat Regulations Assessments (HRAs) on all fishing activities against all features of EMSs, and implement any management needs identified by the HRA by the end of 2016 – with the exception of crab tiling and bait digging which have a deadline of the end of 2018. Therefore, these activities will be undergoing a full assessment throughout 2017, looking at all available evidence, data and literature. If they are identified as being potentially damaging to the SPA then appropriate management will be brought in. This also ties in with IFCA's review of current byelaws. Over the next year, D&SIFCA are likely to start looking at the possibility of introducing a "Hand-gathering" or "Estuaries" byelaw, which will cover activities such as crab tiling, bait digging and shellfish collection, and may include

measures such as bag limits and restricted areas. This byelaw will be a permitting byelaw which means that every person wishing to collect bait or crab tile will need a permit from IFCA. In this way the IFCA will gather more information on the level of effort and whose tiles are located within the zones discussed. Potentially this could be a good mechanism to allow for dialogue with the bait collectors and promotion of any future changes in boundaries. Any changes to management will go through a process of formal consultation, giving stakeholders and the public the opportunity input their views.

7.4. Permitting Systems

Permitting systems should be established for particular activities.

Crab collectors in the Dawlish Warren area (known as the Lower Exe Crab Tilers Association) have indicated that they would be happy to have a permitting system in place. A voluntary option was suggested, where crab collectors could help to distribute and manage. It was suggested that a voluntary permit should be free, but if there was a cost, the crab collectors would expect policing of this activity to be put in place to manage the number of tilers (nine at Dawlish Warren) and number of tiles in the area. It was suggested that the word 'license' shouldn't be used. A code of conduct should be given alongside the permit, with a condition that if a collector doesn't adhere to the code of conduct, they don't get a permit the following year. Names of people should be included on permits (to allow family members to collect on behalf of permitted crab collector), with the ability for existing permits to be transferred on agreement of the owner and 'authorities' (likely to be D&SIFCA or whoever distributes permits).

Crab tilers across the Estuary have indicated that they might also be interested in seeing permits introduced across the whole Estuary. Fundus owners would need to be involved with this, as well as local authorities and D&SIFCA. D&SIFCA will likely be reviewing hand gathering byelaws in 2017, as outlined in section 7.3. They will look at whether a permitting byelaw could be introduced, which could potentially restrict the number of tiles, but may not be able to restrict the number of crab tilers. To give an indication of costs, an IFCA permit for netting, potting, etc. costs £20 for two years. However, permits would likely only work if they restrict the number of people allowed to collect crabs.

Permits for other users, such as kitesurfers, PWC users and shellfish collectors, have also been suggested. The EEMP should be involved with setting up permitting systems, to ensure consistency and to make use of existing communication routes with user groups.

7.5. Voluntary Agreements

The owner of Eales Dock has agreed to sign a site-specific agreement, to show willing to help with promotion of the Wildlife Refuge to users of the dock. The EEMP will work with Eales Dock and the SEDHRP in producing this agreement.

It is recommended that similar agreements with other users groups should be explored.

7.6. Practical Steps to Mitigating Impacts

The local watersports business, Red Rock Leisure, make use of a storage unit at Exmouth Imperial Recreation Ground, by the Rugby Club. To address conflict with the proposed Exmouth Wildlife Refuge and the access point currently used by the business, Red Rock Leisure has indicated that they would be happy to move their equipment to a new storage container at Camperdown Creek. This would allow easier launching from the Imperial Recreation Ground slipway area, away from the Wildlife Refuge. As manager of this area, East Devon District Council's Countryside Team has responded positively to this suggestion. It is recommended that EDDC and Red Rock Leisure work together to further explore this option.

There are concerns expressed by Exmouth Gig Club that restrictions to the west of the Dawlish Warren landing area would put a stop to their activity. However, this area is the most important and sensitive high tide roost on the Exe Estuary and needs to be included in the Wildlife Refuge in order to achieve its function. Further discussions with the Gig Club are required to address this issue and an approach needs to be agreed to allow gig rowing activity to continue on the Estuary in a responsible way. This could possibly be addressed through a code of conduct, with annual monitoring in place to identify whether additional measures need to be explored in the future.

7.7. Monitoring

Following the introduction of the proposed Wildlife Refuges, the associated codes of conduct, and installation of relevant signage, a detailed monitoring programme will be required to assess their effectiveness. A commitment should be made to continue such monitoring over a number of years, in order to:

- identify trends in user activity;
- evidence any issues relating to the safety and practicality of the measures;
- and establish whether the intended conservation benefits are being achieved.

However, to avoid any unnecessary delay, in the event of changes being required, the EEMP recommends a review of the Wildlife Refuges and the available monitoring data after the first full year that they are in place, with subsequent reviews on an annual basis during the monitoring period.

In this way, the programme of monitoring will inform an ongoing process of review and refinement of the voluntary zonation measures from either an ecological or a user perspective.

In the event of there being evidence of significant practical difficulties or issues for users, consideration should be given to any scope for potential amendment to the detailed arrangements.

Conversely, if monitoring data reveal that existing zonation and codes of conduct are not achieving the hoped-for changes in user activity and reduction in disturbance to key wildlife and habitats, consideration will be need to be given to further refinement or adaptation to achieve these objectives.

The EEMP role will be to work alongside others to promote understanding and successfully implement zonation measures which are agreed on by the SEDHREC.

Based on the monitoring programme, the ultimate decision on the retention of this voluntary approach, or any necessary alternative to this, will rest with the SEDHREC.

A monitoring and review programme for these voluntary measures would allow the flexibility to respond to any change in circumstances.

7.8. Byelaw Review

Following monitoring of the effectiveness of zonation and codes of conduct, a review and revision of byelaws on the Estuary should be undertaken. This review is to explore whether existing byelaws are effective or need amending, and whether additional byelaws are required for the safety of users or the protection of nature. The EEMP would be well placed to carry out this work, which follows on from previous work completed by the Partnership, such as the Exe Estuary Recreational Framework (2014).

Any new or amended byelaws would need to be updated and promoted through codes of conduct, signage and websites.

A review of byelaws should include a revision of dog byelaws, which should reflect any issues that are highlighted through monitoring. A number of revisions of byelaws are included in the Mitigation Strategy, which should be taken into consideration.

It is worth noting that many Harbours and Estuaries have a lower speed limit of 6 knots, compared with the 10 knot speed limit on the Exe. The Exe Estuary Recreational Framework, and feedback through the consultation, suggests that a two tier speed limit with a lower 6 knots limit for sensitive areas, beaches and around moorings is likely to be supported by many managers and users.

A number of concerns were raised through the consultation with regards to power boats continuing to use their designated area, which overlaps with the proposed Wildlife Refuge. Monitoring is recommended to explore whether this activity has any detrimental effect on the protected features of the Estuary, to inform whether any additional management measures should be considered. Safety concerns of other users have also been raised, which should be monitored by the Harbour Authority.

It is recommended that the Harbour Authority look into the amendment of the water ski area (1097m by 622m) to be extended north some 700m by 700m, stretching from around 21 buoy up the Estuary towards Starcross (ending before any moorings and to the east of the channel). This would allow water skis to come out of part of the existing designated area, which presents safety issues where it overlaps with the navigation channel, and avoids an overlap with the Exmouth Wildlife Reserve. This would result in a more usable and safer area for water skis within the Estuary. Consultation with Starcross Yacht Club would be required, to ensure that there is no conflict in activity. The area of the northern extension is sometimes used for sailing events, although water skiers have agreed that power would give way to sail. The water ski club (Exe Power Boat and Ski Club) fully support this proposal and the RYA have suggested that they could assist with this consultation.

8. END NOTE

The Exe Estuary Management Partnership (EEMP) would like to thank those who participated in the public consultation on the 'Review of Zonation of the Exe Estuary'. The EEMP has taken all responses and comments into consideration, including meetings, informal talks, emails, letters and the online questionnaire, to help inform these final recommendations. We have listened to all of your concerns and balanced these with the conservation needs and ecological requirements of this special place for nature.

The Exe Estuary is recognised internationally as one of the most important estuaries in Europe for wildlife and it is hoped that we can work together with local users to ensure the success of these voluntary measures and help wildlife to thrive into the future.

Your involvement is crucial. Your actions and those of thousands of people who use the Estuary can make a positive difference to this beautiful place. We need your valuable experience and help to share information about the new Wildlife Refuges, especially with people who are new to the Estuary.

Although we are asking users to avoid the new Wildlife Refuges, they are not being enforced in any way and there are no plans to do so. We will talk to and help to educate people about why these areas are so important.

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Habitat Regulations Executive Committee

Appendix (D): Wildlife Refuge Areas Consultation

Online questionnaire results July / August 2017

How we did the consultation

A formal online questionnaire was devised. The intention of the questionnaire is to gather in people's text comments in a more structured way, rather than to find out percentages of people that would or wouldn't change the proposals.

The questionnaire was publicised widely using press releases, social media publicity, was sent out to those on the Exe Estuary Management Partnership database and was sent out to those who had taken part in the last stage of the consultation and gave their email address. Paper copies of the questionnaire were made available on request.

We received 157 completed questionnaires.

Summary of results

157 completed questionnaires were returned.

In the last 12 months these are the most popular ways in which respondents had used the Exe Estuary:

- 65% for sailing
- 49% for walking / jogging / running
- 48% for birdwatching
- 30% for canoeing / kayaking / stand up paddleboarding

- 67% of respondents had been to / used the proposed Wildlife Refuge area near Dawlish Warren one to five times or less in the last 12 months.
- 59% of respondents had been to / used the proposed Wildlife Refuge area at Exmouth one to five times or less in the last 12 months.

- The most common places that respondents lived were Exmouth, Exeter, Topsham, Dawlish and Lympstone.

Exmouth Wildlife Refuge Area

69% would make further changes to the Wildlife Refuge area proposal for Exmouth.

When asked about the changes they would propose the most common comments (with the number of people that gave that comment in brackets) were:

- Abandon the proposal (50).
- There isn't any / enough evidence to back up the proposal (38).
- Public opinion is against the current proposals / people don't support them so they won't work (18).
- The Wildlife Refuge areas need to be used for safety reasons, to keep some users out of the strong tidal current (17).
- Non engine water users don't have any / much impact so shouldn't be included (16).
- People using the area don't have any / enough impact on the estuary (14).

Dawlish Warren Wildlife Refuge Area

64% would make further changes to the Wildlife Refuge area proposal for Dawlish Warren.

When asked about the changes they would propose the most common comments (with the number of people that gave that comment in brackets) were:

- Abandon the proposal (50).
- There isn't any / enough evidence to back up the proposal (38).
- Public opinion is against the current proposals / people don't support them so they won't work (18).
- The Wildlife Refuge areas need to be used for safety reasons, to keep some users out of the strong tidal current (17).
- Non engine water users don't have any / much impact so shouldn't be included (16).
- People using the area don't have any / enough impact on the estuary (14).

Other comments

There were a wide variety of comments. The most common comments (with the number of people that gave that comment in brackets) were:

- Evidence says the proposals aren't necessary / not enough evidence to justify the proposals (34).
- I support the proposals to protect wildlife, it's a vitally important area for birds / It's a sensible balance between humans and wildlife (21).
- You haven't listened to comments in previous consultation / you won't listen to what we say (19).
- Concerned about how the Wildlife Refuge Areas will be managed / policed / enforced (13).

Full results

1. Are you completing this questionnaire as:

157 respondents answered this question:

- 95% were individuals
- 4% were official representatives of an organisation
- 1% were official representatives of a business

Of those that were official representatives of organisations, they were representing:

- Exmouth Water Users Group
- Exekiteboarders
- Exe Sailing Club
- Devon Wildlife Trust
- Starcross Yacht Club

A – Proposals for Exmouth Wildlife Refuge

A Wildlife Refuge would be an area of the estuary which has been identified as having particular importance for protected species and habitats. It is by agreement that there should be the minimum possible recreational access in these areas, preferably no recreational activity at all.

We propose to apply a Wildlife Refuge area from the existing northern boundary in the estuary (just South of Lympstone Manor) to the Duck Pond (see map on the webpage). However, in response to concerns about users being pushed into the navigation channel, the western boundary of the proposed Refuge has been moved significantly eastwards. It would apply to all users between mid-September and December when the area is used by over wintering birds.

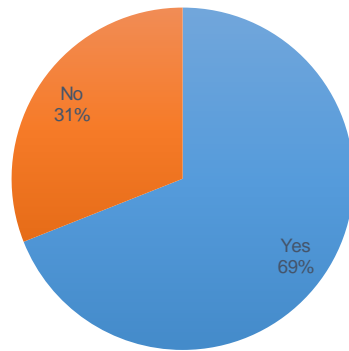
This will include all users, for example:

- Kitesurfers / windsurfers
- Stand up paddleboards
- Kayakers, canoers
- Dogwalkers
- Bait diggers / crab tilers
- Etc....

There is an existing powerboat zone which is permitted through byelaw provision, which would not be affected by these proposals.

2. Would you suggest any further changes to the Wildlife Refuge area proposal for Exmouth?

There were 143 respondents to this question.



If yes, please tell us what changes you would make:

Please tell us how you feel your changes would improve what we are currently proposing:

The answers to both of these questions were combined and the results are shown in the table below.

Most common comments: Those made by 3 or more people.	Number of respondents
Abandon the proposal.	50
There isn't enough / any evidence to back up the proposal.	38
Public opinion is against the current proposals / people don't support them so it won't work.	18
The Wildlife Refuge Areas need to be used for safety reasons, to keep some users out of the strong tidal current. For example for less confident users, learners, kayakers, dinghies.	17
Non-engine water users don't have any / much impact so shouldn't be included.	16
People using the area don't have any / enough impact on the estuary.	14
It will be detrimental to human activities and wellbeing.	11
Have a voluntary code of conduct instead.	10
Enforce the current byelaws and speed limit instead.	9
Educate users, no need to legislate.	7
Abandon it or change it to reduce costs.	7
Reduce the size of the Wildlife Refuge Area (particularly take out the Duck Pond).	6
Water users can't use the area at low tide when feeding happens anyway.	6
People using the estuary already respect the wildlife there.	6
The Wildlife Refuge Areas should be bigger to protect more wildlife.	5
Should only apply to certain water users e.g. powerboats, dog walkers, kitesurfers, dredgers.	5
Re-do the consultation and provide more information / make it more meaningful / listen to us.	5
The proposals will be illegal (Right of Navigation of Tidal Waters).	5
Extend the time that the Wildlife Refuge Area applies.	4
The proposals could / will reduce the habitat it seeks to protect.	3
The proposals aren't proportionate.	3

B – Proposals for Dawlish Warren Wildlife Refuge

A Wildlife Refuge are would be an area of the estuary which has been identified as having particular importance for protected species and habitats. It is by agreement that there should be the minimum possible recreational access in these areas, preferably no recreational activity at all.

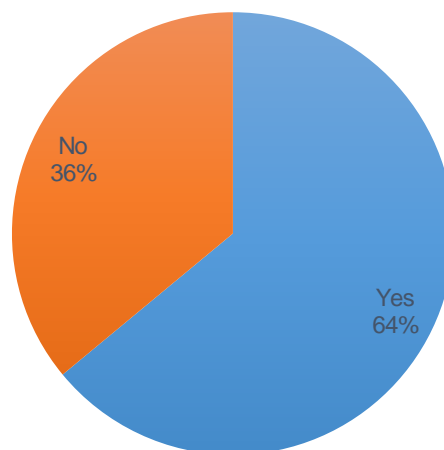
A new Wildlife Refuge applying to all users is proposed, for the most part within the existing boundary of the National Nature Reserve (see map on the webpage). In response to concerns about the use of the area and about users being pushed into the navigation channel, we have reduced the northern boundary by approx. 0.5kms (now aligned with the steps at Cockwood) and allowed a 100m buffer around most of the eastern boundary. In recognition of its significance, the Wildlife Refuge would still apply all day, all year round.

The Dawlish Warren Site of Special Scientific Interest (SSSI) condition assessment particularly highlights that bird declines at the Warren, (an important high tide roost), may be the cause of declines across the estuary, thus indicating that suitable, good quality high tide roosting sites may be critical to the ecological integrity of the Special Protection Area (SPA). We believe the proposed Wildlife Refuge would allow birds suitable, good quality undisturbed high tide roosting sites and low tide feeding areas.

A small number of crabtilers would be able to continue to work under permit in the northern part of this area, in adherence to the Inshore Fisheries and Conservation Authority (IFCA) byelaw and following robust codes of conduct.

3. Would you suggest any further changes to the Wildlife Refuge area proposal for Dawlish Warren?

There were 127 respondents.



If yes, please tell us what changes you would make:

Please tell us how you feel your changes would improve what we are currently proposing:

The answers to both of these questions were combined and the results are shown in the table below.

Most common comments: Those made by 3 or more people.	Number of respondents
Abandon the proposal.	32
There isn't enough / any evidence to back up the proposal.	26
The Wildlife Refuge Areas need to be used for safety reasons, to keep some users out of the strong tidal current. For example for less confident users, learners, kayakers, dinghies.	16
Non-engine water users don't have any / much impact so shouldn't be included.	9
It will be detrimental to human activities and wellbeing.	9
Public opinion is against the current proposals / people don't support them so it won't work.	8
Reduce the size of the Wildlife Refuge Area.	8
People using the area don't have any / enough impact on the estuary.	7
Re-do the consultation and provide more information / make it more meaningful / listen to us.	6
Have a voluntary code of conduct instead.	5
Abandon it or change it to reduce costs.	5
Enforce the current byelaws and speed limit instead.	4
Educate users, no need to legislate.	4
Water users can't use the area at low tide when feeding happens anyway.	4
The Wildlife Refuge Areas should be bigger to protect more wildlife.	4
Should only apply to certain users e.g. dog walkers	3

C – Any other comments

4. Please tell us about any other comments you have on our proposals:

Most common comments: Those made by 3 or more people.	Number of respondents
Evidence says the proposals aren't necessary / not enough evidence to justify the proposals.	34
I support the proposals to protect wildlife, it's a vitally important area for birds / It's a sensible balance between humans and wildlife.	21
You haven't listened to comments in previous consultation / you won't listen to what we say.	19
Concerned about how the Wildlife Refuge Areas will be managed / policed / enforced.	13
Need a proper / better / longer consultation.	9
It's unfair / unbalanced for humans and their activities.	9
Proposals should just target groups that cause the most disturbance e.g. dogs, powerboats, kite surfers.	8
Don't manipulate the situation / let wildlife and humans co-exist.	7
Enforce existing byelaws instead.	7
The proposals will make it unsafe for water users.	6
The proposals aren't supported by users.	6
The people promoting these proposals are too strong, it's not balanced.	5
I don't support the proposals.	4
Thanks for the amendments to the proposal after the last consultation.	3
It's a waste of money.	3
Not enough information was given with the consultation.	3
It won't be legal, there is a Public Right of Navigation.	3
Have voluntary codes of conduct instead.	3
The proposals would be flouted by some users.	3

D – About you

5. Are you filling in this questionnaire as:

155 respondents answered this question:

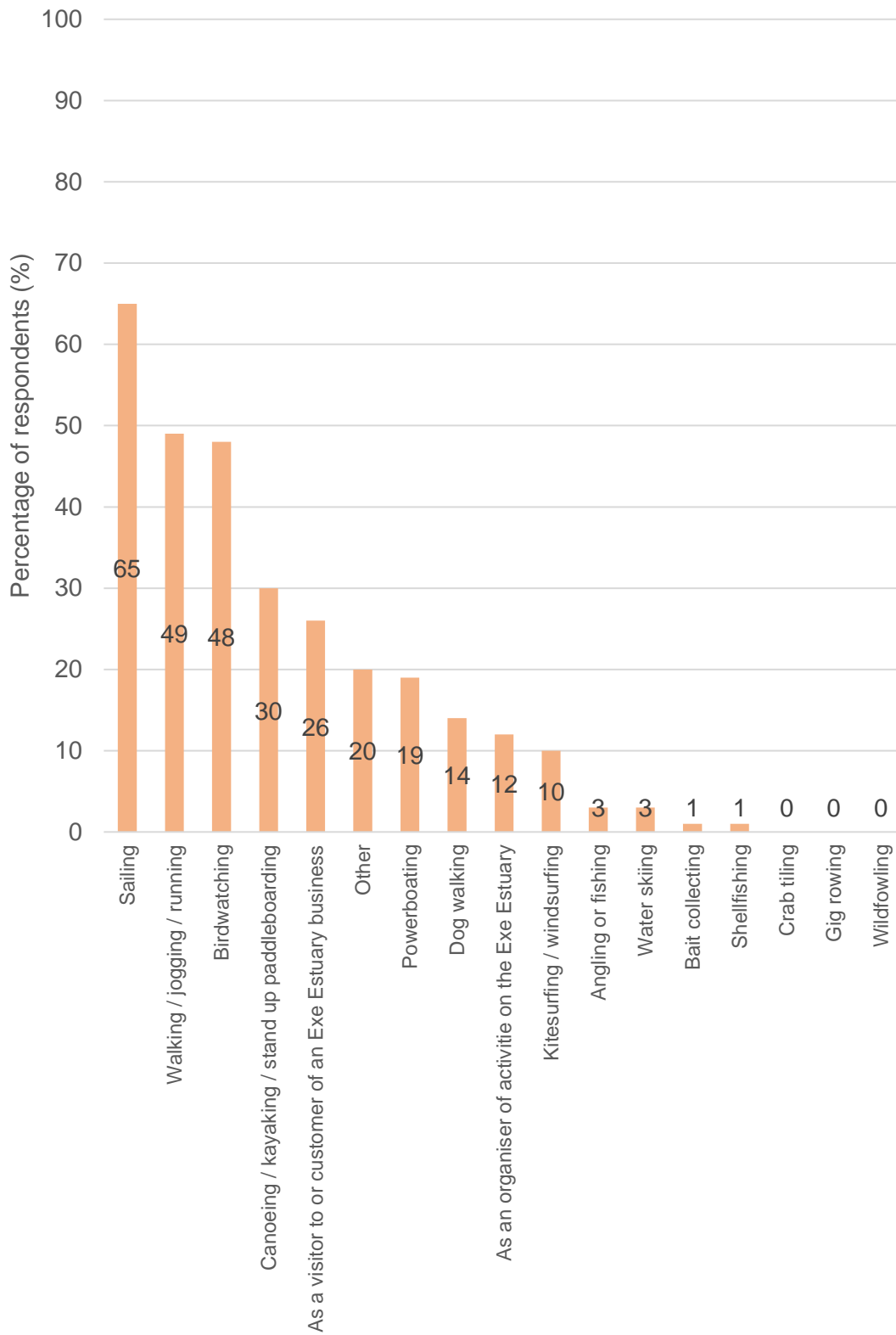
- 96% were individuals
- 3% were official representatives of an organisation
- 1% were official representatives of a business

6. Have you been to / used the Exe Estuary in the last 12 months?

All 150 respondents to this question had been to / used the Exe Estuary in the last 12 months.

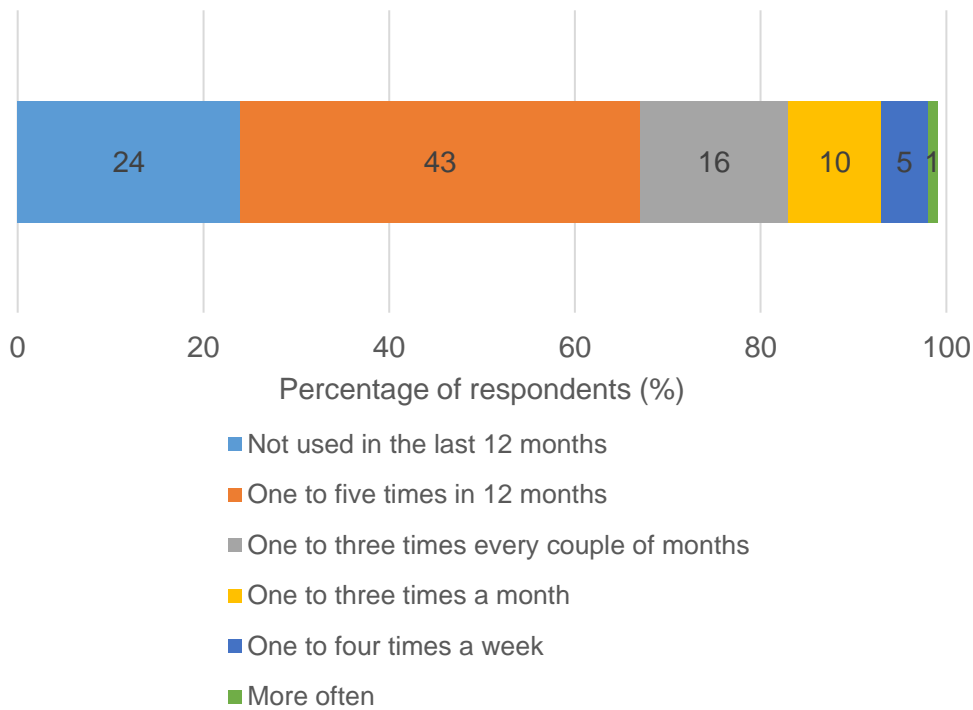
7. How have you used the Exe Estuary in the last 12 months?

148 respondents gave 443 responses to this question as they could select all that applied.



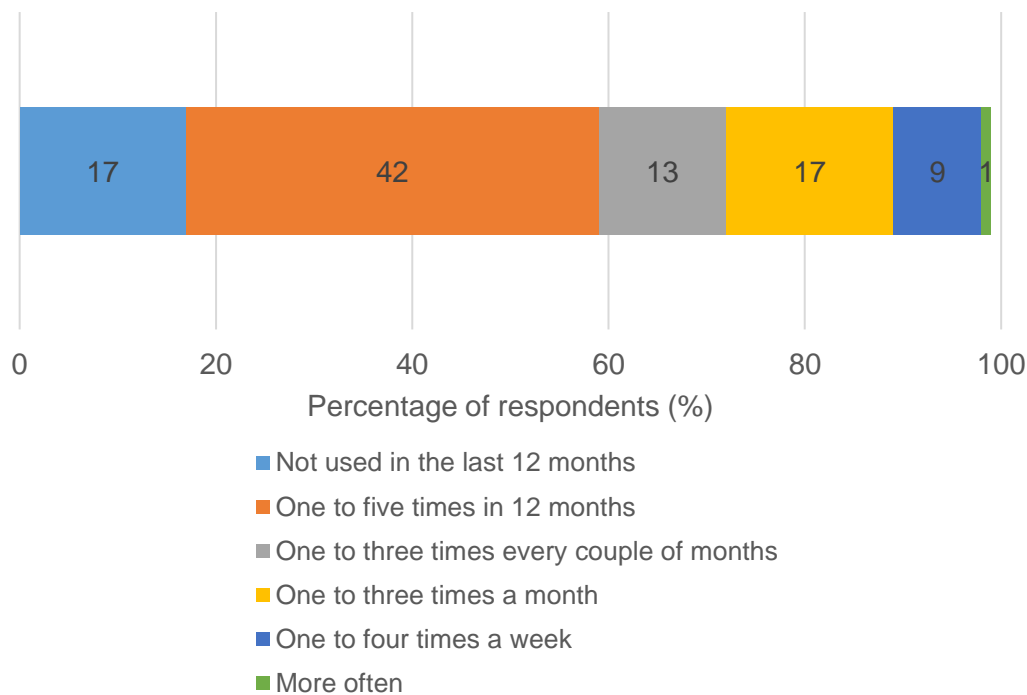
8. On average, how often have you been to / used the proposed Wildlife Refuge area near Dawlish Warren in the last 12 months?

There were 148 respondents.



9. On average, how often have you been to / used the proposed Wildlife Refuge area at Exmouth in the last 12 months?

There were 149 respondents.



10. Which town or village do you live in?

143 respondents commented.

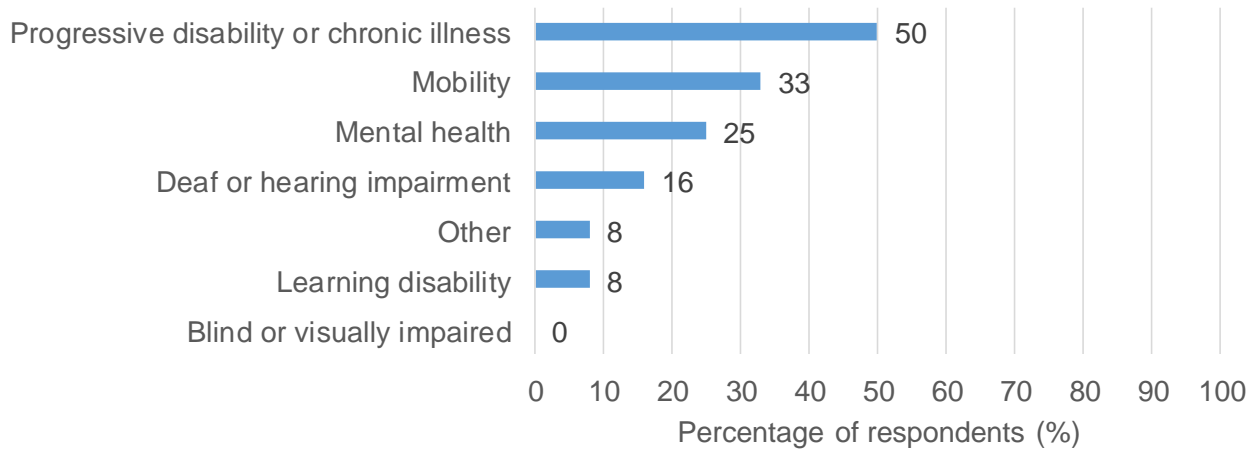
Town or village	Number of respondents
Exmouth	39
Exeter	24
Topsham	18
Dawlish	9
Lympstone	7
Starcross	5
Budleigh Salterton	4
Clyst St Mary	4
Teignmouth	4
Newton Abbot	3
Exton	2
Totnes	1
Bishopsteignton	1
Plymouth	1
Stoke Canon	1
Broadclyst	1
Bridgwater	1
Chudleigh	1
Kenton	1
Woodbury Salterton	1
Cockwood	1
Silverton	1
Doddiscombeleigh	1
Cullompton	1
Newton Ferrers	1
Harcombe	1
Chudleigh Knighton	1
Bradinch	1
Jacobstow	1
Wellington	1
Ottery St Mary	1
Axminster	1

11. Do you have a long-standing illness, disability or infirmity that limits your day to day activities in any way?

There were 148 respondents to this question, 8% stated that they did have.

If yes, please tell us the nature of your disability:

17 respondents answered this question.



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SEDHRP,
c/o Habitat Regulations Delivery Manager,
Knowle,
Sidmouth
EX10 8HL

10 August 2017

Dear 

Proposed Wildlife Refuges at Exmouth and Dawlish Warren

We refer to the consultation by the South East Devon Habitat Regulations Executive Committee in relation to the above proposal. We consent to our consultation response being shared in full with East Devon District Council and the South East Devon Habitat Regulations Partnership (SEDHRP) and our responses may be made publicly available online.

As the national governing body, the Royal Yachting Association (RYA)¹ represents the recreational boating organisations based on the Exe. The RYA represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft (sometimes known as jet skis) - activities that we will refer to as recreational boating within this letter.

There are a number of RYA affiliated organisations registered in the vicinity of the proposed Wildlife Refuges, including Cockwood Boat Club, Exe Sailing Club, Lympstone Sailing Club, Starcross Fishing and Cruising Club, Starcross Yacht Club, Topsham Sailing Club, Topsham Small Craft Club, Exe Power Boat & Ski Club, Exmouth Sea Cadets Exmouth Watersports & Adventure Camps, East Devon Training, Haven Banks Outdoor Education Centre, Outside Edge, Sail Exmouth and the Commando Training Centre Royal Marines Water Activity Centre (Royal Navy Sailing Association). The RYA also represents personal members who sail on the

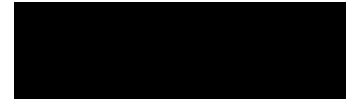
¹ The RYA is the national body for all forms of recreational and competitive boating under sail or power. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft. The RYA manages the British sailing team and Great Britain was the top sailing nation at each of the 2000, 2004, 2008 and 2016 Olympic Games and at the 2012 Paralympic Games.

The RYA is recognised by Government as being the primary consultative body for the activities it represents. The RYA currently has over 109,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 350,000 boat owners nationally who are members of over 1,400 RYA affiliated clubs and other organisations.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,300 RYA Recognised Training Centres over 55 countries. On average, approximately 160,000 people per year complete RYA training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.

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Exe, outside of these clubs and training centres, including those using Exmouth Marina, Trouts Boat Yard and visitor moorings etc.

The RYA seeks to support the UK Government's vision for clean, healthy, safe, productive and biologically diverse oceans and seas, while protecting the public right and the safety of navigation for recreational boating. This includes ensuring management decisions are based on sound, objective and robust evidence, and all options for co-existence and voluntary initiatives such as those promoted by [The Green Blue](#), are exhausted prior to consideration of other management options. The RYA position on Marine Protected Areas can be found on our [website](#).

Consultation outcome

In our letter to the EEMP dated the 28th April 2017, we stated our reasons why we could not support the proposals for Voluntary Exclusion Zones on the Exe as presented in the formal consultation at that time. The RYA, our members and affiliated organisations attended a number of meetings, workshops and drop-in sessions as part of the initial consultation. During these workshops, and in our letter referred to above, a number of amendments were tabled, including boundary changes, timing changes and tidal restrictions to ensure the safety and continuation of activities important to the local community of the estuary, which were agreed with the Exe Estuary Management Partnership (EEMP) Estuary Officer. These amendments were significant compromises by the recreational boating community in their desire to find a meaningful solution. Those attending the meetings were under the impression these amendments would be taken on board, and therefore the meetings were generally positive as set out in the Estuary Officers report².

However, it became clear that these compromises would not be accepted by the SEDHRP Executive Committee, and large numbers of stakeholders rejected the proposals in the plenary of the final public consultation event on the 20th April. The written responses to the consultation reflect this; with over 70% of respondents to the online questionnaire stating that the proposals would cause them problems, and of these, many responded that the proposals should be abandoned completely. Of those who responded via email or letter, over 90% objected to the proposals, many with very strong views. A number of these responses were on behalf of membership organisations, rather than individuals and therefore should be considered as more than an individual response. In summary, we reject the statement that as a result of the meetings, users were "largely accepting of the approach"² and we are not clear why the proposals were not withdrawn at this stage.

Amended proposals

Following the consultation, a number of changes were made to the proposals, however these did not reflect the compromises offered during the consultation meetings, and were in fact a further compromise between the Estuary Officer and SEDHRP, without further dialogue with those present at the meetings. The amended title of 'Wildlife Refuges' does little to change the fact that these areas are designed for

² Exe Estuary Zonation Review Consultation Report, Exe Estuary Management Partnership (publication date unknown), page 35 paragraph 2.

use by wildlife only, rather than designing a scheme where the activities can co-exist with appropriate education, support and guidance. The revised proposals do not reflect the discussions that took place during the consultation, and therefore are not 'voluntary'.

The EEMP Management Group, of which RYA is a member, was asked to endorse the proposals at a meeting on the 21st June. Following consultation with our members, the RYA voted against the endorsement of the amended proposals. However, users of the estuary are in the minority on the Management Group, and it was inevitable that they would not be in the majority if put to a vote of this manner. At present, the Management Group does not accurately reflect the make-up of the stakeholders of the estuary and any majority vote will not strike a balance between the interests of user groups and wildlife. It should be made clear that the Management Group did not unanimously endorse the proposals³.

We understand that the majority of recreational boating clubs on the Exe have responded to this consultation rejecting the amended proposals, along with suggesting alternative ways forward, reflecting the value they place on the wildlife of the estuary. Between them, these clubs represent 3000 users of the estuary⁴. We continue to support these clubs to ensure that the needs of these users are fully taken into account.

Lack of evidence

The RYA continues to be concerned regarding the inability of SEDHRP and EEMP to clearly demonstrate the need for exclusion zones for the types of recreational boats regularly used by the RYA members and affiliated organisations on the Exe.

SEDHRP and EEMP continually refer to the Exe Disturbance Study to demonstrate which activities account for the majority of major flight events. Bait digging on the intertidal, dog walking with dogs off leads on the intertidal, walking on the shore and intertidal and kitesurfing were seen to be the activities that account for the majority of major flight events (66%). Dog walkers with their dogs off leads on the intertidal caused the highest percentage of major flights from all the observed potential disturbance events (31%). Surveys during 2016-17 at Dawlish Warren showed that despite more than half of activities being recorded as small sail boats and small fast boats, they were not identified as the most notable cause of disturbance. It is therefore unclear why activities carried out by RYA members and affiliated organisations is included in the proposals.

SEDHRP states that populations within 10km of the estuary are likely to rise by over 20% by 2030 as a result of housebuilding and this is why precautions should be taken to prevent increases in disturbance. Increasing populations may result in increased numbers of walkers, where there is no real limit on capacity, however this is not the case for recreational boating. SEDHRP and EEMP have not carried out any investigation into participation trends or potential capacity of the estuary for boating.

³ Exe Estuary Zonation Review Consultation Report, Exe Estuary Management Partnership (publication date unknown), page 33 paragraph 2.

⁴ [RYA Club Membership Census, 2016](#)

Increases in recreational boating activity will be limited by the capacity of clubs, the number of berths/moorings and vessels available on the estuary. RYA data shows that the majority of recreational boating clubs are already at more than 70% capacity. Club membership levels in the Exe have been relatively stable, with some decreases over the last few years. The National Watersports Survey⁵ seeks to benchmark participation rates and monitor trends. This is done by repeating the research year-on-year and 2017 is the 15th year in which this work has been conducted. The graph below shows the general participation trends in the South West for shallow drafted boats in the last 9 years.

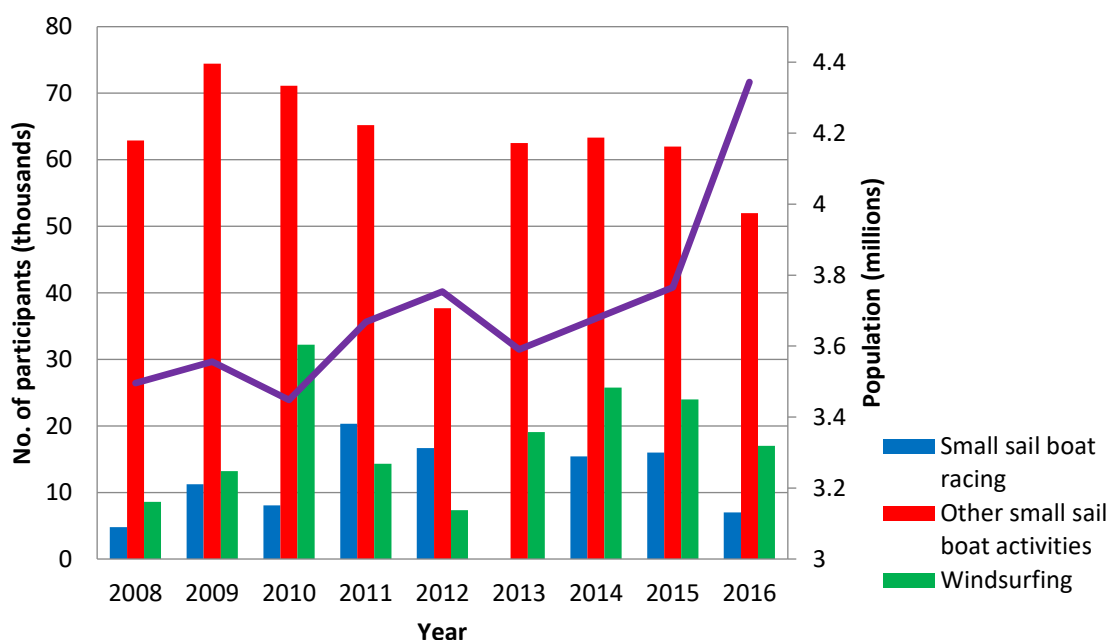


Figure 1 Sailing Participation in the South West

Small sail boat activities show a downward trend since 2009, with small sail boat racing showing a downward trend since 2011. This is despite an increasing population trend. This shows that there are likely to be other factors affecting watersports participation. Likely causes are set out in the RYA Club Membership Census⁴ and the National Watersports Survey⁵ reports.

Way forward

Consultation responses to date have shown that the majority of watersports participants on the estuary do not support the amended proposals and therefore they will be ineffective as 'voluntary' mechanisms. Safety critical areas of the estuary are still included, along with parts of the estuary of importance to a range of watersports, despite strong consultation responses objecting to their inclusion. EEMP and SEDHRP will need to work hard to regain the trust of the recreational boaters on the Exe following a period of immense uncertainty, confusion and disappointment. It is also clear that the EEMP will need to review the membership of the Management Group in light of the issues raised during this consultation.

⁵ [National Watersports Survey, 2016](#)

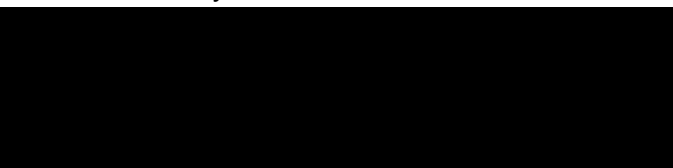
Recreational boaters on the Exe are passionate about their surrounding environment. The majority of responses to date have suggested complete withdrawal of the proposals with regards to recreational boating, with a move towards EEMP and SEDHRP working more collaboratively to produce a new code of conduct, which is fully supported by all. This code of conduct could map 'sensitive areas', with guidance setting out how boaters can ensure that they boating responsibly in these areas. This is a more positive approach, which reflects the successful work put in place in other marine protected areas in the UK. Without withdrawing the proposals, work on any new codes of conduct will be difficult, given the distrust that has developed during this process. In particular, withdrawal of the proposals with respect to recreational boating will enable EEMP and SEDHRP to develop an improved baseline monitoring programme to better understand any impact of recreational boating on the estuary, along with any trends in participation levels as populations increase.

Established by the RYA and British Marine 12 years ago, The Green Blue environmental awareness programme has successfully helped boat users, member businesses, sailing clubs and training centres reduce their impact on coastal and inland waters. The project has delivered hundreds of workshops and environmental audits, developed engaging signage and online resources and distributed thousands of environmental products to encourage boaters, clubs and businesses to make sustainable boating simple. The next two years will see a more focused educational programme for The Green Blue, concentrating primarily on environmental training and education for recreational boaters in the UK's marine protected areas. By working towards an environmentally self-regulating boating community, The Green Blue campaign aims to help boaters minimise their impact on the environment and safeguard the waters and habitats boaters enjoy and rely on for the future. Over the coming months, we will be identifying priority sites to progress this work. We have already started discussions with EEMP as to how this approach might work on the Exe and we have agreed to await the results of the consultation before progressing this further.

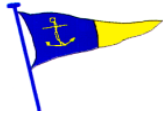
We remain committed to supporting the establishment of a well-managed network of marine protected areas and in most cases we believe this can be achieved without any adverse effect on either the public right or the safety of navigation for recreational boating. Full consultation with stakeholders is an essential part of this process to ensure we have a resilient and sustainably-managed marine environment. We will continue to support our members and affiliated organisations in working with EEMP and SEDHRP with regards to these proposals.

If you have any queries please do not hesitate to contact me.

Yours sincerely,

A large black rectangular box redacting the signature of the sender.

RYA Planning & Environmental Manager



TOPSHAM SAILING CLUB

Established 1885

HAWKINS QUAY FERRY ROAD TOPSHAM EXETER DEVON

secretary@topsham-sc.org.uk

By email to:

**South East Devon Habitat
Regulations Partnership**

share@exewildliferefuge.org.uk

22nd July 2017

TOPSHAM SAILING CLUB RESPONSE TO PROPOSED ZONATION OF THE EXE ESTUARY

Dear Members of the South East Devon Habitat Regulations Executive Committee.

The Committee of Topsham Sailing Club has asked that I write in response to a further request for feedback relating to the proposed zonation of the Exe Estuary.

Whilst Topsham Sailing Club welcome and support the biodiversity of the Exe Estuary we are of the opinion that there is no justification for Voluntary Exclusion Zones (VEZ – or Wildlife Refuge Zones) for the following reasons.

- There is no scientific or policy justification,
- disturbance is unduly linked to the impact of water users,
- the process has ignored consultation feedback, and
- there are real concerns over safety.

Furthermore, the procedures followed to date, fly in the face of Government Guidance on consultations which categorically states that you must not predetermine the outcome by selective introduction of data and prejudicial questions. They state that there should always be a risk assessment relating to introduction of policy which should always include the do nothing option. It is also commonly accepted that a consultation period should not take place over the long summer holidays and hence this current period should be extended to take this into account.

If the VEZ is being in any way justified as a result of the Habitat Regulations, these zones should be created through the statutory framework so that they have the force of law which clearly a VEZ does not.

We strongly suggest that the committee take legal advice in this matter.

Notwithstanding this, we remain disappointed that Exeter City Council does not appear to be enforcing the current bylaws which could provide some of the beneficial effects that the committee are seeking to introduce.

The Science

WeBS data does not suggest or put forward any long term evidence that bird populations are declining, although naturally, some variation is bound to occur.

Bird populations can be expected to vary over time and factors other than disturbance such as global warming, farming practice and species competition are much more likely to cause such natural variations.

Research by Professor John Goss-Custard and Professor Richard Stillman suggests disturbance on the Exe is of no significance. We understand that this has been presented to the EEMP and NE by Professor Goss-Custard and seemed to be ignored.

Impact of Water Users

The RYA have already confirmed that water based activity is not increasing substantially.

Table 8 on page 64 of the Footprint Ecology Survey confirms:

- Sailing Vessels cause no disturbance to birds
- only 8% of the disturbance was caused by water borne craft
- Approximately 66% of the disturbance was caused by walkers, with or without dogs.

If existing statutory rights were enforced there would be a significant reduction in bird disturbance.

VEZ Area/Consultation feedback

Despite repeated reasoned requests from water users, EEMP seem unprepared to listen and are intent on implementing the proposed VEZ despite massive objections to their proposals. In particular, Dave Smallshire has stated that the Dawlish VEZ Area north of OS grid Northing 80 is not an area that birds usually frequent, however, this is an area of great importance to all water users, as it provides an area of shelter from the strong tides found in the main channel.

It is notable that of the 222 online questionnaire responses, that 73% thought the proposals would cause problems and only 12% were in support.

Personal Safety

Due to the unusually strong tidal streams encountered between Dawlish and Exmouth it is an area which poses a significant risk to all water users. It is usual in such circumstances for

smaller and non-powered craft to hug the more sheltered shores to avoid the strongest tidal flow and fast moving larger vessels. If the belief of youngsters and novices using smaller craft is that they are not allowed to enter the VEZ then they will be placed at significant additional risk to life, as the tidal flow is sufficient to pin a person underwater beneath a craft or mooring.

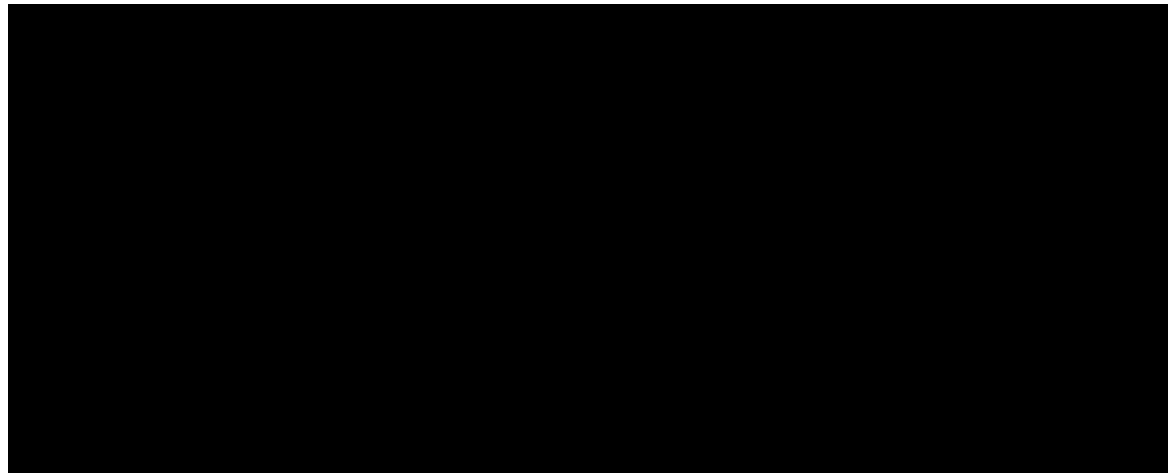
In conclusion, The Committee of Topsham Sailing Club is of the view that VEZ are not required or justified and our objections remain.

Yours sincerely



Hon Sec, Topsham Sailing Club

cc:



Resident 1

From: [REDACTED]
Sent:
To: Exe Wildlife Refuges
Subject: New Message From South East Devon Habitat Regulations Executive Committee

[This sender failed our fraud detection checks and may not be who they appear to be. Learn about spoofing at <http://aka.ms/LearnAboutSpoofing>]

Name [REDACTED]

Email: [REDACTED]

Messa [REDACTED] previous message, I would add that exclusion zones are of no value at all unless they are strictly enforced. I see no evidence whatever that any restrictions at all on the Exe are at present policed or imposed in any way, and would ask what proposals there are to see that this will be done in any meaningful way. This should include a an assessment of how such work should be financed.

From: [REDACTED]
Sent:
To: Exe Wildlife Refuges
Subject: Re: New Message From South East Devon Habitat Regulations Executive Committee

Thank you for your acknowledgement. If I may add further, my wife and her mother ran the very first sailing Scholl on the Exe, in the 1960s, and the forum I was on in the 1990's was the one that led to the formation of the Exe Estuary Management Committee, which seems to have been the moving spirit behind the present proposed regulations. Even then, it seemed very biased towards the wildlife interests, largely because their PR resources were far greater and less fragmented than the leisure boating interests which were my principal concern. it certainly seems that this has changed hardly at all.

Indeed, I note your list of sources of material posted for the general public to consider locally when contemplating consultation. I see no attempt at publication in the Lympstone area listed, and would ask you to tell me whether any notices &c were put on public display as listed elsewhere in one of the many annexes to you consultation report. I study the parish council noticeboard nearly every day, and I can recall no such notice. One of the schemes, I believe, involves an area of Lympstone parish, and I am surprised that your plans were not generally available as are the current proposals for regulating footpaths and rights of way. Lympstone has been a harbour used by boatowners, both professional and leisure, of many kinds, ever since a boatyard built naval craft for the Napoleonic wars, and, before that, as a whaling port in the 1770's and an importer of lime to the limekilns on my property as shown in a watercolour dated 1794. Has this longterm use and the extent of the parish boundaries, still 'beaten' every four years in part by water, been taken into account?

If we are talking natural habitats, I would mention the adverse effect of the 'ban zone' at Dawlish Warren would have on the breeding habits of the species *homo sapiens*, which for several generations has crossed from Exmouth to Dawlish Warren for seclusion during the mating season. Has this been considered?

[REDACTED]

Resident 2

From: [REDACTED]

Sent:

To: Exe Estuary - Mailbox

[REDACTED]
Subject: Exe Estuary proposed zonation

Dear [REDACTED]

I would like the following to be added to the comments in the latest round of proposals:

It is evident that neither the EEMP or the SEDHRC are at all interested in the feedback you have received. There is no real acknowledgement on your part about the concerns that the science on which the proposals are based is deeply flawed (At least one professor of Ecology has written to elected members earlier this year challenging the validity of the report). The changes made are tiny differences of degree, not differences of kind.

The RYA has been ignored. You still have no evidence that sailing causes disturbance. We understand that the three district councils surrounding the estuary want the CIL funds that are only available when habitat mitigation is demonstrated; this is an easy and cynical way to comply with that, regardless of whether there is a basis for these zones in the first place.

It is possible, with proper consultation to arrive at a workable arrangement and I would commend the way in which Poole Harbour Authority has promoted awareness and protection for its sea birds and waders through a different approach. It has not imposed zones. The harbour authority engaged with water users on equal terms from the outset. The EEMP has not, and until this year has kept itself as far from the public as it could until public pressure mounted. (Much has already been said about previous lack of engagement and transparency)

I know of no estuary users who respect the tactics that have been employed throughout the process. We are extremely disappointed and cynical about this process and in this instance I firmly believe that the wildlife agenda has been hijacked in order to raise money to justify the developments around the estuary.

Yours sincerely,

[REDACTED]

From: [REDACTED]

Sent: 09 August 2017 12:23

To: Exe Estuary - Mailbox

[REDACTED]
Subject: Re: Exe Estuary proposed zonation

Dear [REDACTED]

Thank you for your response. My comments are on the amended proposals which is a continuation of the original proposals. I have filled in the on line survey but I don't think you can make that the only way in which the public can respond? That is not the impression I get from the consultation guidelines published by central government, anyway,

The professor who wrote to the three elected members earlier this year most definitely disputed that water users are causing bird disturbance and clearly points to land based activities. He questions the validity of the approach and conclusions in the report.

Judging from the RYA letter sent in the summer the RYA do not consider the consultation process and recommendations are in any way mutually acceptable.

The Poole Harbour zones are not VEZs and the way in which they were identified and agreed has been totally different.

Most of us who attended the public consultation meeting have absolutely no faith in this process and as you know the sailing clubs have all rejected the proposals due to lack of meaningful evidence. They have not done it lightly either, as it would be better to have a strong working relationship.

We are all very disappointed and it is sad that there is no respect or understanding between us on the Exe in the same way that has been achieved for other areas. I think that sums it up.

Yours sincerely,

A solid black rectangular box used to redact the signature of the sender.

Resident 3

Name: [REDACTED]

Email: [REDACTED]

Message: Having used water craft on the Exe estuary for the last 35 years I am sure that the birds are not effected by the presence of boats. All birds are able to fly away but choose to stay in large numbers . [REDACTED] has spent several decades of research coming to this conclusion. It would be foolish to ignore him. We do not need this zoning.

Exe Disturbance Study: Summary

The Exe Disturbance Study (December 2011), which was commissioned by the Exe Estuary Management Partnership, presents the results and analysis from two winters of extensive surveys on the Exe estuary of recreational activities and birds responses to activity, and draws conclusions based on that analysis. Conclusions include

- There is evidence that disturbance is currently influencing the distribution and behaviour of birds on the Exe. These impacts may be sufficiently widespread and frequent to result in the estuary being less able to support the waterbirds for which it is protected.
- In general terms the numbers of birds appear low at the busiest locations of the Duck Pond and at Topsham in relation to adjacent count sectors.
- The parts of the estuary with the lowest levels of access (such as Shutterton Creek) are also the parts of the estuary with the highest bird counts.
- At various locations the number of birds varied in response to the levels of access over the previous 45 minutes; i.e. when more people had been present, fewer birds were recorded.
- A range of activities result in areas of intertidal habitat being 'unavailable' to the waterbirds for which the estuary is protected.
- A kitesurfer or windsurfer can result in around 8ha of intertidal habitat being 'unavailable' to the birds for the duration of the activity.
- In comparison with other sites studied, the Exe appears busier and has higher proportions of disturbance events per hour.
- By reducing the area available for the birds to feed disturbance is likely to result in a reduction in the ability of the estuary to support the bird populations for which it is protected.

The disturbance study did not attempt to assess the consequences of the effects highlighted above on the fitness and survival chances of the affected waterbird populations. The available budget for the study would not allow such in-depth assessment. However it nonetheless provides a clear picture that birds are being substantially affected by current levels of access to and around the estuary.

Work has been undertaken to develop individual-based models to predict the consequences of environmental change for shorebird and wildfowl populations. All models are limited by how up to date and comprehensive the data is that is used to populate them. One such model was primarily developed for oystercatchers on the Exe estuary, when access levels were likely to be very different to those currently experienced and certainly those forecast into the future arising from a rapidly increasing local population. Modelling by West *et al* in 2002 predicted the impact of human disturbance on oystercatchers using the Exe estuary in winter. The modelling showed that disturbance had the potential to be more damaging than actual habitat loss, but suggested that at the levels of access then occurring on the Exe, disturbance was not predicted to result in increased mortality.

Currently, of the 10 species that have been evaluated for the Exe Estuary by the Wetland Bird Survey¹ Alerts² system, which identifies changes in numbers of waterbirds, High and

1 WeBS, a partnership between the British Trust for Ornithology, RSPB and the Joint Nature Conservation Committee in association with the Wildfowl and Wetlands Trust, which monitors non-breeding waterbirds in the UK, to identify population sizes, determine trends in numbers and distribution, and identify important sites for waterbirds.

2 The WeBS Alerts system provides a method of identifying changes in numbers of waterbirds at a variety of spatial and temporal scales. The WeBS Alerts report provides a review of the status of species on sites in the UK which are designated due to their conservation value. Species that have undergone major changes in numbers are flagged, by the issuing of an Alert.

Medium Alerts have been triggered for five species over different timescales:

High alert: Oystercatcher (since classification) and Lapwing (short term, long term and since classification)

Medium alert: Dark-bellied Brent Goose (since classification); Red-breasted Merganser (medium term and since classification), Grey Plover (medium term and since classification), oyster catcher (medium and long term) and lapwing (long term).

Since the Estuary is classified a Special Protection Area under the Wild Birds Directive³ and a Ramsar site under the Ramsar Convention⁴, we have international obligations to protect it and the waterbird populations for which it is classified. This enshrines the precautionary principle, ie. it is not acceptable to wait until disturbance levels are such that the estuary's waterbird populations is in decline before taking action; measures must be put in place to avoid harm in the first place.

³ Council Directive 2009/147/EC on the conservation of wild birds.

⁴ The Convention on Wetlands of International Importance.

Mud and birds, without the poppycock

¹ Footprint Ecology, Forest Office, Cold Harbour, Wareham, Dorset, BH20 7PA;

² British Trust for Ornithology, The Nunnery, Thetford, Norfolk, IP24 2PU;

³ Natural England, Dragonfly House, 2 Gliders Way, Norwich, Norfolk NR3 1UB

Introduction

In the June edition of this bulletin, [REDACTED] article on shorebird disturbance entitled “Mud, Birds and Poppycock” accused conservationists and decision makers of “scientific naivety” and an “over-enthusiastic and unbalanced application” of the relevant legislation (the EU ‘Birds Directive’ and ‘Habitats Directive,’ and domestic ‘Habitats Regulations’). Unfortunately, the article failed to recognise the issues relating to the cumulative impacts of new development over a wide area and implications of gradual but steady increases in access over a prolonged period. The original article rightly highlights that translating the observable effects of disturbance to meaningful impacts on individual fitness should be the ultimate goal of disturbance studies; and individual-based modelling has greatly advanced understanding in this area. However, it is not practicable for such in-depth studies to cover all species at every site where potential conflicts between human activity and wildlife occur. Long term changes in access use and environmental change are also hard to predict. Yet the need for assessing the risks from new and existing developments and their associated human activities remains.

While single disturbance events may be trivial in terms of impact, the legislation requires assessment of local authority plans, which may relate to large volumes of housing (often tens of thousands of houses). There are clear risks from increased disturbance given such a scale of development. Assessment must follow particular steps to show a plan is compliant with the legislation, and one such step is to demonstrate no adverse effect; alternatively plan makers can recognise the risk and ensure it is avoided or mitigated for. The latter approach accepts the uncertainty and provides plan makers with a way forward to enable development. We have written this article to clarify the legislative context and show how innovative and positive solutions have been established to achieve plan-led European site protection and allow development to proceed smoothly. We focus on the impacts from disturbance at estuary sites and (in line with the original article), we use the Exe Estuary to illustrate some of the points made.

The planning system and relevant legislation

Local authority plans set out housing levels and distribution over extended periods to ensure development is at the right level and in the right places. Plan-making involves comprehensive evidence gathering and assessment, securing compliance with relevant legislation and policy. Assessment of housing needs, infrastructure capacity and flood risk, for example, all contribute to establishing the needs, constraints and opportunities for the local area. The protection of internationally important wildlife is similarly integral to plan making and is a legal requirement. Any potential impacts on European sites (i.e. Special Protection Areas (SPAs) or Special Areas of Conservation (SACs) classified or designated in accordance with the EU ‘Birds Directive’ and ‘Habitats

Directive' respectively) arising from plans are considered through a Habitats Regulations Assessment (HRA) before the plan is implemented. A HRA follows a step-by-step process and considers all aspects of the plan, including the growth proposed over the whole plan period. This presents the opportunity for assessing the potential impact of the plan as a whole, informing emerging policy and development allocations and seeking solutions that enable development to proceed wherever possible, where protective measures for European sites can be implemented. The original article in the spring bulletin omits the strategic context of plan-level assessment and the challenges (and opportunities) presented when assessing the impacts associated with tens of thousands of new dwellings.

A culture in which it is believed that “any human activity on the coast is bound to be detrimental”

Plan-level HRA is far more than a simple consideration of an individual dog walker; it is about understanding the risks arising from the plan over its lifetime, and then ensuring that measures are in place to prevent such risks from being realised, and consequently contravening the Directives. On a single site, localised disturbance in a small part of the site for a small amount of time may be deemed unlikely to result in a likely significant effect, as birds are highly mobile, and on a large site there will be nearby options where birds can feed. Switching to such locations within an estuary might take seconds, and the impact from a single brief event will therefore be negligible. However, disturbance that regularly affects larger parts of sites may have more serious effects, similar to habitat loss.

In the example of the Exe Estuary SPA, taking the three local authorities directly adjacent to the site, plans allow for a combined total of over 40,000 houses over the period to around 2030, most of which are proposed in relative proximity to the estuary. In order to provide the evidence for the assessment work, local authorities commissioned a range of visitor survey work. Postcode data from site visitors are shown in Figure 1. The data show visitors originated from a wide area, but – as might be expected – a marked concentration from areas local to the estuary. The evidence-base revealed new housing (from local plans) within a 10 km radius of the estuary was set to increase by 29% and we predicted an increase in access of 27% to the site. These are very marked changes.

Focus on shorebird numbers

The original article states that the Directives aim to maintain shorebird numbers, but omits reference to site conservation objectives, which are fundamental to informing a HRA. Conservation objectives for the Exe Estuary SPA, for example, do include maintaining populations of each of the qualifying features, but also refer to the range of factors that contribute towards site integrity, including maintaining the “extent and distribution of the habitats of the qualifying features”; “the structure and function of the habitats”; “the supporting processes on which the habitats rely” and “the distribution of qualifying features within the site”. The qualifying features for the Exe Estuary SPA include a range of waterbird species, as well as the whole waterbird assemblage. A HRA should thus have regard for the ecological functioning of a site and its full suite of interest features. It is not simply focussed on shorebird numbers.

The precautionary principle

In the example of the Exe Estuary, visitor studies (conducted during the winter) highlighted recreational use that included dog walking, walking, fishing, bait collection, kite surfing, windsurfing,

canoeing and personal watercraft. Such access takes place on the intertidal, on the water and along the shore. Data such as the home postcodes provide a clear link to housing. These activities are widespread around the estuary and are not focussed in the warmer months. The estuary's waterbirds are exposed to the effects of recreation events because the estuary is small (fewer options for birds to feed), has access along most of its shore, is relatively narrow and supports a limited number of roost sites. Disturbance monitoring (which encompassed roughly a third of the intertidal area of the estuary) showed that bird distribution and access were clearly not segregated in time and space. It also showed that even single events (such as kite surfing, which is not restricted to high tides) can affect birds across virtually the whole estuary.

Any plan-level HRA must consider the effects on the site for the lifetime of the development, i.e. a permanent potential impact, and one which may even become more intense over time if recreational activities change over time (e.g. with climate change). The assessment must also consider all interest features; both the waterbird assemblage as a whole and individual species, some of which can be present on the estuary from July through to March. Given these considerations, the evidence on visitors and linkage with disturbance, and the scale of housing change, there is clear evidence of risk.

Precaution is built into the legislation to account for uncertainty, and it ensures protection where there is doubt. The difficulty in applying the precautionary principle is the need to distinguish between justified caution in the absence of information, and making the assumption that everything may have an impact unless it is proven otherwise. The precautionary principle is relevant where there is a potential link between a conceivable impact from the plan and the European site interest features and there should be a credible scientific argument to identify the possibility of an impact. That is clearly the case on the Exe Estuary. Additional evidence to show the exact scale of impact (or lack of impact) would be beneficial, but it would be highly complex or even unfeasible given the permanent nature of the housing and the range of interest features. Individual-based models were used on the Solent as part of the evidence to inform the HRA work and those models could only be built for some of the interest features and for a part of the SPA; nonetheless they predicted impacts on survival rates based on current recreation levels and predicted further impacts as a result of future development.

Mitigation as a positive solution

Rather than block development and cause unnecessary delays, if risks are identified at plan level, then solutions can be integrated into the plan, enabling suitable growth in the right place at the right time, in the same way that policy may similarly give direction in relation to flood management or land contamination, for example. Around the Exe Estuary, local authorities have joined forces and set up a joint approach, which involves a relatively small charge being levied per dwelling built in the areas where we know people visit the estuary. That money is then used to establish measures such as dedicated areas for access (dog walking), better zoning for watersports, better communication/signage for visitors, changes to access infrastructure around the estuary, etc. These measures, selected to ensure no increase in disturbance as a result of new development, will be carefully monitored and the monitoring used to hone their effectiveness. Regular review ensures new evidence or monitoring results can be used to refine or change the mitigation. The measures remove the risk identified at plan level. Developers know upfront any costs, individual developers do not need to undertake detailed assessment work (HRAs are required at project level too), and

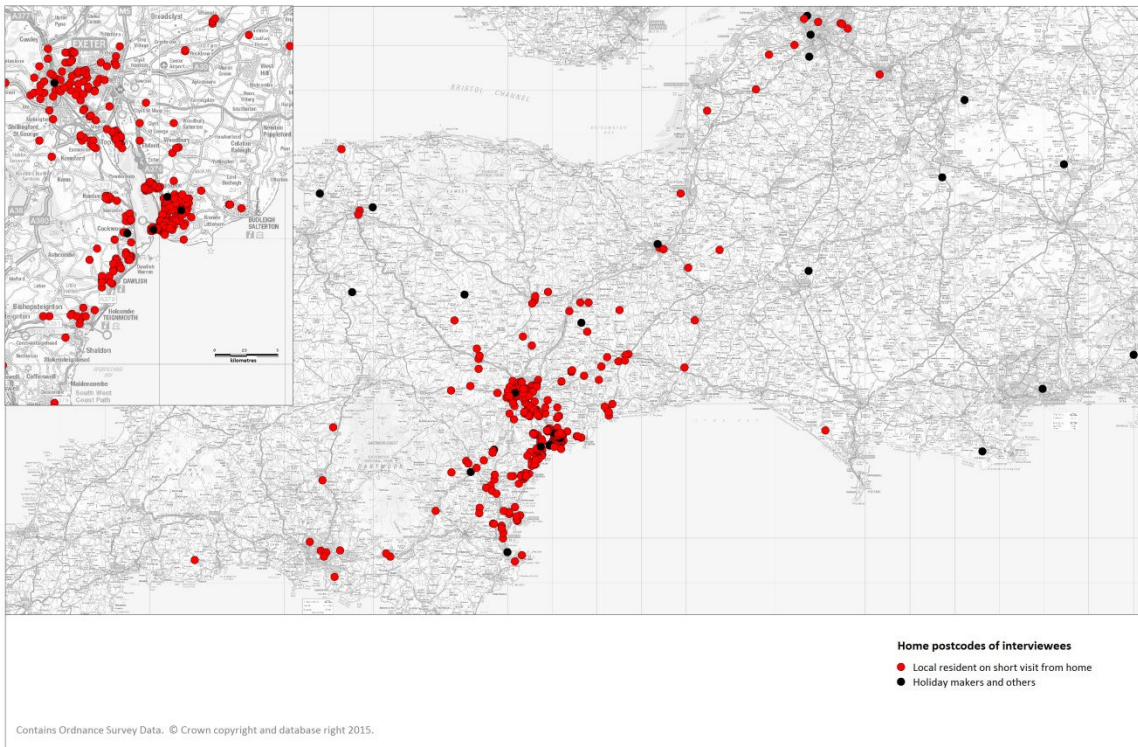
mitigation measures are secured in a way that allows measures to join up and be planned carefully. Funds are secured in a fair and proportionate way and collected in the same way that developers might contribute to highways improvements, schools, recreation grounds, etc. The solutions enable development to proceed, and can have positive outcomes for visitors and wildlife.

Successful solutions have also been adopted around a range of sites, including at other protected sites such as SPAs around the Solent. A similar approach has also been long running around a range of heathland sites (where impacts relate to disturbance to ground nesting birds, fire risk, habitat damage, etc.), such as the Dorset Heathlands and Thames Basin Heaths SPAs. While the costs (per dwelling) vary, contributions do not necessarily affect viability. For example, the per-dwelling cost in the Solent has been £172. Given the cost provides certainty to the developer and removes the need for them to commission consultants to do detailed assessment work or to provide mitigation themselves, the benefits are clear. The option is always there for developers not to contribute to the mitigation scheme but instead to produce their own project level evidence and targeted mitigation, but this is a route very few take.

Conclusions

Bringing together ecological (birds) and social (housing numbers, visitor levels) data to provide the information to inform planning decisions and conformity with legislation is a challenge, but has provided evidence-based, workable solutions. The article in the spring bulletin failed to show the breadth of information used for decision-making and was incomplete with respect to the legislation. Contrary to the article, there is no “eco-negativism” or “infringement of civil liberties”; rather, strategic mitigation solutions enable the Directives to be implemented in the spirit they were intended, and exciting and innovative solutions positively engage stakeholders. There is a growing will amongst plan-makers, statutory bodies, ecologists and developers to enable delivery of sustainable development and European site protection in an integrated and forward-looking way. Looking to the future, we recognise the potential to look across estuary sites in England to identify those that are most vulnerable to impacts from housing, by nature of the levels of current development, shape, accessibility etc. and to highlight those sites where future development is likely to be of least concern.

Home postcodes from visitor surveys undertaken in February and March 2010 (from Liley, Fearnley & Cruickshanks 2010)



Resident 4

Name: [REDACTED]

Email: [REDACTED]

Message: Navigable waters require a certain depth: not all the River Exe estuary is therefore navigable. However the VEZ include waters which are clearly navigable at certain states of the tide. The safety of small craft depends on the ability to navigate outside main channels. The VEZ proposals will exclude water-uses from these navigable waters which have been accessible since they came into being thousands of years ago. My understanding is that this can only be changed by an Act of Parliament. This clearly is not such an Act, and is unenforceable. Meaningful consultation could solve the perceived problem for our feathered friends.

Resident 5

From: [REDACTED]

Sent:

To: Exe Wildlife Refuges

Subject: Exe estuary

Good afternoon [REDACTED]

I do go along with [REDACTED] servation areas on the Exe for wild life, but you must have the back up to enforce this law, this would require a boat on the Exe 12 months a year.

Best of luck,

Regards
[REDACTED]

Resident 6

From: [REDACTED]

Sent:

To: Exe Wildlife Refuges

Subject: Wildlife refuges

I would draw attention to the legal requirement to protect the wildlife of the estuary - this responsibility has been sadly ignored by the Harbour Authority for many years now. Disgraceful.

Wildlife refuges are the very least that can be done. Unquestionably, voluntary codes need to be backed up by statutory or regulatory measures and for effective enforcement appropriate investment has to be made, eg. a patrol boat operating at all seasons manned by people with the necessary authority.
[REDACTED]

Resident 7

Name: [REDACTED]

Email: [REDACTED]

Messa [REDACTED] ely as an independent lawyer (a retired Solicitor) and not in any other capacity or office holder or adviser howsoever, wheresoever and whatsoever.

Having read all the current paperwork, my professional concern is that the suggested VEZ contains no proposals whatsoever that cannot be equally achieved under a Voluntary Code of Guidance and Conduct, within the framework of the existing bye-laws and statutory protections - and at much less expense..

In my opinion, your VEZ proposal is a "half-way house" which seeks to achieve a quasi-statutory effect and purpose but by using an apparent form of of "Consultation" as a process which avoids or side-steps the rigours and formal statutory procedures of seeking further bye-laws and imposing statutory obligations, whereunder a Public Enquiry can hear evidence and have it tested by cross-examination. Under your VEZ proposal, it can be seen , in effect, that ECC is acting as "judge and jury" of the process as it can make what it will from the consultations, with the concomitant risks of legal principles being compromised by political decisions. As a lawyer, my duty is to defend and uphold The Rule of Law at all times in all circumstances. In this proposal I do foresee grounds for challenging a decision, if made, which is seen as "perverse or wholly against the actual evidence" by way of seeking Leave for Judicial Review. Therefore, I submit that the way to achieve your objectives in these particular circumstances is to re-cast the Proposal for a VEZ into one of a Voluntary Code of Conduct and Guidance for all Users of the Estuary, which will; then command the support of us all but at much lesser cost than the present proposal would engender.

Dated:- 8th August 2017

With my

Resident 8

Name: [REDACTED]

Email: [REDACTED]

Message: I have been a member of Lympstone Sailing Club for fifty years, and was Commodore some twenty five years ago, but I no longer hold any official position in the club. My wife, her family and I have lived within a few feet of the water's edge at Lympstone for all that time. I represented the club on various all-estuary bodies, including the one that led to the establishment of the post of Estuary Officer. During that time I have heard many reports of the increasing proliferation, variety and richness of bird life on the Exe. In my view it is completely preposterous to impose any ban or restriction on sailing, which lasts only six months a year, and then only for an hour or two at a time. More disturbance to bird life is caused by the much more frequent road traffic on the B3180 over Woodbury Common or the A3022 over Aylesbeare Common. Only when such roads have been completely closed to vehicular traffic will it be time to start meddling in a right for anyone to use and enjoy the estuary as they wish as has been done at least since the Romans were here. Bans such as those suggested will antagonise the estuary community whose support is essential to the authorities, and are nothing less than an infringement to basic human rights which are far more important than the welfare of bird life, which from day to day observation from the riverside seems to be doing pretty well - as we are frequently told. There are too many authorities around who seem to try to justify their existence by interfering in things which have worked perfectly well for years without their intervention.

Resident 9

Name: [REDACTED]

Message: Hello

Not a good idea.

I race a dinghy and it has no impact on the wild life.

I have also taken my child for leisure sailing and taught her about nature by sailing past the shore. How could this have happened if you impose your proposal.

Education education education is far more effective than unenforceable dictatorial attitudes.

Names and contact details are to be kept confidential!

End

Resident 10

Name: [REDACTED]
[REDACTED]

Message: Sir or Madam,

I strongly object to the current proposals of the Voluntary Exclusion Zone of the Exe. The reasons are many, I sail at Starcross Yacht Club and have been a member for many years, whilst we as a club and me as an individual have always strongly supported the protection of our valuable habitats and wildlife, we have always supported the protection of this area, especially Dawlish Warren, without which the Exe estuary, as we know it, would not exist.

I feel that the current proposals to 'exclude' water-users from publicly navigable waters are unenforceable and counter-productive, as 'good' users of the area would make for far better conservation, as we would look after our environment, as we do currently. A parallel can be drawn with African endangered species, where they are hunted to near extinction, but can be turned round by realising the commercial asset of users wanting to photograph them.

This makes the whole system work as everything is dependent on each other.

I feel you have not taken into account the majority of water-users opinions in the consultation process. I strongly urge you to reconsider your proposals and would like to hear from you, the outcome of this.

Yours faithfully,
[REDACTED]

Resident 11

Name: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]ts, and feel a sense of responsibility towards those on Dawlish Warren which arises largely because it is an area that I regularly navigate as a sailor. Exercising my public right to navigate is crucial to my sense of belonging and responsibility for the estuary so any regulations should not interfere with this right..

Resident 12

Name: [REDACTED]
[REDACTED]

Message: This is another attempt at control of citizens who are responsible anyway. Controls like this will drive people and revenue away from the area

Resident 13

From: [REDACTED]

Sent:

To: Exe Wildlife Refuges

Subject: protecting the estuary

I would like to add my support to your voice. Please let me know if I can do anything at all to help, as I have just seen the man on telly who thinks the River's 'play' areas should be extended, and I am truly horrified by his comments.

I have left a comment to your web page.

Yours sincerely,

[REDACTED]

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Habitat Regulations Executive Committee

Appendix (F): Disturbance of birds at Dawlish Warren by Water Craft 2009-2017.

This table lists the significant disturbance incidents recorded by Officers of Teignbridge District Council, mainly during bird wardening sessions, with high tide times and heights given where applicable.

Date	High tide time	Height	Incident
2009			
15/8/09			Inshore Lifeboat training in Shutterton Creek (SC) area
2011			
14/9/11	08.40	3.8	Rowing boat put up c1000 Oystercatchers (OYC) on Finger Point (FP).
18/9/11	10.40	3.6	Gulls flushed from end of Warren Point (WP), probably by tourist cruise boat. Yacht flushed most of OYC from FP.
15/10/11	0915	3.9	White cabin cruiser with brown clinker tender sail into creek, separate just outside Eales Dock (ED), flushed some black head gulls and flushed some wigeon.
30/11/11	09.50	3.8	Rowing boat went too close to FP and flushed all birds briefly.
2012			
28/1/12	09.24	3.8	Minor disturbance of birds on FP by 2 speedboats.
27/7/12			White soft top cruiser anchored mid creek, as tide fell went aground on salt marsh
26/8/12			Large blue-grey rib drifting out of SC
6/9/12	10.23	3.5	Motorboat drove into (ED) and flushed flock of 175 Redshank roosting on embankment.
15/9/12			Small speed boat out of creek, birds disturbed (mostly gulls)
27/9/12	17.31	3.7	Man on paddle board flushed all birds from FP.
19/10/12	09.53	4.1	Small fishing boat flushed several 100 OYC from end of WP.
31/10/12	07.04	3.9	Small fishing boat putting out nets offshore flushed all Grey Plover and some Dunlin from beach at G14.
11/11/12	16.03	3.7	Kayaker came in close to FP, Hide, along SC, and flushed all roosting birds.

2013			
2/2/13	10.10	3.6	A rowing boat passed close to FP and flushed all the roosting birds.
20/7/13			Kayak landed on FP and flushed birds.
22/9/13	09.08	4	All waders flushed from FP- likely kayak disturbance.
6/10/13	08.15	4	Paddle boarders got too close to FP and flushed all birds.
9/10/13	10.00	3.9	3 kayakers disturbed saltmarsh bird roost.
23/10/13	09.33	3.8	2 people arrived by boat in Soft Sand Bay and approached Bight spur fence, flushing most of the roosting Curlews.
23/11/13	09.17	3.6	Most OYC flushed from FP by a boat that came too close.
2014			
22/7/14			Kayak flushed flock of Curlew on railway saltmarsh, which flew over to Hide island roost.
8/9/14	18.54	4.2	Rowing boat flushed waders from FP.
11/9/14	09.00	4.2	3 Paddle boarders flushed waders from saltmarsh roost.
26/9/14	08.42	3.8	OYCS flushed from FP, probably by a boat.
26/10/14	07.51	3.9	2 kayakers flushed wildfowl on water near the Hide.
29/10/14	09.35	3.7	3 Paddle boarders went close to FP and flushed 50% of roosting birds. Then a 2 man canoe in SC flushed Wigeon flocks.
2015			
2/8/15			2 PWC whizzing around in SC poss flushed OYC from FP on way by?
25/9/15	16.57	3.6	A boat entering ED flushed some Wigeon.
1/10/15	09.37	4.1	The same boat leaving ED briefly flushed some Wigeon.
2/10/15	10.16	4.1	As above, that boat entering ED caused short term disturbance to the Wigeon flock (1000+)
13/10/15	07.38	3.9	Boat leaving ED moved the Wigeon flocks around – birds resettled after 3 mins.
23/11/15	16.06	3.8	2 boats entered ED and disturbed Wigeon flocks- which flew upriver towards Cockwood.
2016			
30/5/16			Open blue/white boat into ED, small cruiser fishing in creek
7/7/16			Orange hulled cruiser in SC
7/8/16			Man on motorboat with dog and PWC landed on FP at HT and flushed c500 OYC.
24/8/16			Red motorboat in SC at speed, flushed flocks of Curlew.

26/8/16			2 Kayaks went close to saltmarsh on way to ED and 1 white rowing boat came out of there, no disturbance seen, but no Curlews roosting there, which is unusual.
4/9/16			Rowing boat in SC
10/9/16			Powerboat from ED at high speed, flushed 100s birds
11/9/16			1 small motorboat from ED landed WP flushed 100 teal Kite Surfer in Easton Area – Swans flushed Powerboat from ED – High speed up river
18/9/16	08.31	4.1	Small white motorboat came out of ED, and flushed 100s Wigeon and Teal.
1/10/16			Powerboat – Obsession88 at high speed from ED + RIB also from ED. Disturbed c100 wildfowl
13/10/16	17.03	3.6	Kayaker disturbed 200+ OYCs near the Hide, then 1000+ Wigeon and Teal in SC area.
21/10/16			Powerboat Obsession 88 flushed 2000+ wigeon & Teal – returned to ED. Birds left the area
22/10/16			Kayak disturbed the birds from Railway Saltmarsh, FP and Island 11:30 to 12:30
23/10/16			Dinghy landed on FP – flushed birds
23/9/16	17.03	3.6	Kayaker disturbed 200+ OYCs near the Hide, then 1000+ Wigeon and Teal in SC area.
16/12/16	08.01		Red speedboat heading to ED at speed and flushed some ducks (Wigeon/Teal) and Brent Geese.
19/12/16	10.04		White motorboat, with man rod fishing on rear, drove away from near FP loudly- caused minor flush of a few 100 OYC and Dunlin.
2017			
13/8/17			Kayak & 2 Paddleboards disturbed birds from FP & Bight
25/8/17			Dinghy disturbed birds from FP, second dinghy in SC – lots of flying gulls and terns not certain of disturbance.
6/9/17			Kayak landed in the Bight, disturbed 300 waders.

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