



Rationalising the Main River Network: Norfolk de-maining project - a summary of consultation responses

We are the Environment Agency. We protect and improve the environment.

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion.

We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth.

We can't do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

Published by:

Environment Agency
Horizon House, Deanery Road,
Bristol BS1 5AH
Email: enquiries@environment-agency.gov.uk
www.gov.uk/environment-agency

Further copies of this report are available
from our publications catalogue:

www.gov.uk/government/publications

or our National Customer Contact Centre:

T: 03708 506506

Email: enquiries@environment-agency.gov.uk.

© Environment Agency 2019

All rights reserved. This document may be
reproduced with prior permission of the
Environment Agency.

Foreword

We are committed to working with local organisations, landowners and communities to ensure the right organisations are managing the right watercourses.

We are a national organisation and our focus is on managing watercourses where the flood risk is greatest to people and property. In some locations we are not best placed to lead and manage flood risk. By working with local partners such as internal drainage boards and local authorities, we want to ensure the right organisations are managing the right watercourses, supporting local decisions and actions.

In Norfolk, we have consulted on proposals to designate three stretches of main river, totalling a length of approximately 31km, as ordinary watercourse. We received 27 responses to this consultation.

The views and opinions expressed were varied and covered a range of topics such as flood risk, watercourse maintenance, funding, the environment and protection for historical sites.

The feedback will inform our decision on how we plan to proceed in transferring watercourses and assets in these locations and the approach we take across England in the future.

We would like to thank everyone who has taken part in the consultation and preceding public drop-ins and meetings. Thanks is also given to our internal drainage board and local authority partners who provided their time and information to support the consultation.

Executive Summary

The Environment Agency proposes to remove the following sections of watercourse from the main river map and designate them as ordinary watercourse:

- The River Tud, between Dereham and Costessey, Norfolk - 25.4 km
- The Tunstall Dyke, near Acle, Norfolk – 1.4 km
- A stretch of the Waxham New Cut, near Sea Palling, Norfolk – 4.4 km

We would no longer have powers to undertake flood risk management activities on these watercourses. Instead, these powers would transfer to the internal drainage board, which would manage and regulate these watercourses for land drainage and flood risk management. The Environment Agency would continue to be consulted on planning and regulate water quality and hydromorphological harm.

We are proposing these changes because these sections of watercourse are not associated with major rivers or major population centres and have low levels of flood risk to people and property. The internal drainage boards are willing to take on responsibility for these sections of river and they have the appropriate skills and governance arrangements in place to do so.

These changes would allow for better catchment scale water management and better local decision-making in how these sections of watercourse are managed. It will enable works to be carried out for the benefit of local people.

We held a consultation on these proposals in Norfolk for 6 weeks from 12 November to 21 December 2018. We received 27 responses to the consultation in Norfolk.

The consultation responses to the River Tud de-mainment proposals predominantly indicate that consultees do not support the proposed change. In contrast, responses to the Waxham New Cut and Tunstall Dyke de-mainment proposals indicated that consultees were predominantly indifferent to or in support of the proposed changes.

We will take into account all of the consultation responses received and consider these alongside the criteria set out in the Statutory Main River Guidance to the Environment before deciding whether to proceed with the proposal.

If we decide to proceed with de-maining, then we will publish a “proposal for designation change” notice on GOV.UK and in local newspapers. We will also notify people who have responded to the consultation, provided us with contact details, and consented to being contacted. Anyone can challenge the decision to de-main by email or in writing to the Department for Environment, Food, and Rural Affairs (Defra) within 6 weeks of the publication of the Notice.

Contents

Foreword	3
Executive Summary	4
1 Introduction	6
1.1. What changes we are proposing and why.....	6
2 Previous engagement, public drop-ins, and consultations	7
2.1 What we did and when.....	7
2.2 Responses.....	7
3 How we ran the consultation	8
4 Summary of consultation feedback and our response	10
4.1 Flood risk management	10
4.2 Environment	12
4.3 Development	13
4.4 Current and Future Maintenance	14
4.5 Funding.....	16
4.6 Other	17
5 Next steps	18
6 Appendices	19
6.1 Statutory Main River Guidance	19
7 Acknowledgements	21
8 Glossary	22

1 Introduction

1.1. What changes we are proposing and why

The Environment Agency undertakes maintenance on main rivers under permissive powers. We prioritise maintenance activities based on flood risk to people and property and focus management at locations with higher flood risk. This means that some main river watercourses deemed at low risk of flooding can be subject to intermittent or no funding.

The Environment Agency proposes to remove the following sections of watercourse from the main river map and designate them as ordinary watercourse:

- The River Tud, between Dereham and Costessey, Norfolk - 25.4 km
- The Tunstall Dyke, near Acle, Norfolk – 1.4 km
- A stretch of the Waxham New Cut, near Sea Palling, Norfolk – 4.4 km

We would no longer have powers to undertake flood risk management activities on these watercourses. Instead, the internal drainage boards would have these powers to manage and regulate these watercourses. For the River Tud, this would be the Norfolk Rivers Internal Drainage Board, and for the Tunstall Dyke and Waxham New Cut this would be the Broads Internal Drainage Board. These IDBs are part of the Water Management Alliance, a group of five internal drainage boards operating in the Anglian region.

The IDBs may choose to carry out maintenance on the watercourse where they deem this necessary to supplement the maintenance required of the riparian landowners and they have the funding to do so.

We are proposing these changes because these sections of watercourse are not associated with major rivers or major population centres and have low levels of flood risk to people and property. The internal drainage boards are willing to take on responsibility for these sections of river and they have the appropriate skills and governance arrangements in place to do so.

These changes would allow for local decision-making in how these sections of watercourse are managed, allowing works to be carried out for the benefit of local people.

This is in line with the requirements set out in the Statutory Main River Guidance, available at the end of the document and at <https://www.gov.uk/government/publications/designation-of-main-rivers-guidance-to-the-environment-agency>.

The Environment Agency has reviewed all of the comments received during the consultation. Thank you to everyone who took the time to respond.

The purpose of this document is to:

- provide an overview of how we ran the consultation
- share a summary of the feedback we received, our responses and the actions we will take
- explain what will happen next.

2 Previous engagement, public drop-ins, and consultations

2.1 What we did and when

Between 13 July 2015 and 16 August 2015, we ran an initial public consultation on proposals to de-main the River Tud. On 31 October 2017, we held a public drop-in session at Sea Palling Village Hall to discuss our proposals for the Waxham New Cut and Tunstall Dyke.

These opportunities allowed interested parties to find out about de-maining, how it might affect them, and give feedback on the proposals. Representatives from the Environment Agency and the Water Management Alliance group of Internal Drainage Boards (IDBs) were available to answer questions.

We advertised the drop-in session by writing to stakeholders, including parish councils, Thérèse Coffey MP, environmental groups, and riparian landowners or tenants where possible. We also received some coverage on websites.

The drop-in session on de-maining was one of six held across Norfolk and Suffolk. Around 80 people attended these drop-in events. Most attendees of the Waxham Cut and Tunstall Dyke drop-in owned land on the watercourses.

2.2 Responses

No objections were received during the 2015 consultation on proposals to de-main the River Tud.

Feedback and conversations from the public drop-ins and communications suggested that people are generally positive about the proposals for the Waxham New Cut and Tunstall Dyke, providing there is funding for any future maintenance and the costs were covered.

These events, and the subsequent telephone calls and emails from interested individuals, were useful in gathering the views of our stakeholders and are helping to shape the proposals put forward in our recent consultation.



3 How we ran the consultation

We ran the consultation on the de-mainment proposals in Norfolk for 6 weeks from 12 November to 21 December 2018.

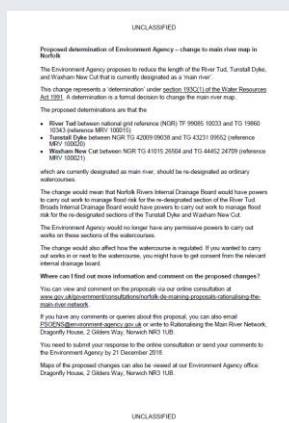
We published the consultation information and questions online using the online consultation tool, Citizen Space. Printable copies of the consultation information and questionnaire were also available on Citizen Space. We posted out printed copies of the consultation information and questionnaire on request. Consultees could also submit their views in written 'free text' format via email or post.

We advertised the consultation in the following ways:

We posted a public notice in the Eastern Daily Press on 12 November 2018.



We sent public notices to parish/town councils, local libraries and post offices/shops for them to display.



We issued a press release to the local media.

News Release

Consultation launched to give residents more say in river management

People in Norfolk are being given the opportunity to have their say about proposals to change the way flood risk on their watercourses is managed.

A public consultation, which opens on Monday 12 November, follows proposals by the Environment Agency to transfer flood risk management activities on selected watercourses to local internal drainage boards (IDBs).

This transfer would mean that the Broads and Norfolk Rivers IDBs would be able to take on more responsibility for their local flood risk by taking on the power to carry out maintenance and manage permissions to carry out works on these watercourses. The Water Management Alliance (WMA) and their member IDBs have backed these proposed changes.

Locally, this would mean maintenance and some regulation of the River Tud would transfer to the Norfolk Rivers IDB. For the Tunstall Dyke and the upper

We sent out a total of 22 tweets between 8 November and 20 December 2018

They were shared by our partners and other interested parties and seen 27,928 times.



We sent letters to landowners and tenants along the watercourse, where possible.

We sent a briefing note to Norman Lamb, MP for North Norfolk, George Freeman, MP for Mid Norfolk, Richard Bacon, MP for South Norfolk, Keith Simpson, MP for Broadland, and Clive Lewis, MP for Norwich South.

We emailed key stakeholders, including:

- Hockering, East Tuddenham, Honingham, Easton, Costessey, Hellesdon, Shipdham, Mattishall, Yaxham, Dereham, Hickling, Lessingham, and Winburgh and Westfield Parish or Town Councils
- Broadland and South Norfolk District Councils and Councillors
- Anglian (Eastern) Regional Flood and Coast Committee
- local environmental non-governmental organisations
- National Farmers Union
- Natural England

4 Summary of consultation feedback and our response

The following pages give a summary of the consultation responses for which permission to publish was given. This includes the respondents' overall opinion on de-mainment, and comments against the key themes raised. Where relevant, we have sought to provide clarity on any questions or comments raised.

We received 27 responses to the consultation in Norfolk. Some responses were submitted as answers to the consultation questionnaire either online or in paper format. Others were received as written free text. Respondents included:

- Landowners or land tenants
- Members of the public
- Recreational or commercial river users
- District Councils
- Historic England
- National Farmers' Union - East Anglia
- Natural England
- Norfolk & Norwich Naturalists Society
- Norfolk Wildlife Trust
- Parish/Town Councils
- Ramblers Association Norfolk Area

The 19 consultation responses for which permission to publish was given can be viewed in full online at <https://consult.environment-agency.gov.uk/fcrm/norfolk-de-maining-pilot-proposals/>.

The consultation responses to the River Tud de-mainment proposals predominantly indicate that consultees do not support the proposed change. In contrast, responses to the Waxham New Cut and Tunstall Dyke de-mainment proposals indicated that consultees were predominantly indifferent to or in support of the proposed changes.

The majority of responses to the consultation were from stakeholders on the River Tud. Comments against the following themes predominantly relate to considerations on the River Tud.

4.1 Flood risk management

Some consultees were positive about the prospect of the IDB taking over the management of these watercourse.

"Access to landowner knowledge is usually better and awareness of changes is more rapidly communicated."

"We believe the IDBs have the knowledge and skills and awareness of local interests to take on these responsibilities."

"There are obvious benefits in terms of local management and development of the drainage network in terms of both flood defence and ecological improvement."

Another was supportive of the principle of de-mainment.

"Any policy which brings local power to local people is good for society."

Some consultees did not have a strong opinion on which organisation should manage flood risk, so long as it is managed properly.

Others are happy with the way that flood risk from the River Tud is currently managed by the Environment Agency. They are concerned about different organisations managing flood risk across the catchment, particularly at the confluence with the River Wensum where they suggest that the change may result in increased flood risk to properties downstream. The need for good communication between the IDB and Environment Agency in planning for and reacting to flood events was also raised. Some consultees raised concerns around the impact of multiple authorities managing the catchment of the River Tud on water quality, flood risk management and funding proposals.

"Your proposal to split the responsibilities creates 2 bodies who can impact the flooding to our property – and unless they co-ordinate well this will increase the risk that our property will be flooded."

"Concerns were expressed as the transfer of responsibility would result in one body being responsible for the water flooding and the other for monitoring water quality."

"The Environment Agency would appear to keep an oversight role which can be expected to create management issues between the Agency and the Norfolk Rivers Internal Drainage Board."

Norfolk Wildlife Trust highlighted the need for close contact between themselves and the IDB, suggesting that further discussions and good communication with the IDB regarding the management of sensitive sections of the watercourse would help ensure that the environment is protected. Norfolk Wildlife Trust already work with the IDB and are satisfied with the proposal for the River Tud.

Our Response

Managing flood risk already includes many different organisations including the Environment Agency, lead local flood authorities (county or unitary councils), district councils, internal drainage boards, water companies, and highways authorities.

- The Environment Agency sets the national strategy for flood risk management for all sources of flooding including main river and ordinary watercourses. We have permissive powers to carry out flood risk management activities on main rivers.
- Lead local flood authorities set the local strategy for ordinary watercourses and other sources of flooding (but not main rivers). They have permissive powers to carry out flood risk management activities for surface runoff and ground water.
- District councils and internal drainage boards have permissive powers to carry out flood risk management works for ordinary watercourses.
- Similarly, these organisations are all involved in regulating development, flood risk activities, and environmental risks.

There are ~5,400km of mapped ordinary watercourse in Norfolk where the Environment Agency, internal drainage boards and other organisations work together on to manage flood risk. The Broads and Norfolk Rivers IDBs manage 340km and 405km of watercourse of this respectively with the remainder managed by local authorities and other internal drainage boards alongside riparian owners. The de-maining of these three watercourses would add an additional 5.7km to those managed by the Broads IDB and 25.4km to those managed by the Norfolk Rivers IDB.

The two internal drainage boards, and the Water Management Alliance group of drainage boards which they are part of, already have close working relationships with the Environment Agency and Natural England and have worked closely on programmes of work and restoration schemes.

4.2 Environment

Many consultees did not express a strong opinion on the impact of the proposals on the environment. The feedback we did receive raised the suitability of the River Tud environment for de-mainment; the ability of organisations to safeguard the environment; and the suitability of proposed maintenance.

Some consultees commented on the ability of the Water Management Alliance, Broads IDB, and Norfolk Rivers IDB to safeguard the environment including Natural England, Norfolk Wildlife Trust, and the National Farmers Union - East Anglia. One consultee was positive about the impacts of more localised management on the environment whilst another believed that increased maintenance may be beneficial to the environment.

"The Water Management Alliance and Norfolk Rivers Internal Drainage Board (IDB) have a demonstrable track record over recent years of delivering these activities elsewhere on ordinary watercourses fully in accordance with their statutory duties..."

"Across the network of ordinary watercourses currently under their responsibility Norfolk Rivers IDB have ensured work methods are not detrimental to protected habitats or species and have delivered environmental and habitat enhancements."

Some consultees drew attention to the environmental sensitivity, value, and biodiversity of the River Tud. They recognised that the River Tud is home to a number of protected species, including brown trout, bullhead, and lamprey in addition to those listed in the consultation information.

One organisation commented that Natural England's budgets and resources are stretched, and raised concerns about the availability of advice and support for the IDB following de-mainment.

"Can we be sure that the IDB will have the wherewithal and the determination to continue the exceptional work that the EA has done so far?"

"Will the IDB have the same authority to protect the River Tud?"

Another consultee was concerned that the environment of the River Tud could deteriorate without the expertise, experience, and financial backing of the Environment Agency. Other consultees questioned the capacity of the IDB to manage the River Tud.

One consultee was particularly concerned about the maintenance works proposed by the IDB, and warned that increased focus on flood protection and conveyance was contradictory to maintaining and improving the populations of protected species and Water Framework Directive objectives.

The consultation response identified no significant environmental concerns from de-maining the Waxham New Cut or Tunstall Dyke. Some consultees suggested that connecting the Waxham New Cut and Tunstall Dyke to the existing drainage network could benefit the ecology of the area.

Our Response

The Environment Agency make main river determinations according to statutory guidance on the designation of main rivers. The criteria for main rivers are primarily directed at the management of flood risk but any determination must be made in the context of the Environment Agency's other functions so will include environmental considerations.

We have taken into account the environment by considering:

- the species and habitats that could be affected by a change in management practices
- how the current management practices meet environmental obligations and if there are any environmental improvement actions taking place, or planned, in the vicinity of the watercourse
- the environmental performance of the prospective risk management authority, their resources and legal ability to protect the environment

- how maintenance and management practices may change and understanding what risk there is to the environment from these changes
- the actions that could be taken to mitigate any risks, who would be responsible for these and what we need to see in order to have confidence that any environmental risk would be managed

The River Tud is a chalk stream, retains many typical chalk stream characteristics, and has diverse plant, insect, and fish populations. It is of high ecological value and sensitive because it is unable to replenish naturally its gravel bed on which the plant insect and fish populations depend.

We carry out maintenance in order to manage flood risk in ways that are consistent with achieving Water Framework Directive (WFD) objectives. We do this by assessing flood risk annually, targeting our maintenance to specific locations, and selecting environmentally sensitive maintenance activities from our Maintenance Standards Manual. The River Tud achieves good or high status for all but one WFD elements.

The Norfolk Rivers IDB and the Broads IDB would carry out an inspection of the river annually to assess the need for flood risk works and carry these out according to their Standard Maintenance Operations policy, which describes options for sustainable management.

Through the Water Management Alliance, the two internal drainage boards have access to ecologists who provide specialist knowledge and audit works; a budget and monitoring programme for Biodiversity Action Plans; and an internal consenting process that also extends to the work of third parties.

Internal drainage boards have statutory duties to maintain and enhance the natural environment and have regard to protected species, habitats, and areas. They must also prevent watercourse deterioration under the Water Framework Directive. In addition, they have legal competence to regulate development affecting the watercourse and flood risk activities doing so with consideration to the environment. The two internal drainage boards have also adopted Defra model byelaws that aid them in regulating flood risk and environmental risk. The Environment Agency would retain its ability to take enforcement action against hydromorphological harm.

We must take any potential changes in management, and their effect on the Water Framework Directive status of the watercourse, into careful consideration as part of our decision whether to de-main the River Tud. We have drawn on the advice of experts within the Environment Agency as well as opinions from statutory and non-governmental environmental bodies such as Natural England and Norfolk Wildlife Trust. The Norfolk Rivers IDB already works closely with Natural England, which has stated that they are content that the IDB has a demonstrable record of operating within their statutory duties and undertaking reasonable steps to further conservation of Sites of Special Scientific Interest.

4.3 Development

Some consultees were concerned about effects on the River Tud from the Highways England proposed road scheme on a stretch of the A47 including the potential for increased surface water run-off, associated risk of flooding and pollution and concern that de-mainment would change how water quality is managed.

"Currently flood water from the existing A47 poses a significant issue and the addition of further drainage from a new highway is only likely to increase this risk."

"My experience of the last road improvement (N Tuddenham) bypass shows how very easy for sediments in run-off to affect the river."

There were suggestions that the Environment Agency should not make a decision to de-main the River Tud until the impact of the A47 improvements is assessed. Another consultee drew attention to concerns about the effect of planned housing developments in Dereham adjacent to the River Tud.

Our Response

The Environment Agency is a statutory consultee where:

- A development requires an Environmental Impact Assessment
- A development is in Flood Zone 2, Flood Zone 3, or has critical drainage problems
- The development is major and proposes to use non-mains foul drainage
- The development involves carrying out works or operations in the bed, or within 20m of the top of the bank, of a main river

De-maintenance of these watercourses will mean that the Environment Agency would no longer be a statutory consultee on developments involving carrying out works or operations in the bed of or within 20m of the top of the bank of watercourses. However, the Environment Agency will continue to comment on planning applications for the other reasons above.

In addition, de-maintenance will lead to planning consent being required from the internal drainage board where developments take place within 9m of an IDB maintained watercourse.

The nature of the A47 improvement scheme means the Environment Agency will continue to be a statutory consultee whether or not the River Tud is designated main river or ordinary watercourse. In addition, Norfolk County Council as lead local flood authority will also comment on flood risk associated with developments within their area.

The IDB will also comment on all planning applications that have a potential impact on the drainage district. They have by-laws that give specific powers to the IDB to be able to ensure development will not put the drainage district under pressures it cannot sustain. This is managed through a dedicated Planning & Enforcement Team at the WMA.

De-maintenance proposals only make changes to which organisations manage flood risk. The proposals do not change how water quality is managed. The Environment Agency would continue to:

- monitor water quality
- respond to pollution incidents
- permit discharges, including monitoring works that have permits
- be consulted on water quality for developments
- retain an enforcement role with regards to water quality, which includes giving advice and guidance

The Environment Agency will also comment on the impacts on water quality as part of its response to the statutory consultation on the A47 proposals. We will make clear the requirement to ensure that the proposal does not result in a reduction in water quality, in line with the requirements of the Water Framework Directive.

If de-maintenance goes ahead, Highways England will continue to be responsible for ensuring that run-off from the A47 does not pollute the environment.

4.4 Current and Future Maintenance

Opinion with regards to current and future maintenance was mixed.

Some consultees were content with how the River Tud is currently managed by the Environment Agency. Reasons cited included satisfaction with how the watercourse is managed, and the indication that fish species are thriving under the current regime.

"I would rather the EA carry on, as they have shown in recent years, a high level of commitment to maintaining the Tud."

"Results from past and present survey data indicate eel, lamprey, bullhead and brown trout are thriving in the river under the current management regime."

Some consultees wanted the Environment Agency to continue to manage the watercourse, unless the IDB matched the maintenance, or if the Environment Agency would reduce maintenance levels in the future.

"If the IDB continue to maintain the River Tud...as the EA have done, to mitigate flood risk...I would be satisfied with the change. If this cannot be done I would prefer the EA continue their very successful management."

"It would probably be the society's preference for the River Tud to remain a main river if current funding and attention levels could be maintained, but given the move away from managing watercourses with a low flood risk there is a chance that funding would be cut and less maintenance, in which case these alternative proposals would seem to be the better option."

Whilst others stated that, the current maintenance did not fill the requirements of the River Tud and criticised the amount of funding allocated to it by the treasury.

"The NFU believes that there is insufficient maintenance funding overall directed to medium and low consequence systems under current treasury rules."

In addition, there was support for the IDB's maintenance plans, stating that they seemed "reasonable" and "if followed...would appear to work". Some consultees commented that connection to the existing drainage network would be of benefit to water level management and the ecology of the Waxham New Cut and Tunstall Dyke. The National Farmers' Union - East Anglia stated:

"We have faith in the IDBs to progressively improve maintenance on these sections in consultation with all affected parties and the indicative plans illustrate this intent."

Others were concerned about the maintenance plans and intentions of the IDB.

"Can we be sure going forward, that the IDB will have the wherewithal and the determination to continue the exceptional work that the EA has done so far"

"It is apparent from the proposed management regime that the habitat requirements of both eel and lamprey will be compromised in the furtherance of flood management...I have concerns that flood protection and conveyance will take precedence over the natural and in some cases legally protected species within the water course."

Our Response

The Environment Agency recognises that in some cases the requirement to focus our funding on areas with greater risk to people and property can be limiting for communities on medium and low flood consequence watercourses. Removing the main river status from these watercourses will allow the IDB to manage them in line with local priorities and with a more consistent and reliable funding stream.

Any organisation or individual that carries out any activity that affects a watercourse has a legal duty to take into account the impact of their activities on the environment. The IDBs have access to the expertise of ecologists, who are consulted during the development of works programmes. They give advice on works timings, which work option should be used and any potential environmental opportunities to help ensure that appropriate environmental outcomes are achieved. The IDB also have an agreed set of maintenance operations that are updated to reflect environmental best practise and compliance with the Water Framework Directive.

In order to de-main a watercourse, we must be sure that the internal drainage boards are able to manage the watercourse in a manner that is consistent with Water Framework Directive objectives. The status of the River Tud under the Water Framework Directive is predominantly good, and it is considered likely that reductions in maintenance by the Environment Agency has contributed to this good status. We must take any potential changes in management, and their effect on the ecology and Water Framework Directive status of the watercourse, into careful consideration as part of our decision whether to de-main the River Tud.

4.5 Funding

Funding sources

The National Farmers' Union - East Anglia assert that there is scope for there to be enough funding available to the IDBs, however this is dependent on continued access to traditional sources of IDB funding, for example Highland Water Contributions.

Another consultee stated that maintenance should be paid for by central government sources, whilst others were concerned that division of management may lead to more complicated funding proposals and higher costs. Costessey Parish Council also criticised the proposals, stating that

"The transfer falls in line with other examples of responsibilities being transferred to "minor" authorities to cut costs."

Some consultees have criticised the de-mainment proposals, stating that the financial implications of the transfer are not clear. Broadland District Council and South Norfolk District Council have raised concerns that if these watercourses are transferred to the IDB, the special levy that the District Council pays to the IDB may be increased to cover additional costs. They stress that district councils cannot afford additional financial burdens.

"The District Council simply cannot afford to accept additional financial burdens as a result of this change and any 'cost shunting' from the Environment Agency to local bodies...We would expect any additional funding to be absorbed by the IDB or alternative grant funding and would not find it acceptable to increase the levy charged to District Councils."

Our Response

The responsibility for the watercourse is primarily that of the riparian owner (the owner of the land through which the watercourse flows). They have responsibility for ensuring the water flows naturally and that obstructions do not affect public right of navigation or cause flooding to other landowners property. Poorly maintained watercourses can leave a riparian owner liable to damage claims. The Environment Agency, internal drainage boards and local authorities also have powers to require riparian owners to maintain watercourses and structures.

The Environment Agency maintain asset systems according to a risk-based approach so that investment is made where activities contribute most towards reducing the potential for damage, and where it is economically and environmentally justified. Future investment in maintenance will continue to be prioritised to ensure that the greatest possible overall outcome is achieved with the available funding.

Since a range of factors are relevant when the required level of maintenance for an asset is reviewed according to four broad categories:

- the economic case for maintenance to reduce the risk from flooding to people and property
- the requirement to protect internationally designated environmental features from the damaging effect of flooding
- where work is justified due to legal commitments
- exceptions that do not fit the above three categories.

This categorisation influences our allocation of funding but inclusion within a particular category does not guarantee or preclude such funding.

Where the Environment Agency must carry out flood risk management activities, it uses funding from:

- Grant in Aid from Central government raised via income tax
- Local Levy from County Councils raised via council tax and other council funding mechanisms
- General Drainage Charges which apply to occupiers of agricultural land, buildings and woodland outside the internal drainage board's area in the Anglian region

- Precept from IDBs to reflect water moving from internal drainage districts to main rivers.

Funding allocations for flood maintenance works from these sources are focussed where expenditure will give the greatest benefit to protect people and property from flooding. A watercourse may receive intermittent funding, and therefore less maintenance, where flood risk to people and property is considered low. De-maining watercourses means we can further focus our resources where they are most needed but retain our strategic overview of flood risk management.

Where internal drainage boards fund maintenance work, they use funds raised by:

- Drainage Rates paid by owners of agricultural land and buildings within the internal drainage district. The Drainage Rate is set by the IDBs and can vary according to the amount of work they wish to do in their annual maintenance programme.
- Special Levy paid to the IDB by the local authority, which is raised from owners of non-agricultural land and buildings through council tax. The special levy is set by the IDBs and can vary according to the amount of work they wish to do in their annual maintenance programme.
- Highland Water Contributions from the Environment Agency. This is a contribution towards the costs of water entering ordinary watercourses from land outside of the IDB's drainage district. Payments are made annually at the discretion of the Environment Agency, with the allocation agreed by the RFCC.
- The IDBs also seek grant contributions towards capital and environmental improvement schemes.

The rates and levies are set by the internal drainage board that have a majority of members appointed by district councils with additional elected members from agricultural rate payers. This ensures that they work in the interests of communities within the drainage districts.

The de-maintenance of watercourses will not have a direct effect on Highland Water Contributions and these are determined annually through discussions with the RFCC.

As part of this process the IDB have looked at all the watercourses proposed for demaintenance and can see the low risk nature of the rivers being put forward.

The IDB have stated that after de-maintenance, works on River Tud, Tunstall Dyke, and Waxham New Cut will be funded by money currently received for activities within its Internal Drainage District. This would result in no above inflation change in rates payable to the Board for the management of the watercourses because of the de-maintenance.

The aim of de-maintenance is to strengthen local flood risk management. These changes would allow for local decision-making in how these sections of watercourse are managed, allowing works to be carried out for the benefit of local people. We will only de-maintain where we have willing partners. In Norfolk, Broads IDB and Norfolk Rivers IDB have worked with us to develop these proposals and support the transfer of responsibilities.

4.6 Other

Consultees also made points regarding other topics, including:

- Footpaths in the Tunstall Dyke area could be reconnected using the dry river bed.
- The IDB should be made aware of the legislative framework for heritage assets and the historic environment, and should have processes in place to ensure a full consultation is undertaken with statutory stakeholders prior to works commencing.

Our Response

We recognise that de-maintenance proposals present opportunities beyond those of flood risk management but these are not within the remit of the Environment Agency

The internal drainage boards have a lot of experience working within various legislative frameworks. Where de-maintenance will cause them to work within new legislative requirements, we will ensure they are aware of this.

5 Next steps

We will take into account all of the consultation responses received and consider these alongside the criteria set out in the Statutory Main River Guidance to the Environment Agency (please refer to appendix 6.1) before deciding whether to proceed with the proposal.

If we decide to proceed with de-maining we will publish a “proposal for designation change” notice on GOV.UK and in local newspapers. We will also notify people who have responded to the consultation, provided us with contact details and consented to being contacted. Anyone can challenge the decision to de-main by email or in writing to the Department for Environment, Food, and Rural Affairs (Defra) within 6 weeks of the publication of the Notice.

6 Appendices

6.1 Statutory Main River Guidance

This guidance sets out the basis on which the Environment Agency should decide whether or not a river or watercourse is treated as a 'main river'. The guidance has been issued under section 193E of the Water Resources Act 1991.

Main rivers are usually larger rivers and streams. They are designated as such, and shown on the [Main River Map](#). The Environment Agency carries out maintenance, improvement or construction work on main rivers to manage flood risk. Other rivers are called 'ordinary watercourses'. Lead local flood authorities, district councils and internal drainage boards carry out flood risk management work on ordinary watercourses.

The Environment Agency is responsible for maintaining a map of the main river (the Main River Map) and making any changes to it, and determining whether or not a watercourse, or part of a watercourse, is to be treated as a main river or part of a main river. This guidance has been issued by the Secretary of State for Environment, Food and Rural Affairs and the Environment Agency is required to have regard to it.

A. Criteria for determining whether or not a watercourse or part of a watercourse is suitable to become or to remain a main river or a part of a main river

References to a watercourse include both a whole watercourse and parts of a watercourse.

The criteria below are primarily directed at the management of flood risk. Any determination will need to be made in the context of the Environment Agency's other relevant functions (and this may include environmental considerations, where relevant).

1. Principal criteria

Flood consequence

1.1 A watercourse should be a main river if significant numbers of people and/or properties are liable to flood. This also includes areas where there are vulnerable groups and areas where flooding can occur with limited time for warnings.

Managing flooding across the catchment

1.2 A watercourse should be a main river where it could contribute to extensive flooding across a catchment.

1.3 A watercourse should be a main river if it is required to reduce flood risk elsewhere or provide capacity for water flowing from, for example, a reservoir, sewage treatment works or another river.

2. Secondary considerations if changing the status of a watercourse

An efficient network

2.1 When considering changing the status of a watercourse, the Environment Agency should avoid short stretches of watercourses of alternating main river and ordinary watercourse status to provide clarity and to minimise inefficiency through multiple authorities acting on the same watercourse.

Competence, capability and resources

2.2 When considering changing the status of a watercourse, the Environment Agency should consider if those taking on responsibility have sufficient competence, capability and/or resources for flood risk management, including whether their governance enables sufficient competence, capability and/or resources, and local accountability. In carrying out this assessment, the Environment Agency should seek Defra's views.

Other relevant criteria

2.3 The Environment Agency may have regard to other relevant factors that it considers appropriate when exercising its discretion to determine whether to change the status of a watercourse or part of a watercourse. The Environment Agency should consider relevant benefits or costs for the local community and representations from the local community and others in response to consultation.

B. Guidance in respect of consultation and publication under section 193C(2) and (5) Water Resources Act 1991

How proposed amendments are publicised

There are two types of change the Environment Agency may make to the main river map:

factual changes (updating the map so the location of watercourses is more accurate)

designation changes (changing an ordinary watercourse so that it is a main river, or a main river so that it is an ordinary watercourse)

Under section 193C(2) of the Water Resources Act 1991 the Environment Agency must publicise any proposed changes to the main river map and consider representations made.

Factual changes

1.1 The Environment Agency must publish notices of proposed factual changes on GOV.UK.

1.2 The Environment Agency should also consider contacting the landowners when the map is being amended to show the correct course of a culvert (a structure that lets the watercourse go under a road, for example).

Designation changes

2.1 The Environment Agency must publicise proposed designation changes in the following ways:

by writing to any person who owns land next to the watercourse, and other key stakeholders (for example, Internal Drainage Boards or Local Authorities);

by placing public notices in local newspapers;

by publishing notices on GOV.UK;

by placing notices in local buildings (for example, in libraries or council offices).

2.2 The Environment Agency should carry out proportionate and meaningful consultation on designation changes by:

giving stakeholders an opportunity to shape, comment on and influence the outcome. Stakeholders include directly affected landowners, relevant public bodies, relevant interest groups and other persons, including the local community, affected by or interested in a proposed determination to change the designation of a watercourse;

providing sufficient information and allowing enough time to enable stakeholders to understand how the proposal affects them and engage with the issues. This should include providing relevant information on the flood risk, environmental aspects, the costs and benefits for local communities and coordinating with those taking on the responsibility for the watercourse to help the public have access to information on proposed future management of the watercourse; and

taking into account the views of all those who respond to the consultation when reaching its decision.

2.3 Anyone aggrieved by the designation change has the right to appeal to the Secretary of State.

7 Acknowledgements

We would like to thank our partners: Norfolk Rivers Internal Drainage Board and Broads Internal Drainage Board (both part of the Water Management Alliance) for their contributions and support in developing the consultation proposals.

We would also like to thank our partners and stakeholders that have helped us advertise and promote this consultation.

Additionally, we would like to thank all consultees who took the time to attend meetings, public drop-in sessions and respond to the consultation. Your feedback has been extremely valuable and will help inform our decision on whether or not to proceed with the Norfolk de-maining pilot proposals.

8 Glossary

Word/phrase	Definition/explanation
Asset	A flood risk management asset can be a flood defence such as a wall, embankment or a structure such as a pumping station, weir, sluice gate or a watercourse channel. As a result of its failure or removal or alteration, the likelihood of flooding from main river to people, property, designated environmental sites or infrastructure would increase.
Asset decommissioning	Planned shut-down or removal of an asset from operation or usage.
Asset maintenance work	Works to maintain the performance and reliability of an asset.
Byelaws	Byelaws are local laws made by a local council under an enabling power contained in a public general act or a local act requiring something to be done – or not done – in a specified area. They are accompanied by some sanction or penalty for their non-observance.
Competent authority	An authority or authorities identified under a relevant piece of legislation who has the legally delegated power to perform the designated function.
De-maining	Re-designation of a watercourse from main river to ordinary watercourse.
Designated sites	<p>Sites which have been identified under law for having specific environmental protection. Depending on the designation, undertaking works on these sites often require permission or assent from the competent authority. All of the sites except LNRs (see below) are of national or international importance. The main sites covered by this category are:</p> <p>Special Protection Areas and Special Areas of Conservation: these are often referred to as Habitats Directive sites, N2K sites or Protected Areas.</p> <p>Ramsar sites: these are wetlands of international importance designated under the Ramsar convention and are treated in the UK as Protected Areas.</p> <p>Sites of Special Scientific Interest (SSSI): these are nationally important habitat and geological sites designated by Natural England.</p> <p>Scheduled Ancient Monuments (SAMs): Scheduled monuments are of national importance and scheduled under the Ancient Monuments and Archaeological Areas Act 1979</p> <p>Local Nature Reserves (LNRs): these may have ecological importance on local scale and are designated under National Parks and Access to the Countryside Act 1949.</p>
District Councils	Local authorities who perform the flood risk management activities of district and borough and city councils, as well as the second tier responsibilities of unitary authorities.

Environmental Non-Governmental Organisations (ENGOS)	A non-governmental organization (NGO) in the field of environmentalism. Examples of ENGOS include the Wildlife Trusts, RSPB, WWT and Blueprint for Water.
Environmental Permitting Regulations	The Environmental Permitting Regulations (England and Wales) 2010 require the Environment Agency to control certain activities which could harm the environment or human health. Flood Risk Activity Permits are issued under these regulations.
FCERM grant in aid	Government grants from the Department for Environment, Food and Rural Affairs (Defra) for flood and coastal erosion risk management.
Flood risk	Flood risk is expressed by combining information on probability (sometimes referred to as likelihood) and consequence (sometimes referred to as impact).
Flood Risk Activity Permit	Permission to ensure that any activities planned in, over, under or next to a watercourse do not cause a risk of flooding or make existing flood risk worse. A permit is also necessary to ensure work will not interfere with flood risk management assets or adversely affect the local environment, fisheries or wildlife
Flood and Water Management Act 2010	The legislation by which risk management authorities operate when exercising their powers.
Flood risk management activities	Works and activities to manage and reduce the risks of flooding from rivers and the sea to people, property and the natural environment. This includes flood defence projects, flood warning, informing planning decisions, regulation and the maintenance of asset and watercourses.
Governance	the way that organizations or countries are managed at the highest level, and the systems for doing this the way that organizations or countries are managed at the highest level, and the systems for doing this The way that organisations or countries are managed at the highest level and the systems for doing this
General drainage charge	Statutory levy payable by the occupiers of agricultural land and buildings and woodland outside an Internal Drainage District (currently used in Anglian Region only) to pay for flood risk management activities
Hydromorphological harm	Describes the hydrological and geomorphological processes and attributes of surface water bodies. For example for rivers, hydromorphology describes the form and function of the channel as well as its connectivity (up and downstream and with groundwater) and flow regime, which defines its ability to allow migration of aquatic organisms and maintain natural continuity of sediment transport through the fluvial system. The Water Framework Directive requires surface waters to be managed in such a way as to safeguard their hydrology and geomorphology so that ecology is protected.
Internal Drainage Boards	An internal drainage board (IDB) is a local public body that manages water levels within their local area, known as an 'internal drainage district.' Working with key partners such as the Environment Agency and lead local flood authorities, IDBs are a fundamental part of managing flood risk and land drainage within England.
IDB precept	Payments from IDBs to the Environment Agency to reflect water moving from internal drainage districts into main rivers.

Internal Drainage District	Internal drainage boards (IDB) are public bodies which manage water levels in some areas where there is a special need for drainage. These areas are known as internal drainage districts.
Land Drainage Act	The legislation by which land drainage activities are undertaken. Land drainage in the UK has a specific and particular meaning as a result of a number of Acts of Parliament such as the Land Drainage Act 1991. In this context, land drainage refers to the responsibilities and activities of "internal drainage districts" and "internal drainage boards", both of which are specifically defined by relevant legislation.
Lead Local Flood Authority	The unitary authorities or county councils responsible for local sources of flooding. LLFAs also develop, maintain and apply a strategy for local flood risk management in their areas and maintain a register of flood risk assets. LLFAs are also responsible for regulatory activities on ordinary watercourses outside of an internal drainage district.
Local authorities	This term has been used in this consultation to reflect : County councils and unitary authorities District, borough or city councils
Local levy	Funding raised by county councils and unitary authorities via council tax and other council funding mechanisms. May be raised either from within existing budgets or by raising council tax.
Maintenance programme	An annual programme of maintenance activities which is developed and where appropriate published by risk management authorities. The Environment Agency maintenance programme is available on GOV.UK.
Main river	Main river means all watercourses shown as such on the statutory main river maps held by the Environment Agency and published on GOV.UK.
Ordinary watercourse	A watercourse that does not form part of a main river.
Ordinary watercourse consents	Ordinary watercourse regulation ensures that activities that might affect ordinary watercourses do not increase the risk of flooding on a particular site or further upstream or downstream and do not adversely affect the environment. Regulation consists of issuing consents for acceptable work and undertaking enforcement action to deal with unacceptable activities.
Permissive powers	Powers which confer on an organisation the right to do things but not the duty to do them.
Regional flood and coastal committees	RFCCs are committees established by the Environment Agency under the Flood and Water Management Act 2010 that brings together members appointed by lead local flood authorities (LLFAs) and independent members with relevant experience for 3 purposes: to ensure there are coherent plans for identifying, communicating and managing flood and coastal erosion risks across catchments and shorelines to promote efficient, targeted and risk-based investment in flood and coastal erosion risk management that optimises value for money and benefits for local communities to provide a link between the Environment Agency, LLFAs, other risk management authorities, and other relevant bodies to engender mutual understanding of flood and coastal erosion risks in its area.

Riparian landowners	Owner of property (i.e. land) alongside a natural watercourse. Under common law they possess rights and responsibilities relating to the stretch of the watercourse which falls within the boundaries of their property.
Risk Management Authority	Risk management authorities (RMAs) are the Environment Agency, internal drainage boards, lead local flood authorities, district and borough councils, coastal protection authorities, water and sewerage companies and highways authorities. The Flood and Water Management Act 2010 requires these Risk Management Authorities to co-operate with each other, act in a manner that is consistent with the National Flood and Coastal Erosion Risk Management Strategy for England and the local flood risk management strategies developed by Lead Local Flood Authorities and exchange information. They have flexibility to form partnerships and to act on behalf of one another.
Statutory main river map	A map that shows watercourses designated by the Environment Agency as main rivers. The Statutory Main River Guidance that can be found on GOV.UK sets out the basis on which the Environment Agency should decide whether or not a river or watercourse is treated as a ' main river '.
Statutory duties	The duties and functions that an organisation must undertake by law.
Watercourse	Includes all streams, rivers, ditches, drains, cuts, dykes, sluices, sewers (other than public sewers) and passages through which water flows.
Water Framework Directive	This Directive is European Union legislation that covers all inland and coastal waters. The Directive sets a framework which should provide substantial environmental benefits for managing water over the long term. River Basin Management Plans are developed and published in accordance with this legislation.
WFD objectives	<p>Water body objectives consist of two pieces of information: the status (such as 'good') and the date by which that status is planned to be achieved (for example, 'by 2021').</p> <p>The status part of an objective is based on a prediction of the future status that would be achieved if technically feasible measures are implemented and, when implemented, would give rise to more benefits than they cost. The objective also takes into account the requirement to prevent deterioration and, as far as practicable, the requirements of protected areas.</p>

**Would you like to find out more about us
or about your environment?**

Then call us on

03708 506 506 (Monday to Friday, 8am to 6pm)

email

enquiries@environment-agency.gov.uk

or visit our website

www.gov.uk/environment-agency

incident hotline 0800 807060 (24 hours)

floodline 0345 988 1188 (24 hours)

Find out about call charges (www.gov.uk/call-charges)



Environment first: Are you viewing this on screen? Please consider the environment and only print if absolutely necessary. If you are reading a paper copy, please don't forget to reuse and recycle if possible.