

# Appendix M Consultation responses

## **M1 Summary of 2016 PEIR consultation responses**

Consultee	Comments	Actions/responses
2016 Scoping Consultation		
	Consider additional bird surveys to determine timing constraints; September/October and November may be possible for works to proceed	Construction works to be undertaken outside the main season for overwintering birds.
	In-combination effects to be considered (i.e. maintenance and dredging of the River Parratt and Tone). Consideration of Agri-Environment Schemes.	The Proposed Scheme will maintain flexibility in operation of the flood relief channels and works will focus as far as possible on Environment Agency land. Potential impacts on Stewardship sites are scoped in for further assessment within the ES.
	Natural England's view is that an Environmental Statement should be produced to consider all potential environmental impacts during construction and operation of the proposed flood alleviation scheme.	Potential impacts on flora and fauna are scoped into further assessment within the ES. Enhancement opportunities incorporated into outline design Continue to involve Natural England in detailed design
	It will be important for the assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the 'in combination' effects of the proposed development with any existing developments and current applications. A full consideration of the implications of the whole scheme should be included in the Environmental Statement. All supporting infrastructure should be included within the assessment.	The ES will include an assessment of cumulative effects with other plans and programmes.
	Believe that impacts that may contribute to greenhouse gas emissions and loss of soil should be scoped in to the EIA. Consideration should also be given to carbon and peat soils management and impacts on versatile agricultural land.	The scheme will allow operation of the flood channel system as now, with no significant consequences for soil loss or land use –therefore not in scope of EIA. Scheme design will be subject to a carbon footprint analysis.

Consultee	Comments	Actions/responses
2016 Scoping Consultation		
RSPB	<p>Key concern regarding potential impacts on the Somerset Levels and Moors SPA, especially impacts on frequency/duration of short-medium sized winter flood events from the Sowey, including functionality-related areas, eg. Aller Moor.</p> <p>Consider the HRA a critical assessment document for determining impacts.</p>	<p>The full River Sowey and King's Sedgemoor's Drain Enhancements Scheme and the Proposed Scheme (Phase 1) will be subject to Appropriate Assessment.</p> <p>A package of improvement works to water control structures at West Moor, Moorlinch and Egypt's Clyce has been developed in conjunction with NE to mitigate for potential impacts on the SPA and functionally linked areas as a result of the full River Sowey and King's Sedgemoor's Drain Enhancements Scheme. These works will be delivered as a separate scheme in advance of completion of construction of the Proposed Scheme.</p> <p>The Proposed Scheme will maintain flexibility in operation of the flood relief channels</p>
Somerset Historic Environment Services	<p>The scheme is clearly very likely to have a significant impact upon known nationally important archaeological remains (both designated and undesignated). There will be a need for further field evaluation to fully assess the archaeological potential so that an informed mitigation plan can be developed and implemented.</p> <p>Advise that the mitigation required could involve a significant expense</p> <p>It would be practical to consider a methodology where the results of the evaluation can quickly feed into decisions about mitigation</p>	<p>Potential impacts on archaeological remains is scoped into further assessment within the ES. A programme of archaeological survey works has been developed in conjunction with South West Heritage Trust.</p> <p>Approach to further evaluation is proposed in this PEIR</p> <p>Continue to involve County Archaeological Advisor and Historic England in detailed design stage.</p>
Somerset Wildlife Trust	No comments received	N/A
Somerset County Heritage	No comments received	N/A

Consultee	Comments	Actions/responses
2016 Scoping Consultation		
South Somerset DC	No comments additional to the Scoping Consultation Letter provided.	N/A
Sedgemoor DC	Concern regarding impacts on over-wintering birds and aquatic invertebrates (SPA/Ramsar features). Impacts on water voles and potential bat roosts to be considered further.	<p>The full River Sowey and King's Sedgemoor's Drain Enhancements Scheme and the Proposed Scheme (Phase 1) will be subject to Appropriate Assessment.</p> <p>A package of improvement works to water control structures at West Moor, Moorlinch and Egypt's Clyce has been developed in conjunction with NE to mitigate for potential impacts on the SPA as a result of the full River Sowey and King's Sedgemoor's Drain Enhancements Scheme . These works will be delivered as a separate scheme in advance of completion of construction of the Proposed Scheme.</p> <p>Potential impacts on designated sites is scoped in further assessment within the ES.</p> <p>Water vole and ground bat assessment surveys have been conducted in 2019 and initial results are presented within Section 6.2 of the PEIR.</p>
	Need to consider scheduled ancient monuments and designated heritage sites.	<p>Potential impacts on heritage assets have been considered within Section 6.3 of this assessment, and where appropriate, scoped into further assessment within the ES.</p> <p>Potential impacts on archaeological remains is scoped into further assessment within the ES. A programme of archaeological survey works has been developed in conjunction with South West Heritage Trust.</p>
FWAG	The document appears to cover all the key environmental requirements associated with the proposals.	Initial consultation suggests little support from land owners for flood storage options.

**M2 RSPB response letter to 2020 PEIR and  
EA response**

15/04/2020

Dear William

**RE: Response to the Environment Agency's scoping report (Preliminary Environmental Information Report) for the Somerset River's Authority KSD/Sowey 'Phase 1' scheme.**

Many thanks for the opportunity for the RSPB to respond to the PEIR (scoping report) for the KSD/Sowey scheme. We have a number of observations / comments on the scheme that we would expect to see addressed in the required Environmental Statement so we appreciate the opportunity to flag them up at this stage.

**Environmental Impact Assessment alternatives**

We welcome the PEIR including consideration of alternatives as required by the Environmental Impact Assessment (Land Drainage Improvement Works) (Amendment) Regulations 2017 (the EIA Regulations), Schedule 1, para 2 but recommend that the EIA scoping report is amended to broaden its consideration of alternatives to the proposed approach (as set out in Chapter 3). In particular we would suggest that one of the alternatives considered should be what is known as a "whole floodplain approach". This along with all other alternatives considered, and the reasons for any not being explored further as a means to address the problem, will need to be clearly spelled out in the Environmental Statement.

The RSPB considers that a whole floodplain approach would better address the increasing risk posed by predicted winter rainfall volumes and intensities, by maximising storage capacities within the floodplain. By more effectively addressing necessary adaptation to climate change it could also help support Somerset Levels and Moors biodiversity interests.

**Habitats Regulations Alternative solutions**

Crucially, as the proposed scheme has been preliminarily assessed as having a significant negative impact on the integrity of the Somerset Level and Moors SPA and Ramsar site, the Conservation of Habitats & Species Regulations 2017 (the Habitats regulations) sets out the sequence of steps to be taken by the competent authority to authorise that project. Should it not be possible to conclude that there would not be an adverse effect on the SPA, Ramsar site or their features then the competent authority must be satisfied (amongst other requirements) that there are no 'alternative solutions' to the proposed works. It is therefore a legal requirement both under the EIA Regulations (as mentioned above) and the Habitats Regulations that a full assessment of alternative solutions (such as floodplain storage) are adequately made.

**Mitigation**

The high level assessment of mitigation measures as outlined in the Strategic Level Habitats Regulations Assessment (HRA) Stage 1 Assessment (Appendix A – page 101 of the PEIR) will need to be further developed as the detailed EIA and HRA work is undertaken. At present, understandably, they do not

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The RSPB is part of BirdLife International, a partnership of conservation organisations working to give nature a home around the world.

include the necessary detail for those assessments nor a delivery timescale. Therefore at this stage we cannot comment on whether these outline mitigation measures will be sufficient to avoid an adverse effect on the integrities of the SPA and Ramsar site and their features.

The Environmental Statement and associated HRA will of course provide this clarity e.g. over timings of the design and operation of the proposed mitigation works including operational water level targets for the moors where the mitigation works are proposed, along with delivery timescales indicating when these will be implemented. And we look forward to reviewing that detail once available.

We fully recognise the importance of mitigation proposals being capable of being ecologically, legally and financially secured for both EIA and Habitats Regulations requirements to enable decision makers to take full account of them in their considerations as to whether the mitigation proposed will make an effective contribution to avoiding harm i.e. their effectiveness is beyond reasonable scientific doubt.

We wish to add at this stage that due to the two sets of requirements and especially in the context of the Somerset Levels and Moors SPA/Ramsar site, it is important for the HRA to distinguish carefully between measures that are:

- Necessary for site management of the SPA/Ramsar site and their features i.e. to restore the features to favourable conservation status; and
- Mitigation measures: to avoid or reduce the possible harmful impacts on the SPA/Ramsar site and its designated features, such that there is no adverse effect on the integrity of the SPA/Ramsar site from the scheme, either from the plan or project alone or in combination with other plans or projects. These can be considered within the appropriate assessment (AA) but not before.

In addition we are concerned that currently mitigation proposed includes the provision of alternative habitats within the SPA. It is our view that key issues will need careful consideration before such measures can be considered as mitigation.

- Is the measure 'over and above' what is required for the sites' management taking account of the conservation objectives and the need to maintain (and if necessary restore) the favourable conservation status of the features and the site. If not, then the measure is required as 'necessary for site management' and cannot be taken into account as part of the appropriate assessment. If yes, then the HRA should provide clarity over how the mitigation measures deliver 'additionality'. Currently, the documentation provided in the PEIR implies that the 'mitigation' works are in fact measures necessary for site management with no clearly proposed 'additionality'.
- Secondly, if the proposed mitigation measures do deliver this 'additionality', do they also truly avoid or reduce the project's possible effects? If not, then the mitigation cannot be deemed as effective - but may be an appropriate compensation measure.

### **Impact on Environmental Land Management Scheme (ELMS) eligibility**

It is good to see that '*Changes in agricultural practices during construction and operation*' are within scope. However, we are concerned about how the proposed scheme may impact the eligibility of farmers and landowners within the Allermoor / Greater Kings Sedgemoor area for public goods payments within the Government's ELMS. Raising bank heights and increasing channel capacity reduces the likelihood of winter flood waters spreading onto floodplain land. Farmers and landowners who could have received essential public good payments for both reducing flood risk to communities and benefitting winter biodiversity interests may either become ineligible for these options, or have their potential for incomes

reduced e.g. through a reduction in the length of time water is retained on the floodplain. The Environmental Statement will need to clearly indicate how this scheme doesn't prejudice future scenarios for flood storage.

### **Impact on the lower part of the system**

With the outfall at Dunball Sluice tide-locked twice daily, the extra volumes of conveyed floodwater through the wider Sowy and embanked KSD will have no other outlet than onto the lower parts of the floodplain around Moorlinch / Sutton Hams. In periods of high river flows and high tides (as in the 2013-14 flood) the floodplain will inevitably fill up more rapidly in the lower end of the system. There is no specific reference in the PEIR document to the potential increase in flood risk in this part of the system - both to properties and infrastructure, as well as farmed land within the floodplain. This should be addressed in the Environmental Statement.

In the bird breeding season, the increased capacity of the Sowy and the resulting 'backing up' effect within the KSD and resulting overtopping of the north bank of the KSD has the potential for a significant negative impact on ground nesting waders and other species. Although neither a European protected site, nor a SSSI, land in this area at the Greylake Nature Reserve, supports in excess of 60% of all the SL&M breeding lapwing, and 80% of its breeding redshank, along with significant populations of breeding snipe, breeding cranes and Schedule 1 species Marsh Harrier and Bittern.

The impacts on these breeding bird interests should be fully addressed in the Environmental Statement especially as without alternative land under suitable management for these species nearby, a spring-time inundation here could cause nest or chick loss, reduce breeding productivity, and potentially lead to population declines.

The RSPB recognise that, due to climate change, the long-term future for this block of low-lying land is that it will transition towards a wetter habitat type, ultimately becoming unsuitable for breeding wading birds. We are therefore not objecting to the principle of bringing more flood water to the lower parts of the system but would like to see the flood risk increase spelled out in the Environmental Statement so that appropriate adaptive management can be undertaken in a timely fashion. In addition, if the scheme poses a significant and immediate threat to this suite of species, it should include an appropriate mechanism and approach to provide alternative nearby breeding sites (e.g. at Moorlinch SSSI or within the Sutton Hams area) managed specifically for the species at risk.

### **The RSPB's Support for the proposed scheme**

In the PEIR document, section 4 (Consultation), table 3, the RSPB is quoted as being supportive of the scheme. However at this stage it is not possible for the RSPB to express such support. It is worth adding that the outcome of the January 2020 meeting with John Rowlands was not '*agreement to support the scheme*' and during our attendance at the drop-in session at Aller Village Hall on 19/02/20 we voiced our concerns about the fact that a natural floodplain management approach was not being adopted, and that there were risks that this scheme may jeopardise the ability of landowners and farmers to receive flood-storage payments under ELMS.

Based on the information currently available (and we of course appreciate this is just the first stage of the assessment requirements) the RSPB is concerned the scheme will:

1. Have little long-term impact in helping reduce flood risk to properties and critical infrastructure;
2. Will cause significant lasting damage to the SPA/Ramsar site and their features; and
3. There is not yet a clear package of mitigation to avoid this damage.

We would welcome continued discussion with you as more information becomes available and should you have any questions due to our comments above please do not hesitate to contact us.

Yours,

*Damon J Bridge*

Damon Bridge

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1<sup>st</sup> June 2020

Dear Helen

**RE: Response to the Environment Agency's scoping report (Preliminary Environmental Information Report) for the Somerset River's Authority KSD/Sowy 'Phase 1' scheme.**

Thank you for your detailed consideration of the Preliminary Environmental Information Report that we received from you on the 7<sup>th</sup> May 2020. The comments and concerns raised are helpful to us as we finalise the Environmental Statement (ES) and Habitats Regulation Assessment (HRA). We hope we can arrange a telephone discussion (if it's not already been arranged) to talk through the points in more detail, but we wanted to reply to your letter now so that you have time to consider the information in advance. I note that some of what we are saying below is extra information to that provided in the PEIR. We accept that more can be included in the ES and HRA to make things clearer.

**Environmental Impact Assessment Alternatives**

The possibility of helping to manage floods by accessing additional flood storage has been investigated by more than one body over the last few years. The Somerset Rivers Authority (SRA) has already funded more than one initiative with the aim of trying to find practical ways to enhance flood plain storage options. At an early stage in the Sowy-KSD Enhancements project it was agreed that we would continue to keep storage options open alongside the engineering option of enhancing the Sowy-KSD channel. SRA paid RSPB to undertake discussions with around 40 landowners, looking for volunteers, but drew a blank. I refer to the final report produced by RSPB's Richard Bradford who concludes; "Most farmers can see little, if any, value of spreading, or temporarily storing, floodwater on the floodplains when it could be taken out to sea" and "Currently, there is little appetite amongst farmers for incentive payments to facilitate the temporary storage of floodwater on the floodplains. Most farmers felt this payment would be the "thin end of the wedge" and would give a reason for the drainage authorities to invest less in the maintenance of the rivers systems".

So our approach has been to try to gain extra capacity with acceptable engineered solutions alongside ongoing attempts to gain extra storage wherever we can. The SRA continues to fund projects such as Hills to Levels and Co-Adapt in the pursuit of more flood storage. It is not a case of Sowy-KSD or flood storage options – we want both.

I think it's helpful to note that increased flood storage is more likely to make a difference on managing small floods and give multiple benefits in doing so. But it's hard to see how more storage can make a noticeable difference to managing large floods such as we experienced in 2014. As an indication, our records suggest that the volume of water discharged down the Sowy-KSD corridor during the 2014 flood was around 8-10 times the volume that can be currently stored on the Sowy-KSD corridor. So the difficulty of finding a storage solution to better manage another 2014 flood cannot be understated.

To conclude this section, we will update our documentation to say

- The SRA and others has tried to find storage solutions but has failed so far;

- The SRA continues to fund and pursue storage solutions under Co-Adapt and other projects;
- Include a short appendix of completed and ongoing projects;
- Note that managing large floods by flood storage options does not seem viable.

### **Habitats Regulation Alternative Solutions**

Under the Regulations the need to look at further solutions is required if it is not possible to show that the proposed scheme will not adversely impact the integrity of the site. We believe the full project with “mitigation” measures will mean the integrity is not adversely impacted, hence there is no need to explore further alternative options at this point. We appreciate that there needs to be additional scrutiny on the package of measures which are vital to showing the integrity is not adversely affected.

### **Mitigation/Works necessary for Site management**

At an early stage in the Sowy-KSD project it was clear that it was difficult to distinguish between works required for site management (based on current conditions of management structures) and works to mitigate potential impacts of the Sowy-KSD project. Workshops were held (including RSPB staff such as Richard Archer) to develop a package of practical works. It became clear that if certain measures deemed necessary for management of the site were undertaken, then the potential adverse impact of the Sowy-KSD project was negated.

We understand that there needs to be more detail on the operational details that go alongside the provision of better water control structures. This is being worked on jointly by EA, IDB and NE, drawing on the experience of the most recent flooding earlier this year which was generally seen to be well-managed. We will share these extra details as soon as we have them.

Please note that as we move forward with enhanced structures and operational changes our approach is one of moving in increments, trialling where possible, then updating the more formal water level management plans.

This also applies to the Sowy-KSD scheme itself. It will be built over an extended period in phases to allow adaptation if required. The first phase largely comprises formalising banks to consistent levels and modest excavation of particular sections of the channel to produce a two stage channel or embayments as WFD enhancements. The first phase project and the proposed operational regime will need to be proven before further channel widening could continue. The impacts we have modelled and assessed are for this fuller project but we are not attempting that in one go.

### **Impact on Environmental Land Management Scheme (ELMS) eligibility**

We have the ability to increase flows into the Sowy under controlled conditions through operation of Monks Leaze Clyse at the take-off point of the River Parrett. So if there is any suggestion that farmers’ payments may be affected we can increase flows and overtop the new banks for a short while if required.

### **Impact on the lower part of the system**

We accept that the whole point of the project is to direct more water to the King’s Sedgemoor Drain and out to sea that way. We have already undertaken works to increase flow capacity in the KSD, clearing two bridges and removing part of an obstruction at Dunball. We are planning more bank smoothing work at Dunball too. For the bigger floods

we have the temporary pumping arrangement at Dunball Sluice. So we can discharge more water to sea now than we could in 2014.

We accept there will be occasions when it is unhelpful or damaging to use the enhanced Sowy-KSD to its full capacity. Ground-nesting birds is one reason, heavy rainfall on the lower system might be another. Our response will be to reduce the inflow to the Sowy at Monks Leaze Clyde accordingly for a day or two to manage the risks. EA operational staff are well used to adjusting our pumps and sluices during a flood to balance the risks. We agree the Environmental Statement should acknowledge the risk you have identified and the proposed means to manage it.

### **The RSPB's Support for the proposed scheme**

We did think we had RSPB's support for the Sowy-KSD scheme after the SRA had responded to requests to pursue floodplain storage as an additional approach, and because RSPB had helped shape the measures to avoid damage to the integrity of the site. We do understand your unease regarding the details and proof of satisfactory operation, though. I hope this letter, our planned teleconference briefing and our updated ES and HRA will enable RSPB to support the project.

Yours sincerely

Will

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