



Rationalising the Main River Network (RMRN): South Forty Foot Catchment De-maining Project - Consultation Response Document

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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.

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Foreword

We are committed to working with local organisations, landowners and communities to ensure the right organisations are managing the right watercourses. The 3 de-maining pilots that we consulted on in January/February 2018 are an important step in making this happen. We are a national organisation and our focus is on managing watercourses where the flood risk is greatest to people and property, therefore in some locations we are not best placed to lead and manage flood risk. Working with local partners such as internal drainage boards (IDBs) and local authorities (LAs) we want to ensure the right organisations are managing the right watercourses, supporting local decisions and actions.

We consulted on proposals to de-main 5 watercourses along a length of 16.8km in the South Forty Foot Catchment, Lincolnshire. In addition to comments from the pre-consultation engagement, we received 5 responses to the formal consultation.

The views and opinions expressed were varied and covered a range of topics such as future management and regulation of the watercourses, the environment and how maintenance works would be funded.

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

I would like to thank everyone who has taken part in the consultation and the preceding public drop-ins and meetings. Thanks is also given to Black Sluice IDB who are willing to take on the flood and water level management of these watercourses and provided their time and information to support the consultation.

Executive summary

The Environment Agency want to empower local communities, Internal Drainage Boards (IDBs) and Local Authorities (LAs) to take responsibility for their local flood risk where they want to, and where appropriate.

We have carried out a consultation on proposals to transfer the management of flood risk for the following sections of the following rivers from the Environment Agency to other risk management authorities (RMAs).

- South Forty Foot Catchment, Lincolnshire - to Black Sluice Internal Drainage Board
- Suffolk Rivers, Suffolk - to East Suffolk Internal Drainage Board and Suffolk County Council (LLFA) (some flood risk management activities will transfer to Suffolk Coastal District Council and Waveney District Council)
- Stour Marshes, East Kent - to the River Stour (Kent) Internal Drainage Board

This means re-designating these sections of river from Main River to ordinary watercourse – a process we refer to as de-maining. These sections of watercourse would then be regulated, and where deemed necessary, maintained by the IDBs and LAs listed against each watercourse above. We believe that this action would empower these IDBs and LAs, giving them the ability to manage these sections of watercourse and carry out works for the benefit of local people, where they see fit.

The South Forty Foot Catchment pilot proposes the de-maining of 5 watercourses (a total of 16.8km) in the upper reaches of the catchment. These are low consequence watercourses with little to no properties at risk, and Black Sluice IDB have expressed an interest in maintaining due to their land drainage role.

The consultation took place from 15 January until 12 February 2018 to get feedback from all of those individuals, groups and organisations who are affected by, or interested in, our proposals. The consultation set out all of the information on our proposals. It explained how the proposed sections of watercourse are currently managed and funded and provided details on future management and funding, if de-maining does or doesn't take place.

A total of 16 responses were received in total for all pilots, 5 of which were from the South Forty Foot Catchment consultation. We have now analysed the responses from the consultation.

This document provides a summary of the responses received and describes the next steps in the process.

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1. Introduction

1.1. Purpose of this document

The Environment Agency want to empower local communities, Internal Drainage Boards (IDBs) and Local Authorities (LAs) to take responsibility for their local flood risk where they want to, and where appropriate. We have carried out a consultation on proposals to transfer the management of flood risk in January and February 2018. The Environment Agency has reviewed all of the comments received during the consultation. Thank you to everyone who responded.

The purpose of this document is to:

- provide an overview of how we ran the consultation
- share a summary of the feedback received for the consultation questions
- present summary information on:
 - the number of responses submitted
 - the types of organisations that responded
- explain what will happen next.

1.2. What changes we are proposing and why

The Environment Agency proposes to transfer flood risk management activities for the following sections of river and assets to Black Sluice Internal Drainage Board (IDB).

- Ewerby Catchwater - 2.6km
- Northlands Dyke - 1.5km
- Horbling Catchwater, Horbling New Cut and Diversion - 5.2km
- Pointon Lode - 5.5km
- Atkins Cut - 2km

This will result in these stretches of the river being deleted from the statutory main river map. They will be re-designated as ordinary watercourses, a change we refer to as de-maining, and will then be managed, regulated and maintained by Black Sluice IDB.

We prioritise maintenance activities based on flood risk to people and property, and focus management at locations with high flood risk. This means that some main river watercourses, deemed at low risk of flooding, can suffer from intermittent funding. Where flood risk to people and property is low and we have willing partners, we can explore opportunities to transfer responsibility to manage, regulate and maintain a watercourse to other risk management authorities (RMAs) such as an IDB, lead local flood authority (LLFA) or district council, where appropriate to do so.

The sections of watercourse listed above have low levels of flood risk to people and property and are not associated with major rivers or major population centres. Therefore, we are proposing to transfer management, regulation and the power to undertake maintenance of these sections of watercourse to the IDB listed above. These sections of river fall within the IDB's District. The IDB 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. This is in line with the requirements set out in the Statutory Main River Guidance (please refer to the Appendices).

De-maining these watercourses would allow for local decision-making in how these sections of watercourse are managed to allow works to be carried out for the benefit of local people, where it is deemed necessary to supplement riparian owner maintenance responsibilities. Our permissive

powers to undertake maintenance would no longer apply to the sections of river and we would no longer regulate flood risk activities.

The table below details the responsible party for specific roles on the watercourses, both currently and if the proposed de-mainment goes ahead (see column headed 'Future responsibility').

Table 1: Current and future roles and responsibilities

Role	Current responsibility	Future responsibility
Overall responsibility for the flood risk management of the watercourse	Environment Agency	Black Sluice IDB
Regulation - issuing permits for works on near to the watercourse	To undertake any flood risk activities on the main rivers of the South Forty Foot Catchment, you must apply to the Environment Agency for a Flood Risk Activity Permit under the Environmental Permitting Regulations. The Environment Agency currently charges £170 for a single activity under a Flood Risk Activity Permit, with an additional £40 charge applied for each additional activity on the same application.	To undertake flood risk activities or works on the proposed de-mained watercourses you would need to apply for a Consent from the Black Sluice IDB (if they have chosen to issue byelaws to give them this power). This will cost £50.
Permissive power to maintain the watercourse	The Environment Agency has permissive powers to maintain the watercourse.	Black Sluice IDB would have permissive powers to maintain the watercourses. E.g. to access the banks to carry out maintenance of the watercourse and any associated assets. The EA would no longer have these powers.
General riparian (landowner) responsibilities	Riparian owners are responsible for stretches of the watercourse which fall within the boundaries of their property.	Riparian responsibilities would not change following de-mainment and transfer.

2. Feedback from public drop-ins

2.1 What we did and when

Ahead of the formal consultation, we ran a number of public drop in sessions in the local area. These were important to not only engage stakeholders, but members of the communities affected by these proposals. They were carried out in partnership with Black Sluice IDB, and allowed an opportunity for questions and comments to be raised ahead of the formal consultation.

Public drop-in sessions were held at:

- Rippingale Village Hall, 9 October 2017
- Billingborough Village Hall, 11 October 2017
- Helpringham Memorial Hall, 18 October 2017

The public drop-ins were advertised through a range of methods including:

- Letters and email invitations too relevant landowners and homeowners
- Invitations too key stakeholders such as parish and district councils, the LLFA and NGO's such as Natural England and Lincolnshire Wildlife Trust.
- Advertising on partner websites such as the National Farmers Union and the Association of Drainage Authorities.
- Posters in village halls, and postcard invitations given out at meetings and events in the area
- Social media, press release & MP briefing
- Attendance at various local meetings to verbally publicise the sessions (see section 2.3)

Information provided at the drop-in events included detailed maps of the watercourses, information on the project, leaflets on riparian ownership, flood risk and current maintenance regimes, and leaflets on Black Sluice IDBs policies and procedures. Environment Agency and Black Sluice IDB officers attended all events to answer any questions and provide a verbal update on the proposals.

2.2 Responses

Overall the feedback from the public drop-in sessions was positive, with support for the proposals moving forward to the formal consultation. Whilst most questions were general enquiries about the purpose of the project, some comments and queries of note are detailed below.

A number of enquiries were taken before and during the events on changes to rates and charges for land and homeowners. We reassured them that rates would not be affected as a result of this pilot project, and provided further information on how watercourse maintenance is currently funded. If the pilot project were successful, future funding of further tranches for de-maining would be considered on a case by case basis.

Many questions and concerns were not related to the RMRN project. This included issues on other watercourses and assets within the catchment such as reduced maintenance, structural changes causing flooding and areas of surface water flooding. We either responded to these questions on the day, or followed them up with a response to address any outstanding questions. Related to this, we also had enquiries about any impacts on navigation for boaters along the South Forty Foot Drain. We assured that there are no plans to de-main the South Forty Foot Drain, and it will continue to be maintained by the Environment Agency as a navigable watercourse.

Other queries during the public drop-ins were around clarifying what defines a main river, as a number already thought the watercourses noted in this pilot project were ordinary watercourses or drainage ditches. We were able to provide further information on this, including where to find out what classification watercourses near or on their property were. Comments from the written

feedback form showed general support, though respondents said they needed to find out more information on the proposals as part of the formal consultation phase before making a final decision.

2.3 Other engagement

In addition to the public drop-in sessions we attended a number of meetings and events, with Black Sluice IDB, to publicise the project. Feedback was positive overall, with a focus on queries and comments around funding of future tranches, confirming ownership of assets and ensuring the IDB are the competent authority to manage the watercourses.

- Environment Agency FCRM Directorate site visit, 25 July 2017
- Ministerial site visit, 3 August 2017
- South Forty Foot Catchment Steering Group meeting, 21 September 2017
- Northamptonshire Strategic Flood Risk Management Board, 26 September 2017
- Lincolnshire Flood Risk & Water Management Strategy Group meeting, 2 October 2017
- ADA Lincolnshire and Welland & Nene Joint Branch meeting, 19 October 2017
- Anglian Northern Regional Flood & Coastal Committee meeting, 20 October 2017
- Boston Christmas Market Environment Agency stand, 23 November 2017
- Environment Agency (internal) Team meetings, various dates

3. How we ran the consultation

We used the feedback from the public drop-in sessions, meetings and steering groups to help us finalise our final formal consultation proposals. A formal consultation on the proposals was then published online using our online engagement tool, Citizen Space, between 15 January and 12 February. Information on the questions asked and a summary of responses to these questions can be found in section 3 below.

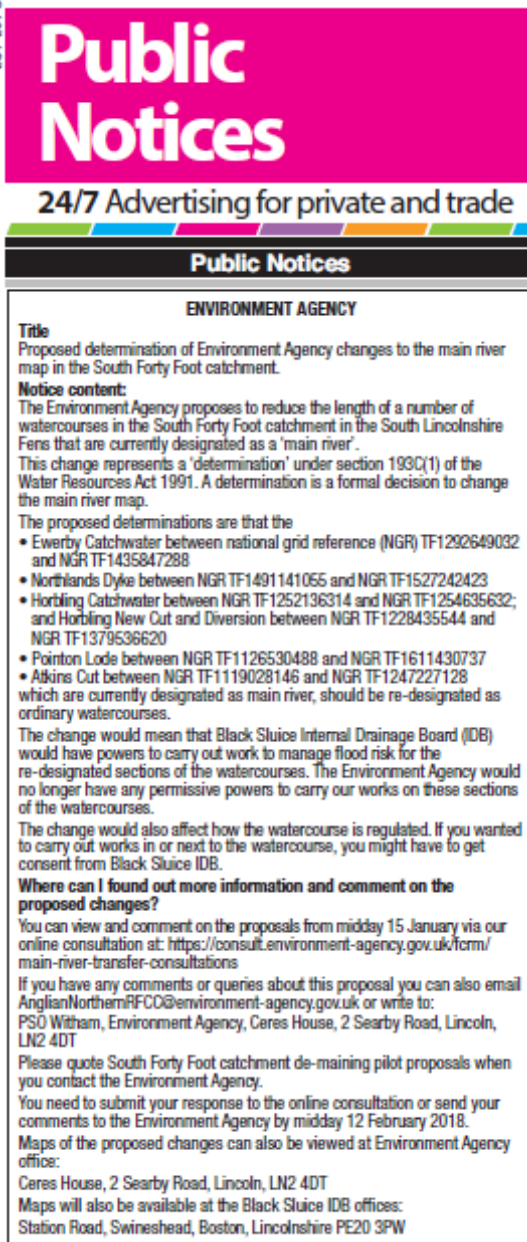
3.1 Advertising

The formal consultation was advertised in the following ways:

A Proposal for Designation Change Notice was advertised in the following newspapers:

- Lincolnshire Free Press
- South Lincolnshire Target

Both newspapers were weekly publications that covered the proposed watercourses for de-maining. They were in print for the week commencing the 8 January 2018.



Public Notices
24/7 Advertising for private and trade

Public Notices

ENVIRONMENT AGENCY

Title
Proposed determination of Environment Agency changes to the main river map in the South Forty Foot catchment.

Notice content:
The Environment Agency proposes to reduce the length of a number of watercourses in the South Forty Foot catchment in the South Lincolnshire Fens that are currently designated as a 'main river'.
This change represents a 'determination' under section 193C(1) of the Water Resources Act 1991. A determination is a formal decision to change the main river map.
The proposed determinations are that the

- Ewerby Catchwater between national grid reference (NGR) TF1292649032 and NGR TF1435847288
- Northlands Dyke between NGR TF1491141055 and NGR TF1527242423
- Horbling Catchwater between NGR TF1252136314 and NGR TF1254635632; and Horbling New Cut and Diversion between NGR TF1228435544 and NGR TF1379536620
- Pointon Lode between NGR TF1126530488 and NGR TF1611430737
- Atkins Cut between NGR TF1119028146 and NGR TF1247227128

which are currently designated as main river, should be re-designated as ordinary watercourses.

The change would mean that Black Sluice Internal Drainage Board (IDB) would have powers to carry out work to manage flood risk for the re-designated sections of the watercourses. The Environment Agency would no longer have any permissive powers to carry out works on these sections of the watercourses.

The change would also affect how the watercourse is regulated. If you wanted to carry out works in or next to the watercourse, you might have to get consent from Black Sluice IDB.

Where can I find out more information and comment on the proposed changes?
You can view and comment on the proposals from midday 15 January via our online consultation at: <https://consult.environment-agency.gov.uk/fcrm/main-river-transfer-consultations>

If you have any comments or queries about this proposal you can also email AnglianNorthernFCC@environment-agency.gov.uk or write to:
PSO Witham, Environment Agency, Ceres House, 2 Searby Road, Lincoln, LN2 4DT

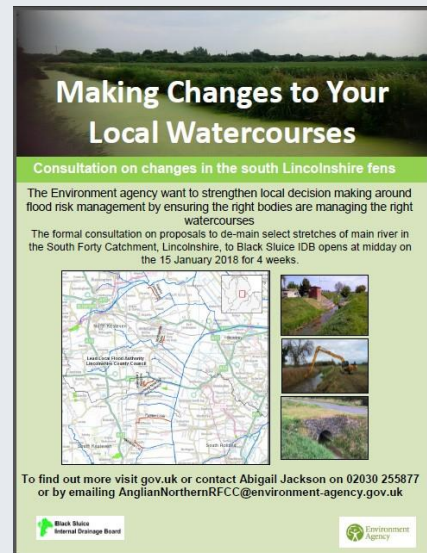
Please quote South Forty Foot catchment de-maining pilot proposals when you contact the Environment Agency.

You need to submit your response to the online consultation or send your comments to the Environment Agency by midday 12 February 2018.

Maps of the proposed changes can also be viewed at Environment Agency office:
Ceres House, 2 Searby Road, Lincoln, LN2 4DT
Maps will also be available at the Black Sluice IDB offices:
Station Road, Swineshead, Boston, Lincolnshire PE20 3PW

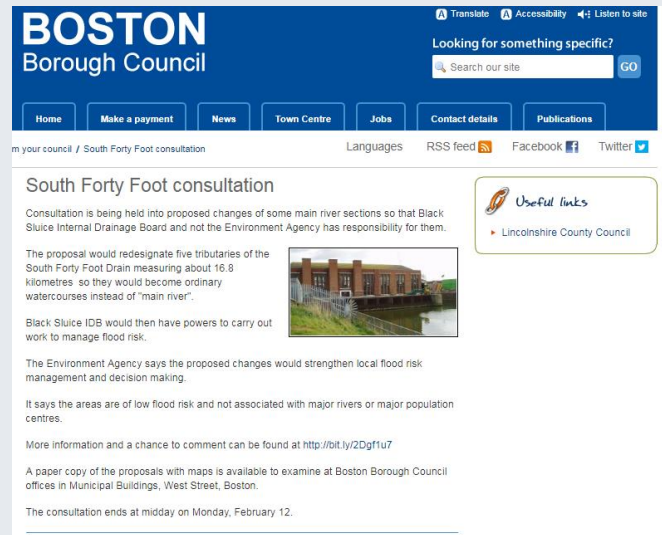
Posters were put up by officers or posted to recipients to display in the following locations:

- District Council Offices
- Lincolnshire County Council office
- Libraries in the vicinity
- Parish Council public notice boards
- Boston Barrier Community Hub
- Environment Agency offices
- Black Sluice IDB office



Information on the consultation was also uploaded to the following websites:

- Gov.uk
- Boston Borough Council
- National Farmers Union
- Country & Landowners Association
- Sleaford Standard
- ADA
- Country & Landowners Association



We sent out tweets on a weekly basis from the following accounts:

- @envagencymids
- @NrobinsonEA
- @SammacEA
- @NikkilovedayEA

They were re-tweeted by @BlackSluiceIDB



We also advertised the formal consultation in the following ways:

- Letters to all relevant landowners and homeowners (directly along the watercourse)
- Email to those who attended the public drop-in events
- Briefing note to all relevant MPs
- Email to all key stakeholders including Local Authorities, District and Parish Councils, local steering groups, Anglian Northern RFCC members, local Non-Government Organisations, NFU and CLA.
- Email to relevant Environment Agency officers to share with external colleagues and contacts

3.2 Other engagement

In addition to the advertising listed above, we also attended a number of meetings and events in the area to publicise the formal consultation:

- Boston Christmas Market Environment Agency stand, 23 November 2017
- South Forty Foot Catchment Steering Group meeting, 4 December 2017
- Lincolnshire Flood Risk & Water Management Strategy Group meeting, 15 January 2018
- Anglian Northern RFCC meeting, 19 January 2018

4. Summary of consultation feedback

This section covers the consultation responses submitted. Some of these responses were submitted online by answering the consultation questions. All responses to the online consultation (with approval to publish) can be viewed online:

https://consult.environment-agency.gov.uk/fcrm/south-forty-foot-de-maining-pilot-proposals/consultation/published_select_respondent.

Other responses were received via letter or email and although not always in the question format they have provided valuable feedback on the de-maining proposals. These responses are also available online.

We received a number of pre-consultation enquiries ahead of the formal consultation, asking for clarity on some of the information provided in the consultation material. These were from environmental NGOs, members of the public, and district and parish councils. They included questions around the source of funding in the future for the proposed watercourses for transfer and clarity on the LLFA's role in the proposals. There were also concerns over impacts on fishing rights on the South Forty Foot Drain. However, as this is a watercourse not proposed for de-maining, there would be no change.

We also received some informal support and comments on the proposals, including the extract below:

"[We are] fully on board with the de-maining proposals... We would like to see as much of the SFFD network maintainable by the IDB as soon as possible, provided the Board has adequate resources to do the work. No doubt the Environment Agency and IDB will work together to ensure that this is the case. Agriculture in this area is extremely important and valuable. It needs well-maintained land drainage to reduce the flood risk for farmland in the area to minimise crop losses and increase farm yields. The IDB is the local specialist that can ensure de-silting is effectively done in a properly environmentally sensitive way."

A total of 5 responses were received, all of which were supportive of the South Forty Foot Catchment pilot project proposals. However, there were also some important concerns and questions raised in addition to or to secure that support. These are summarised in the sections below based on the key themes raised, with responses given where applicable.

The word diagram below illustrates some of the key themes that were raised during the consultation.



Responses came from a variety of types of respondents from both pre-submission enquiries and the formal responses. These include:

- Lead Local Flood Authority
- Parish Council
- Environmental body
- Internal Drainage Board
- Landowner
- Farming association
- Recreational and commercial river user
- RFCC member

The following pages summarise the responses received by themes from the consultation. Where relevant, we have provided clarity on any questions or comments raised.

4.1 IDB as a competent authority

Overall, comments on Black Sluice IDB being the competent authority to take on the future maintenance of the proposed watercourses were positive. Responses to the questions concerning how the IDB would operate if the proposals went ahead were 'satisfied' or 'very satisfied', with some comments added in addition or as caveats to that.

Primarily these were focused on ensuring the IDB maintained the current standard of maintenance post de-maining and asset transfer. This included ensuring private banks were maintained by the riparian landowner and in an appropriate manner, and regulated in accordance with current legislation. This is to ensure that conveyance is maintained not only for watercourses associated with this project, but across the catchment.

You told us....

"We support the de-maining as long as the IDB have the same standards as the Environment Agency has had over the past years."

"...Black Sluice IDB is best placed to undertake future work and maintenance on these watercourses and believe this is a recognition of local management for local assets/issues where the scale is appropriate."

"If all goes to plan the IDB will most probably have to employ more staff to keep clean all the waterways. Will this be an issue?"

Our response...

An essential part of developing and piloting this new process of transferring responsibility to another RMA has been to carry out thorough assessments of the authority. We have worked in partnership with Black Sluice IDB to ensure they will continue to maintain the watercourses in their current state, and do more where possible. The IDB currently maintain a significant proportion of the ordinary watercourses in the South Forty Foot Catchment, and bringing in the 5 watercourses identified in this proposal will allow them to implement a more holistic, catchment wide approach to how they manage their systems. They already have consenting responsibilities, are experts in managing land drainage systems, and understand and implement environmentally sensitive measures for works they carry out.

In addition, we currently have a Public Sector Cooperation Agreement (PSCA) with Black Sluice IDB to maintain the vast majority of our main rivers in the South Forty Foot Catchment. This includes all those proposed for de-maining and transfer. A condition of the PSCA is that the IDB have sufficient resource (as well as equipment) to maintain additional watercourses. Therefore there will not be a need to employ further staff to account for these watercourses.

4.2 Asset maintenance and riparian responsibilities

As part of the de-maining process, any assets owned by the Environment Agency will be transferred to Black Sluice IDB along with regulatory responsibilities for the watercourse. We have also mapped assets owned by other authorities or private owners to ensure the IDB are aware of who is responsible for maintaining them post transfer. Some respondents have highlighted not only the ownership of assets, but the importance of riparian landowners maintaining watercourses on their land appropriately to maintain conveyance.

A further question raised was regarding flood risk assets specifically, and how we will work with Black Sluice IDB to ensure a coordinated approach to flood risk management in the area. Some specific areas of concern were noted by one respondent, such as a channel narrowing downstream and the condition of some culverts.

You told us...

"I do think that privately owned dykes should be kept clear of debris and farmers that neglect them should be made to clean them out or be fined. Funds can go towards the IDB fund for other maintenance."

"If the EA are to still regulate the gauging stations, the flood risk for the watercourse should still be monitored. Are they to report to the IDB?"

"Who are the owners of the culverts?"

Our response...

If the watercourses are de-mained, Black Sluice IDB will also take on the responsibility of consenting works on them. The IDB currently maintain a significant number of ordinary watercourses in the catchment and have the experience to carry out this role. In addition, they have a proven track record of working with riparian owners to ensure these watercourses are maintained to an appropriate standard.

Where there is monitoring equipment linked to the Environment Agency's flood warning service, we will work with Black Sluice IDB to ensure there is continued access to them. We will also continue to work together during high flow events to ensure the watercourses and assets on them are operated in a holistic way. We already have a watercourse in the area that is not a main river and maintained by the IDB which has monitoring equipment on it, and how we manage other equipment (such as on Poynton Lode) will follow the same process.

We will provide the IDB with a detailed information pack before de-maining which will include maps of all assets on watercourses and which organisation is responsible for them. In terms of Environment Agency ownership of assets (in particular culverts) we have carried out a thorough check of our records and are confident that the asset maps are correct. It is noticeable along all of the watercourses that the majority of culverts (as watercourse crossing points), are privately owned.. However, we will ensure that the records are checked again whilst we develop the information pack. If there are any amendments to the list of Environment Agency assets, we will inform Black Sluice IDB and the landowner and they will be included in the asset transfer process.

4.3 Funding

Overall, the questions around funding received positive responses of 'satisfied' or 'very satisfied'. Some comments were made relating to where the IDB would source funding for these watercourses, impacts on rate payers, and pre-funding to improve the watercourses before de-maining and transfer.

You told us...

"Incorporating these water courses into the BS IDB programme of works and funding mechanism is the most consistent approach to continue future maintenance."

"If funding is cut [post transfer for the IDB] what happens then? Where does the money come from?"

"The watercourse should be handed over to the IDB in a manner fit for purpose."

Our response...

Currently, the watercourses proposed for de-maining are funded through government Grant in Aid funding. One of the reasons for proposing these watercourses for de-maining is, as low consequence watercourses for flood risk to people and property, they have been subject to reduced maintenance funding in recent years and there is a risk this will continue or worsen in the future. By de-maining and transferring maintenance responsibility to Black Sluice IDB, the source of funding will move away from Government funding and instead be funded through the IDB's land drainage rate recovery and therefore not impacted by changes to Government funding. The IDB currently maintain a significant number of ordinary watercourses in the catchment, and over time will be able to bring them all into a more efficiently programmed and maintained system.

With regards to improvements to the watercourses before transfer, allocation of FCERM maintenance funding is based on a cost benefit approach prioritising those watercourses with higher flood risk to people and property if the programme is not fully funded. The watercourses proposed for de-maining have a low cost benefit in terms of risk to people and property, and therefore are at risk of not being fully funded in terms of maintenance work required. This would apply to any works carried out pre-transfer to Black Sluice IDB; therefore we are unable to spend more than is normally allocated on these watercourses. We have carried out detailed walkovers with Black Sluice IDB, and they are aware of any works that may need to be carried out after transfer. Where required, this will be incorporated into their future work programme.

4.4 If de-maining doesn't happen

The question around the situation where de-maining did not happen, and therefore the Environment Agency would retain permissive powers for the watercourses as main rivers, received mostly positive comments. There was one respondent who was dissatisfied due to concerns around the future funding of these low consequence watercourses.

You told us...

"The watercourses are currently maintained on low levels of finance which has led to obstructions/obstacles either growing or being illegally placed along the banks or within the watercourse. This could continue if the de-maining does not go ahead which will further increase the possibility of localised flooding."

"... If these circumstances changed [and minimal routine maintenance was not carried out by EA] and funding ceased we would wish to see a collaborative approach to resolving any future issues based on the principles of this de-maining process and that of the Lincolnshire Flood Risk approach to works being delivered by the body best placed to do it."

Our response...

If de-maining and transfer of maintenance did not go ahead, we would continue to maintain the watercourses at the current level of funding where possible. However, FCERM funding is allocated on a benefit to cost ratio approach. This means that, as low consequence watercourses, there is a risk the 5 main rivers identified in this pilot project (and other low consequence watercourses) may be subject to a decrease in funding to carry out maintenance works. Whilst this would not impact our flood incident response role, it would impact the amount of work we carry out on watercourses where people and property are not at risk.

If we were to significantly reduce maintenance or stop altogether, we would engage with relevant landowners and homeowners in advance of changes. We would also work with our local partners to understand and (where feasible) implement other options utilising existing frameworks to limit the impact of reduced funding and maintenance.

4.5 Protecting the environment

The importance of maintaining the current standard of protection for the environment has been highlighted throughout this project, including the formal consultation. Mostly these are comments around protected habitats and species, appropriate maintenance techniques and a suitably timed schedule of works; but also applying a whole system approach to ensure all watercourses in the catchment work efficiently and effectively with multiple benefits.

We have also received important local information on the South Forty Foot Catchment, in particular non-designated nature sites, habitats of particular importance, recommendations for maintenance methods and potential measures or schemes that could be carried out to enhance the environment.

You told us...

"The IDB have always kept the sub-waterways clear - as long as they can work to maintain this and the EA can keep the [South] Forty Foot Drain cleared and at a constant level to allow the [Pointon] Lode to drain all should work correctly."

"BS IDB have measures in place to deal with environmental factors within its own catchment..."

"We recognise the aims and efforts outlined by BS IDB in their BAP and positive environmental management of watercourses and wetlands when carrying out their statutory functions, annual maintenance programmes and capital works projects."

"It states [in the consultation document] that "most protected [habitats and species] are not specific to a watercourse proposed to be de-mained". Does this mean that some habitats and species might be specific to these watercourses?"

"...'advice on maintenance in the area will be provided in a detailed information pack.' Is this information pack available to the general public?"

Our response...

As part of this pilot project we have liaised with key internal teams to fully understand the watercourses proposed for de-maining. This includes finding out about species or habitats recorded in the area, mapping of designated sites, Water Framework Directive status and actions, and how the current maintenance regime is beneficial to a whole system approach. We have also carried out detailed walkovers of all the watercourses, noting any species or areas of interest/sensitivity. Key environmental organisations have also been closely involved with the project to ensure all aspects have been considered.

This information, plus recommendations for additional measures, methods or conservation projects, will be detailed in a formal Information Pack that will be given to Black Sluice IDB following de-maintenance and asset transfer. We will continue to work with Environment Agency colleagues to produce this pack, as well as partner organisations such as Natural England and the Lincolnshire Wildlife Trust.

From meetings with our internal biodiversity specialists, surveys and works carried out by Black Sluice IDB themselves we know that there are a number of protected species that have been recorded in the area and, likely, can be found in some of the watercourses for de-maining. For example, water vole, eels and otters. Rather than assume they are not present, we (and the IDB) will take the approach that they are present or, if not, could be if the watercourses were maintained to encourage them. As part of the information packs for the transfer, if there are official records at specific sites of species or particular habitats this will be detailed with guidance on how to carry out future maintenance.

The Information Pack is primarily for the IDB and will not be made publicly available. However, should there be a request to see it we would be happy to share it on a case by case basis.

4.6 Future proposals

Whilst only one respondent noted a comment on future de-maining proposals, it was a question asked in a number of pre-consultation enquiries.

You told us...

"... Future schemes of this nature - as in this case - should be developed in consultation with all partners, to ensure co-ordination within the framework of the Local Flood Risk Management Strategy..."

Our response...

If this pilot project is successful, and de-maining and transferring responsibility to another RMA is approved for continued application, we will consult with partners and communities on any future proposals. We foresee this approach as being one of a suite of options for managing watercourses on a catchment basis in the future, finding more efficient and effective ways to carry out work to benefit a range of users.

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 5.3) 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 and provided us with an email address. Anyone can challenge the decision to de-main by email or in writing to Department for Environment, Food and Rural Affairs (Defra) within 6 weeks of the publication of the Notice.

6. Appendices

6.1 List of consultation participants

Lincolnshire Wildlife Trust
Black Sluice Internal Drainage Board
Local Landowner
Pointon Parish Council
Lincolnshire County Council

6.2 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 Black Sluice IDB for their contributions and support in developing our consultation proposals.

We would also like to thank Boston Borough Council, ADA Lincolnshire Branch, Anglian Northern RFCC, National Farmers Union, and Country and Landowner Association for helping us to advertise and promote this consultation.

We would also 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 South Forty Foot Catchment 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 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>

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