

Environment, Development and Transport Committee

Item No.

Report title:	The Environment Agency's Rationalising the Main River Network (RMRN) Pilot Project
Date of meeting:	18 May 2018
Responsible Chief Officer:	Tom McCabe – Executive Director, Community and Environmental Services
Strategic impact Norfolk County Council, as Lead Local Flood Authority, has the permissive powers to regulate ordinary watercourses outside of Internal Drainage Board Districts, under the terms of the Flood and Water Management Act 2010, Land Drainage Act 1991 and Water Resources Act 1991. The Environment Agency proposes to re-designate several stretches of Main River as Ordinary Watercourse, as part of a pilot project to establish a process for 'de-maining'.	

Executive summary

The Environment Agency (EA) are proposing to transfer the management of flood risk for several stretches of Main River within Norfolk. To do this, the stretches will be re-designated from Main River, to Ordinary Watercourse.

Following this re-designation, in areas outside of Internal Drainage Districts, Norfolk County Council (as Lead Local Flood Authority), and the relevant District/Borough council will become the new Risk Management Authorities for each watercourse, with the permissive powers for regulation, and works (including maintenance), respectively.

Recommendations:

Members are asked to make a decision as to whether NCC support the EA's Rationalising The Main River Network (RMRN) pilot process, by deciding whether to approve the EA launching a formal public consultation, and whether to approve in principle the proposal to 'de-main' the Main Rivers listed in section 1.

Options for de-maining approval:

1. Agree in principle, pending the outcome of the formal consultation and subject to confirmation by the relevant District Councils, to support the de-maining of each watercourse.
2. Postpone the decision on NCC support for the de-maining proposals until Districts have expressed their views to the EA.
3. Do not agree with the de-maining proposals, irrespective of the outcome of the formal consultation or the confirmation by the relevant District Councils.

1. Proposal

- 1.1. The Environment Agency (EA) are proposing to transfer the management of flood risk for several stretches of Main River within Norfolk. To do this, the stretches will be re-designated from Main River, to Ordinary Watercourse, a process known as de-maining or de-mainment.

The EA are seeking NCC approval to commence a formal public consultation, as

well as NCC agreement in principle to re-designate these Main Rivers as Ordinary Watercourses.

As the watercourses would no longer be Main River, these watercourses would no longer be regulated by the Environment Agency under the Environmental Permitting Regulations.

For areas outside of an Internal Drainage Board's (IDB's) Internal Drainage District (IDD), the newly designated ordinary watercourses would instead be regulated by Norfolk County Council (NCC) as Lead Local Flood Authority (LLFA) under the terms of the Flood and Water Management Act 2010, Land Drainage Act 1991 and Water Resources Act 1991.

Permissive powers to undertake works to manage a flood risk from the newly designated ordinary watercourse (including maintenance) would transfer from the EA under section 107 of the Water Resources Act, to the District Council under section 14 of the Land Drainage Act.

For watercourses de-mained within an IDD, the IDB would have the permissive powers for both regulation and works on the newly designated Ordinary Watercourse.

Based on the legal complexities around the Water Framework Directive (WFD) and Byelaws for environmental protection, the EA are proposing to take forward 4 watercourses as part of the RMRN Pilot for formal consultation in summer 2018.

These watercourses are:

Watercourse:	Total Length (km):	Receiving Bodies:	Local Authorities:
River Hun	7.0	Norfolk Rivers IDB (4.5km) and Local Authorities (2.4km)	NCC (LLFA) and Kings Lynn and West Norfolk Borough
River Tud	25.4	Norfolk Rivers IDB	-
Tunstall Dyke	1.4	Broads IDB	-
Waxham Cut	4.4	Broads IDB	-

The majority of the lengths of these watercourses fall within the Internal Drainage District.

The EA will then look to take forward the remainder of the Norfolk watercourses, outlined below, at a later date.

Watercourse:	Total Length (km):	Receiving Bodies:	Local Authorities:
River Blackwater	12.7	Norfolk Rivers IDB (0.3km) and Local Authorities (12.3km)	NCC (LLFA) and Breckland District
Spixworth Beck	13.6	Norfolk Rivers IDB (7.5km) and Local Authorities (6.1km)	NCC (LLFA) and Broadland District
River Stiffkey	11.0	Norfolk Rivers IDB (5.7km) and Local Authorities (5.2km)	NCC (LLFA) and North Norfolk District
Stone Beck	6.8	Norfolk Rivers IDB (0.5km) and Local Authorities (6.2km)	NCC (LLFA) and Broadland District
River Tiffey	3.9	Norfolk Rivers IDB	NCC (LLFA) and South

		(1.0km) and Local Authorities (2.9km)	Norfolk District
Wendling Beck	20.2	Norfolk Rivers IDB (15.9km) and Local Authorities (4.3km)	NCC (LLFA) and Breckland District
River Whitewater	9.4	Norfolk Rivers IDB (7.8km) and Local Authorities (1.5km)	NCC (LLFA), Breckland District and Broadland District

2. Evidence

- 2.1. Appendix 1 is a report summarising the proposals, which has been provided by the EA.

3. Financial Implications

- 3.1. If these stretches of Main River were to become Ordinary Watercourse, NCC would be able to access permissive regulatory powers under the Land Drainage Act 1991.
- 3.2. EA data shows that 15 consents have been sought across the entire 115km of Main River in the Norfolk area proposed for de-mainment since 2013. If this volume of requests were to continue, it is estimated that this would require some 24 hours in officer time per year. Each consent application currently carries a cost to the applicant of £50.

4. Issues, risks and innovation

- 4.1. On the 1st September 2017, officers informed the EA that the Council had no objection to them instigating informal public engagement in the form of public drop-ins, subject to the confirmation that District Councils supported this informal engagement. Officers were clear that the approval to commence informal public engagement did not constitute agreement for the EA to commence a formal public consultation, nor did it constitute an agreement (in principle or otherwise) to transfer these watercourses to NCC as the Lead Local Flood Authority (LLFA).
- 4.2. In September 2017 the EA confirmed that they did not require NCC or District Council consent to begin the informal public sessions.
- 4.3. As of March 2018, the EA have not been informed of the position of the District Councils for each proposed watercourse. The EA are seeking approval from each of the District Councils and will be working with the IDB to secure this approval. All approvals from Risk Management Authorities will be in place prior to advertising formal consultation.
- 4.4. The EA is the competent authority for the implementation of the Water Framework Directive and must ensure that the proposals do not jeopardise the achievement of the objectives of the Directive or are likely to result in waterbody deterioration. In relation to de-maining, the EA needs to be convinced that the objectives of the Directive and the risk of not meeting the expected status are not compromised. This issue can be complex based on issues including the watercourse objectives, mitigation measures and standards of protection e.g. appropriate bye-laws being in place and the use of best environmental practice when planning and undertaking flood risk activities. WFD requirements as they apply to a particular watercourse will be assessed on a case by case basis depending on the river's classification, stated objectives and actions identified within the relevant River Basin Management Plan.

All watercourses proposed for de-maining by definition fall under the protection of the FCRM Environmental Permitting Regulations, which take a risk based approach

