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*(Please quote this reference on any correspondence)*

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## Draft Anglian Updated River Basin Management Plan 2015; Response to Consultation

This response to the above Consultation is written on behalf of the Middle Level Commissioners (MLC) and our administered Internal Drainage Boards (IDBs), which are listed in the Schedule to this response. Both the Commissioners and all of the IDBs are situated in the Anglian River Basin District and this response is therefore to the Consultation on the Draft Updated Anglian River Basin Plan. The writer is also a member, representing the IDB Sector, on the Anglian River Basin Liaison Panel and the more general comments on the Draft Plan are also made in that capacity as a Sector representative.

Overall, we found the documentation produced in the consultation and the constant references to other sources of information confusing and not straight forward to read or obtain relevant information from. As this response is written on behalf of bodies which are directly concerned with the water environment and manage water bodies, we wonder how difficult the lay reader would have found it to engage with the process.

We are disappointed to note that the artificial landscape of the Fens of East Anglia is not singled out for appropriate special consideration/reference as the landscape scale of the artificial drainage works does, in our view, require a different consideration to that given to the more limited artificial/heavily modified water bodies situated in other parts of the country. It is also disappointing to note that no progress appears to have been made on the designation of the Fen water bodies as a water body type in their own right, as it was clear from the discussions at the time of the 2009 Plan that such water bodies do not fit comfortably among the other classes.

We were also disappointed to see that the two entirely separate catchments of the Old Bedford and the Middle Level have been amalgamated into one single operational and management catchment. The two catchments do sit side by side but have very little water body connection and should be regarded as distinct areas and not comprised within the same catchment for WFD purposes. Given that the Ouse Washes form a significant part of the Old Bedford catchment and their importance and conservation status, they would naturally dominate discussions, to the perceived detriment of the Middle Level area, if the catchments continued to be regarded as combined.

The River Basin Plan is expressed to give a “measure of certainty” about the future objectives for water management. However, the Plan contains only broad descriptions of generic national

measures and the absence of local measures detailed within the Plan does not lead to such certainty. This has a clear knock on effect on other issues, such as the level of ambition shown within the Plan. Without detailed local discussion and assessment of measures, impacts and costings with local partners, a meaningful response to this section of the consultation is impossible. It is also therefore unclear from the very generalised national documentation, as to where the impact and costs of any proposed measures would fall and which Sectors would be considered as responsible for delivery.

In the absence of such measures and, in this area where artificial watercourses predominate, the consequent inability to properly assess the impact of proposed mitigation measures, the impact of the Plan and whether it is appropriate cannot be judged. While a broad level of agreement can be stated to the national level measures contained in the Plan, the absence of local detail and impact does mean that the correct assessment of a particular measure on a particular water body cannot be determined. It is regrettable that these local measures and the cost/benefit analysis have to be obtained elsewhere and could not be discussed at an early stage and that therefore it remains unknown whether the local measures are or can be made cost effective/technically feasible/proportionate. While reference is made to the Defra report on the affordability of measures across Sectors, we are not aware of any assessment of impacts on the IDB Sector. We are also not aware of any real assessment of the general impacts on our Sector. This therefore makes the Table (Table 9) of local Anglian measures a little surprising and it is difficult to understand the basis and the evidence on which such a Table has been prepared. It is certainly worth making the point that, so far as the IDB Sector is concerned, it is unlikely that any funding will be available for measures additional to the work which, within this period, the IDB were already programming to undertake. I am also generally concerned that the IDB Sector, while represented within this and other River Basin Districts, is still not properly regarded as a national Sector body, with the regrettable consequence that we sometimes have to work harder for some information, given more freely to others and are excluded from some discussions. It is to be hoped that future consultations will remedy this shortcoming.

It is worth once again emphasising that the artificial drainage infrastructure of the East Anglian Fens also protects a large number of houses, utilities, transport links etc. While the importance of agriculture in providing a level of food security must not be overlooked, the dependence of these other uses on that infrastructure must also be fully appreciated. It is also noted that, in Table 1, the role of an IDB as a regulator appears to have been omitted. The difference between “canal” and “river”, in referring to an artificial watercourse needs also to be clarified as does whether, once the water body is determined as artificial, this distinction is of any real import.

We are a little surprised by the references to Invasive Species (INNS), since we consider that, locally, and, indeed, country wide, the impact of INNS, both flora and fauna is a significant issue and one that is likely to increase in importance over the period to 2027. We consider that greater emphasis needs to be placed on this area which is likely to lead to significant problems for water bodies of all types, particularly when climate change is taken into account.

## Turning to Part 2 of the Consultation Documents

Paragraph 2.2.2 refers to the responsibilities of Lead Local Flood Authorities (LLFA). There does, however, appear to be some confusion here over the local Strategy, which will apply to the sources of flooding listed and the works powers of the LLFA, which are more restricted.

We note that the Swavesey Drain is not designated as Heavily Modified or Artificial. We would query this. We would also query whether an assessment has been done of the effect on the water body of the proposed increase in discharge from the STW at Uttons Drove to Swavesey Drain, caused by the developments at Cambourne and Northstowe.

The MLC waterbodies have been designated as artificial, which is agreed. However, the requested consultation on measures applicable to the local environment and water bodies did not take place until just before the submission of this response and therefore almost at the end of the consultation period. While, as a result of this discussion and the work of the local team, we feel comfortable about the local measures proposed and their impacts, we are unclear whether other members of the IDB Sector have also been similarly consulted with. We understand however, that the Plan will now contain only measures which are locally specific, lead to elemental (or status) improvement and have certainty of funding. It is also clear that concerns remain over mitigation measures. This is particularly true, given that the mitigation measures can only here apply if they do not substantially affect the designated use of an artificial or heavily modified water body. In this River Basin District, the Agency and the IDB Sector have established a Fenland Good Ecological Potential Group, charged with considering possible mitigation measures and we would support the future work of this Group. We do however, consider that the EA should have made all of the information relevant to the 2015 consultation available at a much earlier stage. While the local position is as set out above, we would record that we found it difficult to comment on the economic impact of measures. It is noted that decisions on affordability were due to be informed by a Defra project due to report in December 2014 but we are not aware of the outcomes of this study. Ironically, while the 2009 Plan was criticised for listing the individual water body measures and being therefore large and unwieldy as a result, it did in fact make the relevant information easier to obtain.

It is noted that in the table within paragraph 3.1.4, a disproportionate burden is confirmed as one where the only solution would be significantly at odds with the polluter pays principle. While the identity of a polluter in a given situation will often be known, this will not always be the case with the status under WFD. In addition, there is a concern that activities which would not ordinarily be considered as polluting would be regarded as such under WFD. It is regrettable that the consultation does not set out a clear proposed definition of “polluter” in this regard, which can be commented on.

In paragraph 3.1.4 iii it is mentioned that the reasons for permitted new modifications or sustainable human development activities “must be specifically explained in the river basin management plan.” It is, however, unclear where this will be done.

In Stage 1 of the Planning Cycle, in paragraph 3.2, it is presumed that consideration will also be given to elemental failures, since it may be possible for these to be more readily rectified. We consider it important that sight is not lost that it may be more beneficial to spend funds securing elemental improvements across a water body or area than to concentrate on moving a water body to a higher status class.

3.3.1 refers to the National Liaison Panel. It is regrettable that outputs from this Panel have been both sparse and intermittent and that no clear indication is given of the work which this Panel has undertaken.

Paragraph 3.6 refers to the full costs of water and sewerage services being recovered from the service users. This is however, patently not the case and the impact and cost of dealing with discharges from sewers and sewage treatment works, particularly on artificial river systems which require pumping has too often fallen on the body/person responsible for that watercourse, rather than on the service user. It would therefore be helpful for the present consultation to have sought to address this deficiency and to ensure that full account of this issue was taken in the economic analysis undertaken. We note that, in Table 6.4, reference is made to improving treatment at sewage treatment works as benefitting natural flow and level of water. We support this recognition of the quantity related issues. We also note the reference to the removal of exemptions to water abstraction licensing. However, there does not appear to be a measure to assess the impact if the proposals by the Agency lead to decisions not to apply for the envisaged transfer licences.

It is noted that the map in paragraph 4.1, while of the River Basin Districts, does not show main river in this area correctly. The reference in this paragraph to management and operational catchments is noted. However, as we have noted, we do not agree with the joining together of the Old Bedford and Middle Level catchments.

In paragraph 4.1.1, reference is made to surface water body types. At the time of the 2009 Plan, we did make reference to the fact that the artificial fen water bodies fitted into none of the groups and that a new classification of such lowland water body should be created. It is regrettable to note that no action appears to have been taken as a result. This leads to issues with the table in paragraph 4.2.3.v, where the checking of heavily modified or artificial water bodies is undertaken by reference to flow conditions. Many of such bodies, particularly in the Fens, have no flow unless pumped. There are, of course, strictly no reference conditions for artificial water bodies.

Paragraph 4.3 refers to changes since the first cycle in 2009. In this area, of course, a number of major errors were then made in the identification of the water bodies, with incorrect descriptions, attributes and names being used and, in some cases, water bodies being designated where no water body at all actually existed on the ground. While we recognise the significant work undertaken by the local EA staff to correct such errors in this consultation, the 2009 situation does, in our view, make it impossible to relate the water bodies and their conditions, as currently designated, to the water bodies, conditions and measures listed in 2009. In our view therefore, any assessment of current and projected condition by 2021 must bear this in mind and we do not consider that any status or target for such bodies should be set which does not take full account of the previous situation. Indeed, so serious were the errors that we believe that the base values set in 2009 should be wholly disregarded and the 2015 condition now used as a revised base value. A number of these water bodies have no accurate monitoring data from which a prior assessment of their condition can be made. We would therefore consider that any suggestion that such bodies should simply have the default objective of “good” would be inappropriate and that status objectives should therefore be informed only by the now current condition and default objectives not set unless they can be independently justified. We would entirely agree with the views of the local Catchment Partnership in that the assignment of such objectives would be likely to have a negative impact on reporting and raises issues about the availability of funding where a proper assessment has not been made.

Alternative objectives should therefore be set for such bodies. Equally, reference is repeatedly made to “good status” without apparently recognising that Artificial/Heavily Modified Water Bodies only need to achieve Good Ecological Potential.

Paragraph 4.4 v; we totally agree, as previously stated, that INNS are a significant threat and consider that, if anything, this threat has been underplayed in the Consultation. We understand that proposed local projects aimed at INNS have been rendered ineligible for funding because national monies are available for this but are unclear where such funding is or how much is available. The references in Table 6.4 to the implementation of the updated GB Strategy and the EU regulation on Invasive Species shows neither of these to be funded. We note the entry relating to crayfish at stage 3 of the identifying measures and objectives process. We do, however, wonder why this is the only species referred to.

Paragraph 4.4.viii it is regrettable that no reference is made, in this paragraph, to the development of the important biodiversity within the artificial rivers of fenland, the importance of which has been favourably commented on in a number of reports and studies.

It is difficult to give a view on the level of ambition within the Plan or whether the economic appraisal is in the right area. If our information, as stated above, on the contents of the Plan is correct, it is clear that the practical levels of funding available have governed this ambition.

The consultation also requests answers to a number of questions. We would therefore formally answer the questions posed:-

**1 Do you agree with the proposed changes to the river basin district and catchment, water body boundaries and artificial and heavily modified water body designations?**

We are content that the general changes to the Middle Level water bodies, to correct the errors in the 2009 Plan, seem correct. We are, however, concerned with the way that the Tidal River has been considered and would wish to see that a consistent approach has been adopted which is applicable to tidal waterways elsewhere and that the now proposed way of dealing with the Tidal River does not lead to issues arising within the Middle Level and Old Bedford catchments not being addressed. The Hundred Foot /Tidal River forms an important influence on these catchments and cannot, in our view, be simply divorced from them. We do agree with the designation of the Middle Level area as a single water body but, while we appreciate the reasons behind the splitting of the Counter Drain/Old Bedford into separate lengths, these again do need to be dealt with consistently as they do effectively form one watercourse. We do, however, still question whether the proposal to divide the Counter Drain/Old Bedford on the basis of the IDB pumping regimes is the right course, since the flood regime within the river is governed, either largely or along its whole length, depending on the Agency's operation of the Welney Gate, by the operation of the Agency's Welches Dam Pumping Station. This provides a clear link between the sections of that water body.

**2 Do you agree with the objectives proposed for water bodies and protected areas?**

We would DISAGREE in so far as such objectives have been set without full information being available. We could not support a default objective of good for a "new" water body which has no accurate monitoring data to otherwise justify such an objective. We would, however, fully support measures to reduce the impact both in terms of quality and quantity of discharges from sewage treatment works and from nitrates, whether produced as a result of agricultural activities or elsewhere.

**3 Where flexibility exists, should the priority be maximising the number of water bodies at good status or improving the worst water bodies.**

We would consider that the available funds should be spent where they will provide most benefit, as funding for all improvements will no doubt, not be available. We consider therefore that money would be best spent on raising appropriate elemental standards, even where this will not alter the status of a water body and that more publicity should be given and reference in reports made to measures that will lead to an overall improvement in the body, even though it may not change its overall classification. In these local catchments, where no water body appears to be classified as having a condition below moderate, we would agree with the comments of the local Catchment Partnership that there might be a temptation to expend resources on water bodies classified as poor or bad which would divert funding from this area; whereas expenditure on failing elements might produce a greater overall benefit.

**4 Do you agree the correct measures have been identified?**

The Documents, while listing "measures", do so at a national level so as to make it impossible to say whether these measures will be applicable to local water bodies. It is regrettable that a belated consultation has taken place at a local level to discuss such measures, the way that they have been appraised and whether they are cost beneficial and can be delivered. Clearly some of the measures outlined nationally will be applicable within the local area but, as regards the local area, while we have no objection to the measures proposed, this is a different question to one asking whether the correct measures have been identified and we cannot be sure in this respect.

In the Anglian Central RFCC area and therefore, within the two Middle Level and Old Bedford Catchments, the new local choices precept arrangements ought in time to be of some assistance in enabling works to be undertaken on main river water courses important to the IDB Sector which otherwise may not receive adequate maintenance. In a wider context, however, the issue remains of how the Agency's inability to adequately maintain its main river network will impact on the ability to meet the requirements of the Water Framework Directive and affect the condition or status of water bodies.

The Counter Drain /Old Bedford is used as a source of irrigation water by those IDBs, Upwell, Manea and Welney and Sutton and Mepal which lie adjacent to it and should also be designated for this purpose.

**5 Do you agree with the way the economic appraisal process has been done?**

While we have attended national workshops which have provided useful information on the overall appraisal and the level of ambition behind the various scenarios, it has been difficult to apply that information on a local scale. We are also aware that concerns have been expressed over the whether the scenarios have been drawn up on a consistent basis and understand that the economic appraisal was done on a "bundle" of measures, rather than individual measures being assessed. We would refer to our comments above regarding the local measures. As operators of water bodies, we cannot make any financial commitment additional to what may already have been approved by our members or advise whether any particular measure will be funded.

We must therefore DISAGREE with the way in which the economic appraisal process has been done or, at least, the information which has been given out in respect of it.

**6 What measures can you deliver to help achieve the long term objectives?**

We would seek to achieve the correct balance, in our works programmes, between operations and conservation requirements and would support the Fenland Good Ecological Potential Group in its consideration of mitigation measures and the assessment of the applicability of such measures. Each of the MLC and the IDBs have operations manuals, which they follow in undertaking their works and Biodiversity Action Plans which they have agreed to follow.

**7 Do you have any further comments on this consultation?**

See above.

I A Smith  
Clerk & Chief Executive  
Middle Level Commissioners

ADMINISTERED INTERNAL DRAINAGE BOARDS

Benwick IDB  
Bluntisham IDB  
Churchfield & Plawfield IDB  
Conington & Holme IDB  
Curf & Wimblington Combined IDB  
Euximoor IDB  
Hundred Foot Washes IDB  
Hundred of Wisbech IDB  
Imbanking Commissioners  
Manea & Welney DDC  
March East IDB  
March 5<sup>th</sup> DDC  
March 6<sup>th</sup> DDC  
March 3<sup>rd</sup> DDC  
March & Whittlesey IDB  
Needham & Laddus IDB  
Nightlayers IDB  
Nordelph IDB  
Ramsey 1<sup>st</sup> (Hollow) IDB  
Ramsey 4<sup>th</sup> (Middlemoor) IDB  
Ramsey Upwood & Gt Raveley IDB  
Ransonmoor DDC  
Sawtry IDB  
Sutton & Mepal IDB  
Swavesey IDB  
Upwell IDB  
Waldersey IDB  
Warboys Somersham & Pidley IDB  
White Fen DDC