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Blueprint response:

Making flood defence consents part of the environmental permitting framework

1. Introduction

The Blueprint for Water coalition is a unique coalition of environmental, water efficiency, fisheries and angling organisations which call on the Government and its agencies to set out the necessary steps to achieve “sustainable water” by 2015. The Blueprint for Water is a campaign of Wildlife and Countryside Link. More information is available at www.blueprintforwater.org.uk.

2. General comments

Although we agree in principle to integrating flood defence consents into the Environmental Permitting regime we oppose the implementation of standard rules which pose significant risks to achieving good ecological quality. The Environment Agency (EA), as competent authority for Water Framework Directive (WFD) delivery, must ensure any standard rule will not result in the deterioration of any waterbody, nor prevent achievement of good ecological status or potential. This is especially relevant given the limited resources for any enforcement activity.

The level of flood risk associated with a particular watercourse varies enormously, as does the potential for environmental damage. Where landowners, community groups and NGOs are actively seeking to enhance the ecological status of our rivers and connected habitats, we propose a system whereby low risk sites are identified for environmental enhancements that can be delivered as part of an overarching standard rule.

We believe only bespoke permitting should be allowed for high flood risk sites and for risky activities such as dredging, dewatering, culverting or diverting waterways. A spatial element to this process is essential, where proposed environmental enhancements in low risk areas can be easily delivered which may bring benefits to high risk sites located further downstream.

We are also strongly disappointed that this consultation has come out before any results from the ‘River Maintenance Pilots’ that were supposed to test changes to the current consenting regime.

As a further detail, it should also be recognised that “land drains and previously agricultural drains classed as “main river” are often all that remains of the river (where the paleo-channel has been filled in). Therefore, these channels need to be preserved in a condition that can support the river’s natural biota. Simply placing a lower level of protection on such watercourses only ensures that their habitat quality will never improve.



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3. Answers to the specific questions in the consultation;

Q1 Do you agree with our approach to use standard rules for watercourse activities?

We agree only where there are negligible levels of flood risk and risk to wildlife, given the activity and location. For all other activities and locations, including a number of the activities covered by this consultation, standard rules are inappropriate.

Please explain your answer.

We welcome the move to Environmental Permitting Regulations and making the regulations simpler for truly low risk activities; however, this move must not come with a weakening of current flood risk safeguards and site inspections. There is inconsistency in the level of environmental and flood risk posed by standard rules for certain activities. Some of the rules included are not low risk e.g. SR2015 No. 26, 30, 32, 37, 38. We believe these cases require bespoke permitting to ensure no increased flood risk or environmental damage.

We believe that the Environment Agency are now inadequately resourced to regulate such standard rules which will inevitably lead to inappropriate and ecologically damaging work in rivers, undoing many years of attempts at improving the status of waterbodies under WFD. This will come at great expense to the nation.

There is also inconsistency in whether charges are applied to each rule. We do not understand the justification behind charging for potentially ecologically beneficial work (e.g. SR 2015 No. 31) and not doing so for work which may very well cause significant ecological harm (e.g. SR 2015 No. 37 and 38). We recommend a standard and reasonable charge for all activities, with charges waived where applicants are contributing to achieving Environment Agency duties.



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Q2)

Standard Rule	Do you agree with the proposed new rules that we have set out in the consultation?	Please explain your answer.
SR2015 No.26: Temporary dewatering affecting up to 20 metres of a main river.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know	The impacts of temporary dewatering vary on a river by river basis and therefore we believe requires bespoke permitting because the affect on flows could result in localised barriers to migration and localised invertebrate assemblages
SR2015 No.27: Installation of an outfall of 300mm to 500mm through a headwall into a main river.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't know	There will be missed opportunities for significant environmental gain over the design and location of certain surface water outfalls. For example in urban catchments prone to water quality problems, the chambers of surface water outfalls can provide fish with temporary respite from plugs of polluted water. Where the surface water being conveyed by the proposed outfall is known to be compromised by urban run-off, setting the outfall back from the bank line and incorporating reed bed treatment can bring significant environmental benefit. Without a consultation, opportunities will be missed.
SR2015 No.28: Installation of a clear span bridge on a main river.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	
SR2015 No.29: Temporary storage within the flood plain of a main river.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	
SR2015 No.30: Temporary diversion of a main river.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know	This is potentially a highly damaging activity for the whole riverine ecosystem and its dependent species without the appropriate control.



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		<p>Main river diversion affects river flow and oxygen content which will vary depending on river type and also how the river is diverted. There are also downstream impacts which need to be taken into account. This activity could impact both up and downstream fish passage, which may be required outside of the standard closed seasons for coarse fish or salmonids (particularly d/s smolt migration) if pumped or piped.</p>
<p>SR2015 No.31: Installation of a habitat structure made from natural materials occupying up to 100m of a main river.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't know</p>	<p>The inclusion of this measure could be beneficial in allowing important habitat improvements to be made that would benefit native species.</p> <p>However, we consider the current wording to be too broad to ensure that activities do not increase flood risk or cause damage to rivers. Further refinement would be needed to address this risk, and also to clarify which materials and methods could be used.</p>
<p>SR2015 No.32: Installation of an access culvert on a main river.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know</p>	<p>Requires improved conditions that address the environmental and flood risks associated with culvert installation.</p> <p>Culverting causes changes in river flow and impedes migration also potentially exacerbating flood risk and erosion</p>
<p>SR2015 No.33: Repair and protection of the bank of a main river using natural materials.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know</p>	<p>Clarification is required on the definition that the structure shall be made from "<i>materials that naturally rot</i>" and whether this precludes the use of wire, rebar or cable for securing materials in place.</p> <p>If this rule only applies to willow/hazel spiling it is of minimal application on many rivers as spiling is often ineffective on higher energy rivers.</p>
<p>SR2015 No.34: Temporary scaffolding affecting up to 20</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	



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metres of the bank of a main river.	<input type="checkbox"/> Don't know	
SR2015 No.35: The excavation of a wetland or pond in a main river floodplain.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	
SR2015 No.36: Installation of site investigation boreholes and temporary trial pits within a main river floodplain.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	The standard rule needs to take account of any interaction with groundwater and safeguards need to be put in place to avoid any adverse impacts of activity.
SR2015 No.37: The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know	<p>This is potentially a highly damaging activity that can remove vital natural channel features and riverine habitats, particularly where historically heavily maintained watercourses are beginning to naturally recover. Although this only applies to “<i>man-made ditches, land drains and agricultural drains which are main river</i>”, those channels may be the only watercourse remaining, with the original paleo-channels backfilled. Such watercourses/waterbodies therefore must be capable of supporting healthy ecology (including fish stocks) and are likely to rely upon depositional features to create habitat within uniform channels</p> <p>The rule is also ambiguous; “<i>sand and silt that sits on top of the established bed of the watercourse</i>” is open to very wide interpretation. As sand and silt are part of the natural hydromorphology of a reach, where is the delineation made as to what can be removed? This appears to be a rule that would allow wholesale dredging of any natural in-channel features on fine sediment systems where such features will be part of an active, mobile river bed.</p>



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		<p>The action permitted by this rule is largely unsustainable as, by default, the naturally occurring features being removed will naturally occur again. Permitting dredging to be undertaken every 5 years means that the desired state may only exist for 1 in any 5 years. The resulting damage to habitats may, however, be significant.</p> <p>The material proposed to be removed is also a vital habitat for protected species such as lamprey. The erosion risk from removing it would also threaten the habitats of other plant and animal communities.</p> <p>We are also very concerned that by including this measure under standard rules the subsequent unmonitored and piecemeal uptake could increase downstream flooding risk. Furthermore, we fail to see how the EA, as competent authority for WFD delivery, can ensure this would cause no deterioration of connected waterbodies.</p>
<p>SR2015 No.38: Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know</p>	<p>The action permitted by this rule is largely unsustainable as the naturally occurring features being removed will naturally return. Permitting it to be undertaken every 5 years means that the desired state is only likely to exist for 1 in any 5 years. The resulting damage to habitats may be much longer lasting.</p> <p>Removing 100m of exposed gravel over 1000m of a watercourse up to 8m wide, only leaving 1/3 of each bar, would allow the removal of 2/3 of all exposed gravel bar features on that reach. Therefore, this rule could permit the removal of 2/3 of that habitat type from the permitted 1000m reaches of river.</p> <p>A rolling programme of coarse sediment removal will encourage</p>



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		<p>deposition of coarse sediment in sections where damage is regularly inflicted. This action will deprive downstream areas of channel with fresh supplies of gravel which underpin the recruitment of a wide range of native fish species, leading to ecological degradation in non-target reaches.</p> <p>These habitats are also important habitat for invertebrate assemblages which are vulnerable to such activities and for which general knowledge is usually inadequate.</p> <p>This action could also potentially increase flood risk downstream, especially as they allow gravel to be taken between winter flow levels and flood flow levels. Therefore we do not believe standard rules would be adequate protection against flooding.</p>
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Q3) Has the EA correctly identified all the risks for each activity, as described in the generic risk assessments associated with the standard rule?

In general, we are disappointed in the risk assessments and feel they do not adequately represent the risk of each activity. Each of the risk assessments are very similar, except for the one on dredging. We would like each assessment to go into the level of detail seen in the dredging example, including the assessment of impact on wild bird nests and eggs.

There are also a number of risks addressed in the risk assessments which are not transferred over into the standard rules. We believe these risk assessments need to be more thorough if we are to believe that the standard rules will not result in activities which damage the environment or increase flood risk.

Furthermore;

- We suggest that the risk assessment should include migration and movement of animals including mammals and invertebrates who use the river corridor or patch habitats within the catchment and that this risk is reflected within the standard rules
- There is also very little mention of the risk of downstream impacts



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- There may be various site specific requirements for different timing restrictions, e.g. shad or lampreys, where local byelaws and timing restrictions may need to be applied which need to be accounted for in the risk assessments and applied to the rules.
- The risk of spread of invasive non-native species to cause environmental damage needs to be assessed. Biosecurity needs to be included as a condition within all the standard rules. In addition we believe that the consequences of activities on transfer of certain high risk species such as *Crassula helmsii* should be assessed and if necessary extra conditions may be required.

Q4) Are there any barriers to complying with the standard rules?

We believe the standard rules need to provide definitions and links to relevant guidance providing clarity around how to ensure that the conditions and limits of the rules are met. As they stand the standard rules will result in a lack of understanding and leave the rules open to wide interpretation.

We strongly believe prior site inspections and follow-up spot checks must be implemented in order to record and monitor that those undertaking the activities are complying with the rules and to ensure there is no environmental damage or increased flood risk.

There may be various site specific requirements for different timing restrictions, e.g. shad or lampreys, where local byelaws and timing restrictions may need to be applied.

Q5 Do you think that the introduction of standard rules for watercourse activities will have a significant financial impact overall on your operation?

Please tick the relevant box

- Yes
 No
 Don't know

If you agree or disagree please explain why and provide evidence to support your view of the likely impacts.

This will vary depending on our members, so we are unable to respond as a coalition.

Q6 Are there any other activities that you think would benefit from the standard permitting approach or future revisions?

Please tick the relevant box

- Yes
 No
 Don't know

Please explain your answer.

We believe that the low risk watercourse activities are already included within these rules, along with some higher risk activities that should be excluded.



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Q7 Please tell us if you have any other views or comments on these proposed revisions that have not been covered by previous questions.

There needs to be much clearer information provided throughout the standard rules and terms need to be clearly defined. For example, where protected species are mentioned there needs to be a list (or a link to a list) of what those species are.

We also seek clarity around the permitting process near and in sensitive areas for exempted activities.

Q9: Do you consider that these are appropriate activities to be exempted from the requirement to seek prior approval?

We do not believe that XM6, XM21, XM22 should be exempted, we believe any gravel removal or dredging should require bespoke permits. We also believe XM24 needs to consider cumulative impact.

We also seek clarity on;

- The differences between XM12/13 and SR33, either all exempt or all SR
- What falls into XM21 and 22 otherwise XM22 could void XM21

Question 13: What size buffer zone do you consider appropriate? Would you prefer a standard buffer zone to be applied to all exemptions, or for different buffer zones to be applied?

A standard buffer may be appropriate but in some situations more than one kilometre may be required in order to protect the designated features of the relevant protected areas. Therefore a one kilometre buffer could only be considered appropriate as a minimum.

We believe it is important that this principle is extended to all protected sites and all standard rules to offer the same level of protection and avoid any confusion (including sites of special scientific interest, special areas of conservation, candidate special areas of conservation, special protection areas and candidate special protection areas, Ramsar sites, National and Local nature reserves).

Do you have any alternative suggestions of how to ensure works do not harm sensitive sites?

Cumulative effects of multiple measures along a waterbody to the river and its surrounding habitat need to be taken into account in order to ensure that works do not harm sensitive sites. It is possible that through the current proposals there is an intervention every 50m along a watercourse. We propose that to mitigate for this risk there are parameters for interventions at a river reach or river basin level.

Under “general conditions” to exemptions we would like to see conditions added that are akin to the “operating techniques” under the proposed standard rules along with guidance around how practitioners are to achieve those.



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This briefing response is supported by the following seven organisations:

- Angling Trust
- Buglife
- Institute of Fisheries Management
- Royal Society for the Protection of Birds
- Salmon & Trout Association
- The Rivers Trust
- Wildfowl & Wetlands Trust

Wildlife and Countryside Link
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