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*WildFish Response to Consultation on draft Environmental Delivery Plan.  
Norfolk: Broads Special Area of Conservation (SAC) (Yare and Bure), Broadland  
Ramsar and River Wensum SAC*

1. WildFish is an environmental charity which is concerned at the impacts of pollution and over-abstraction on rivers in the UK including the Bure, the Yare and Wensum. The Wensum is a special area of conservation (SAC) and a site of special scientific interest (SSSI). The Yare and Bure are part of the Broads SAC. These rivers are chalk streams which contain protected species including white clawed crayfish and lamprey.
2. As the Environmental Delivery Plan (EDP) for Norfolk recognises, “*the Norfolk Broads and the River Wensum and their identified environmental features are affected by excess nutrient pollution, primarily from wastewater treatment works and diffuse agricultural sources, which are contributing to ecological decline.*” (para 2).
3. WildFish welcomes efforts to restore these rivers, prevent the ingress of nutrients and to help them meet the required conservation and WFD targets. However, the present plan is not to end pollution but to provide compensatory conservation schemes funded by the Nature Restoration Levy (the Levy). The compensatory / conservation regime envisaged by the EDP is far from clear. Put simply, it is a means of achieving growth by weakening conservation safeguards for these rivers under a general ideology of the *replaceability* of unique habitats.
4. The proposal in this EDP is for the building of 15,780 new homes which would produce an enormous increase in the amount of sewage requiring

treatment. It would also lead to increased demand for water – a pressure for which the EDP has no answers.

## **The legal context**

5. The Habitats Directive (which implements the aims of the Convention) tells us that human activities should be curbed to protect rare species and habitat such as those in the Wensum and the Broads. It had been the case until the publication of the Planning and Infrastructure Act 2025 (PIA) that plans or projects should be proven to have no significant adverse impacts on protected sites (or indeed species) before they can be approved. In only limited circumstances should there be an exception to the conservation principles (for instance, overriding reasons of public interest or “IROPI”). The UK agreed to these principles in signing the Bern Convention; that is what is contained in existing conservation laws found in the Habitats Directive (adopted and directly applicable in the UK) and the Conservation of Habitats and species Regulations 2017. Running through this European-derived legislation is the implied belief in the intrinsic importance of nature.
6. However, the PIA turns Natural England (NE) into a facilitator for development through its new role in drafting EDPs and holding funds paid by developers into the Levy. Developers effectively pay to disapply conservation law and to destroy inconvenient habitat and species that get in the way.
7. Schedule 3, Paragraph 1 of the PIA provides that where:  
*“(a) an environmental feature identified in an EDP in accordance with section 61(1)(a) is a protected feature of a European site or a Ramsar site,*

*and (b) a developer has committed to pay, in respect of a development, such amount of the nature restoration levy set out in a charging schedule to the EDP as applies in relation to an environmental impact of the development on that protected feature.*

*(2) The environmental impact of the development on the protected feature is to be disregarded for the purposes of Part 6 of the Habitats Regulations 2017.”*

8. Paragraph 2 (1) refers to SSSI features. The provisions at Schedule 3 therefore apply to development that could impact both European Protected sites such as SACs notified under the Habitats Regulations/ Directive, and SSSI protected under the and the Wildlife and Countryside Act 1981.

9. Note that it is the “*environmental impact of the development on the protected feature*” which is to be disregarded generally – which means presumable *all* pressures caused by the development.

10. The effect of these provisions, where levy payments are agreed, is that the protections afforded by the Habitats Regulations are to be disregarded at all levels including the regulation 9 duty for the exercise of a competent authority’s functions “*so as to secure compliance with the requirements of the Directives*”;

11. As illustrated in the present draft EDP, there is no requirement for an appropriate assessment under regulation 63 of the Habitats Regulations. The problem with this situation is that whereas under the Habitats Regulations for non-EDP sites, the process of appropriate assessment would bring into focus the broad range of impacts and the sufficiency of compensation where IROPI is applied, here there is no *detail* in the EDP

and its annexed documents. That means there are inevitable gaps in the understanding of impact of so many houses being approved and therefore a lack of understanding of the scope of conservation measures required. Furthermore, an appropriate assessment and IROPI process would enable scrutiny and weight to be given to the in-combination and cumulative effects for the purposes of the analysis of impact but also the nature and extent of the compensation required. This is simply missing from the EDP.

## **The Norfolk EDP**

12. The Norfolk EDP is drafted to override protections for the rivers through payment into the levy. The protections that are overridden would cover all impacts on a protected feature whether from nutrient heavy pollution or abstraction or indeed any other pressure on that feature.

13. The failings of the EDP are legion. However, they can best be summarised as mistakes in the assessment of the increase in nutrient pollution; the incompleteness of the analysis of impacts; a failure to take into account other major pressures from the development including from water resource demand. It also reaches an irrational conclusion over “improvement”.

14. The EDP (which is light on detail) uses old Environment Agency data up to 2020<sup>1</sup> and assesses nutrient loading through what we can only understand to be *treated* sewage where discharges comply with the law.<sup>2</sup>

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<sup>1</sup> EA Table 2 apportionment is up to 2020 for p so old data. Also not clear whether this is just treated p or other discharges

<sup>2</sup> See para 125 for instance which highlights this assumption: “*Although treated, effluent typically contains residual nitrogen and phosphorus, contributing to increased nutrient loads.*”

But a large part of the pollution inputs are for untreated sewage which enters the rivers through storm overflows and CSOs. So the increase in nutrients would not simply arise from increases in *treated* sewage. The development could potentially lead to increased levels of discharges of untreated or partially treated waste due to insufficient capacity— none of which have been factored in.

15. The document also adheres to a number of discounts<sup>3</sup> relating to other plans or obligations affecting sewage treatment. They include the assumption that as per the Levelling-up and Regeneration Act 2023 (LURA), the sewage treatment within the protected site should be upgraded to ensure nutrient reduction by 2030<sup>4</sup> – though this is not guaranteed and the obligation arose before the proposal for 15,780 houses was considered.

16. The EDP assumes that the WINEP and the Ofwat approved investments through PR24 will all contribute to achieving the nutrient reduction. But as is commonly understood, Ofwat does not approve investment for upgrades in all cases – especially where there is a possibility of double accounting for consumer expenditure.<sup>5</sup>

17. Furthermore, the document is clear that the EDP will not be assisting with a levy to upgrade sewage works – instead relying on the existence of the parallel process (PR24) where there is plainly a lack of investment. The LURA investment requirement for some protected rivers is also not the

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<sup>3</sup> See for instance para 87

<sup>4</sup> See para 102

<sup>5</sup> A good example of where Ofwat refused investment even in the face of increased housebuilding and where the current sewage infrastructure was inadequate to deal with sewage is found in the case of *R (oao) WildFish v Buckinghamshire [2025] EWHC 3060 (Admin)*. See para 31 for instance.

answer as the upgrades are supposed to take place by 2030 and will inevitably remain in catch-up mode.

18.As for tying development to capacity for the catchments, the EDP rules out the possibility of using planning conditions to control development by ensuring capacity is addressed before commencement or occupation: *“Planning condition measure for delayed occupation Impose planning condition measure for delayed occupation – Discounted.* The reasoning is that it is *“Not reasonable given the strategic nature of conservation measures in place as part of this Environmental Delivery Plan.”* This effectively allows developers to sidestep the imposition of such conditions. In other words, a developer who has signed up to the levy is immune from the imposition of such safeguards for its developments.

## **Abstraction**

19.The document skips over the *impacts* of abstraction on the rivers due to direct and borehole abstraction for domestic and agricultural purposes:

*“390. Both the Bure and Yare are part of highly interconnected systems within-site and with their respective wider river valleys.*

*391. They are connected to the main river directly, partially and intermittently or overtopping with their catchments via ditch networks and overland groundwater flows. There is a lack of detailed information on constrained hydrological processes relating specifically to the H91E0 feature. However, more generally, water resources is an active pressure upon the condition of these sites, and a key issue potentially affecting the full range of Broads' habitats and species. This was flagged as an issue in*

the Broads Special Area of Conservation Site Improvement Plan (SIP). Therefore, it should be considered that the site is currently failing for hydrology. However, there is a Restoring Sustainable Abstraction (RSA) mechanism in place to resolve abstraction. Therefore, the position should be an improving one regarding this. However, as action to tackle artificial drainage impacts has not yet been comprehensively planned or addressed, there will be unresolved impacts upon hydrological restoration.<sup>6</sup>

20. But abstraction remains a significant pressure linked to development and Norfolk is sensitive to drought.<sup>7</sup> A failure to take it into account *in full* means that the EDP is therefore incomplete. There is no attempt to calculate the amount by which demand for water would rise, the source of such water, the direct and indirect impacts as well as the required conservation measures.

21. Instead, the plan simply points to schemes and projects undertaken by the water companies. See, for instance, the “Shared Standards in Water Efficiency for Local Plans” section of the EDP (paras 88-93) which suggests that the “Shared Standards” for the relevant local water companies helps local planning authorities “*deliver sustainable growth*” through securing higher water efficiency standards for new homes and for

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<sup>6</sup> Whether the RSA will lead to proper controls on abstraction is certainly debatable. See for instance the case of *Harris & Anor v EA* [2022] EWHC 2264 (*Admin*). The case involved the utter failure of the Environment Agency to take into account all pressures from abstraction in Cat Fen which is linked to the Bure and part of the Broads SAC. Nutrient build up and over-abstraction combine to impact the features of these protected sites. There are in-combination and cumulative impacts from sewage, domestic abstraction and agricultural abstraction. They have not been taken into account in the EDP.

<sup>7</sup> East Anglia is the driest area of England on average. The East of England region has experienced some exceptionally dry periods this year with only 39% of expected rainfall in spring, and only 1% of expected rainfall in July. Currently, the region has below-average river levels, groundwater levels, and reservoir storage, despite August rainfall levels returning to normal following the exceptionally dry July. On average, the region sees the lowest amount of rain fall and lowest total number of rain days, and the highest number of consecutive dry days (over 5 days), so a highly water stressed region.

<https://www.metoffice.gov.uk/blog/2026/july-2026-weather-stats-a-regional-breakdown>;  
<https://www.anglianwater.co.uk/services/water-supply/monitoring-water-resources>

commercial developments. The Plan suggests that *“this has been considered in the modelling used to inform this Environmental Delivery Plan, to determine and capacity, and negative effect of development on features”* (para 91).

22. We have been unable to find evidence of where the abstraction pressures have been taken into account in the EDP apart from in this high-level consideration.

### **The compensatory proposals**

23. There is clearly a mismatch between the impacts of nutrient loading and the proposed compensation.

24. The Plan attempts to get around this problem in a vague nod to holistic ecological remedies:

*“This strategic approach is needed for the environment, as the ecological value of the Norfolk Broads and the River Wensum lies not just in individual habitats or species but in the functioning and interdependence of the wider mosaic. The ecological components of these landscapes are closely connected. Changes made to benefit one habitat or species in isolation can have unintended consequences for other parts of the ecosystem. Consequently, conservation and restoration measures have been designed to support the functioning of the broader habitat mosaic rather than targeting a single feature without consideration of wider ecological interactions. By taking a strategic approach to the design and implementation of conservation measures, the Environmental*

*Delivery Plan seeks to deliver benefits across this broader habitat mosaic. [para 2]*

25. That is all very well; but conceptually, the damage caused by a huge influx of nutrients is not going to be resolved by a vague muddle of proposals that are unconnected causally. The listed conservation measures included in Table 1<sup>8</sup> are not the answer – but an exercise in vague greenwashing.

26. It is not clear *how* the pressures created by sewage are addressed by these measures.

27. Nevertheless, the EDP “*Overall Improvement Test*” (to measure whether the conservation measures “materially will outweigh the negative impact of the EDP development on the conservation status of each environmental feature specified in the EDP.”) advertises a positive outcome.

28. We believe that there can be no confidence in this plan and the optimism of the OIT is a fantasy – partly born from a failed and undetailed assessment of impact and the absence of an explanation of how proposed conservation measures resolve or compensate the damage caused – let alone surpass them.

29. The impacts from nutrients upon these sensitive and rare environments are not answered by reductions in nutrients elsewhere (for instance, small amounts of changed land use). Instead, we have a gamut of ill-defined activities such as wetland creation or recovery. It is unclear how these

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<sup>8</sup> Fen-type wetland habitat creation and restoration; Land use change; Fen-type wetland habitat management; Catch-dyke remediation; Deer Management Project Focused on Yare and Bure; Removal or modification of one structure (weir / impoundment) on the River Wensum; Fen creation for Desmoulin's whorl snail; Planning Condition for development not connecting to mains sewers for foul water.

address nutrient loading directly (of a kind that would impact a particular feature) and how wetland creation or deer management, for instance, will help with the decline of species such as white clawed crayfish which are susceptible to changes in water quality caused by nutrient loading.

30. The way the compensatory juggling is imagined is highly esoteric, especially when one is reminded that these are not compensations to benefit the rivers and other habitats *per se* but to address the impact of sewage pollution:

*“Biological – Living components of the ecosystem.*

*116. These components must be considered together rather than in isolation. Changes in one component can influence how nutrient enrichment affects environmental features. For example, improving hydrology can dilute nutrient concentrations or reduce residence times, lowering the risk of algal accumulation. Likewise, improving physical habitat can increase the resilience of features to nutrient pressures.*

*117. These components of structure and function are intrinsically linked to future prospects, as the future prospects of an environmental feature depend on whether they are likely to be maintained, restored or further degraded over time.*

*118. Therefore, for the purposes of this Environmental Delivery Plan, conservation status is assessed through the structure and function of environmental features, using these components as the basis of that assessment. Future prospects are considered through*

*the expected trajectory of these components, including the effect of secured actions and interventions to maintain, restore or improve structure and function.*

31. The meaning of the above paragraphs is far from clear.

32. In the past, NE might have commented on other bodies' proposals for mitigation and compensation. But these are its own proposals, vaguely drawn, undetailed and without clear links to the damage that will be caused or how they will offset impact.

33. NE, as the official conservation body, would in previous years have expressed some scepticism at moves to pollute a protected site. Here, presumably with the acquiescence of its specialist staff, NE fails to apply its conservation obligations. We note that NE has officially described this as *"a new way to protect nature while also supporting growth"*.<sup>9</sup> We fail to see how that could be the case.

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For and on behalf of WildFish

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<sup>9</sup> Marian Spain, NE CEO, quoted in The Planner [Government unveils first Environmental Delivery Plan | The Planner](#) 18 September 2026

