

Flood Strategy Appendix D

Strategic Environmental Assessment (SEA)
Screening report, June 2018



The purpose of this report

This screening report is an assessment of whether or not the contents of the Essex County Council (ECC) Local Flood Risk Management Strategy requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/ EC and associated Environmental Assessment of Plans and Programmes Regulations. A SEA is required if the Strategy is deemed to have a likely significant effect on the environment.

The Draft Essex County Council Local Flood Risk Management Strategy (June 2018)

The Flood and Water Management Act states that Essex County Council has to put in place a local flood risk management strategy.

This strategy sets out the County Council's aims and actions to reduce the impact of local flooding to the residents of Essex. 'Local' flooding in Essex means the risk of water from manmade drainage

systems, small watercourses and rainfall off the land. The Strategy ensures that residents are informed about flood risk, that they understand why flooding is a problem for us all and what is being done to manage it.

The Strategy includes nine objectives:

To provide a clear explanation of everyone's responsibilities.

To make sure people understand their risk of flooding and think about how we communicate this.

To explain how we assess flood risk in Essex and then prioritise the work we do.

To clearly set out our work so that communities and businesses can make decisions about how they manage flood risk too.

To ensure that planning decisions properly consider flooding and the future impact any development may have.

To state how we share information and work with other authorities.

To ensure that emergency plans and responses to flood incidents are effective and that communities are prepared for flooding.

To encourage innovative new thinking, considering community needs, while working with the existing natural and built environment.

To highlight where further detailed information and legislation regarding flooding can be found.



In order to ensure that the above objectives are met, the Strategy includes 7 measures that have been implemented by the authority:

1. Investigating floods
2. Mapping local routes for water
3. Looking after our watercourses
4. Planning for future floods
5. Influencing new development and drainage
6. Building flood defences
7. What more can you do? (such as facilitating volunteering events)

Legislative background

Strategic Environmental Assessment (SEA)

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment states that,

‘Environmental assessment is an important tool for integrating environmental considerations into the preparation and adoption of certain plans and programmes which are likely to have significant effects on the environment.

(10) All plans and programmes which are prepared for a number of sectors and which set a framework for future development consent of projects listed in Annexes I and II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment(7), and all plans and programmes which have been determined to require assessment pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna(8), are likely to have significant effects on the environment, and should as a rule be made subject to systematic environmental assessment. When they determine the use of small areas at local level or are minor modifications to the above plans or programmes, they should be assessed only where Member States determine that they are likely to have significant effects on the environment.

(11) Other plans and programmes which set the framework for future development consent of projects may not have significant effects on the environment in all cases and should be assessed only where Member States determine that they are likely to have such effects.’

The Local Flood Risk Management Strategy may influence frameworks for future development, or become used ancillary to those plans and programmes that do set such a framework, and as such it has been determined that the principle of the Strategy should be screened for the necessary application of the SEA Directive.

The Report from the Commission to The Council, The European Parliament, The European Economic and Social Committee and the Committee of the Regions states, on the application and effectiveness of the Directive on Strategic Environmental Assessment (Directive 2001/42/EC), that

‘the following P&P, and modifications to them, are covered when prepared and/or adopted by an authority[2] and required pursuant to legislative, regulatory or administrative provisions:
- P&P prepared for certain sectors and which set the framework for future development consent in respect of projects under the Environmental Impact Assessment-EIA-Directive.
- P&P requiring an assessment under the Habitats Directive (92/43/EEC).
- P&P setting the framework for development consent in respect of projects (not limited to those listed in the EIA Directive; see above) and determined by “screening” as being likely to have significant environmental effects.’

This report represents this screening process in regard to the content and influence of the Local Flood Risk Management Strategy.

When is SEA screening required?

The SEA Directive states that,
‘Under Article 2(a), the plans and programmes subject to the Directive are those which are:
- subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and
- required by legislative, regulatory or administrative provisions.

Characteristics of “administrative provisions” are likely to be that they are publicly available, prepared in a formal way, probably involving consultation with

interested parties. The administrative provision must have sufficient formality such that it counts as a “provision” and it must also use language that plainly requires rather than just encourages a plan or programme to be prepared.’

Articles 2 and 3 of the SEA Directive set out the circumstances in which an SEA is required. Table 1 sets out the assessment of whether the principle of the Local Flood Risk Management Strategy will require a full SEA.

Table 1: Exploring whether the Principle of the Strategy would warrant SEA

Q	Criteria	Response	Outcome	Commentary
1	Is the Plan subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through legislative procedure by Parliament or Government	Yes	Go to question 2	The Strategy has been prepared by Essex County Council as a two tier authority through legislative procedure.
2	Is the Plan required by legislative, regulatory or administrative provision Typical characteristics of “administrative provisions” are that they are publicly available, prepared in a formal way, probably involving consultation with interested parties. The administrative provision must have sufficient formality such that it counts as a “provision” and it must also use language that plainly requires rather than just encourages a Plan to be prepared.	Yes	Go to question 3	The Strategy would be considered as falling within the category of an ‘administrative provision’.
		No	DOES NOT REQUIRE SEA	

Q	Criteria	Response	Outcome	Commentary
3	Is the Plan prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive?	Yes to both criteria	Go to question 5	The Strategy has been prepared for water management and town and country planning however does not set a framework for future development consent of projects in Annexes I and II to the EIA Directive.
		No to either criteria	Go to question 4	
4	Will the Plan, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive?	Yes	Go to question 5	The Strategy does not commit to any land use, and is a high level strategy that sets out the broad responsibilities and activities of the Council.
		No	Go to question 6	
5	Does the Plan determine the use of small areas at local level, OR is it a minor modification of a Plan likely to require assessment under the Habitats Directive?	Yes to either criteria	Go to question 8	N/A
		No to both criteria	Go to question 7	
6	Does the Plan set the framework for future development consent of projects (not just projects in the Annexes of the EIA Directive)?	Yes	Go to question 8	The Strategy does not set a framework for future development consent of projects.
		No	DOES NOT REQUIRE SEA	
7	Is the Plan's sole purpose to serve national defence or civil emergency, OR is it a financial or budget Plan, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7	Yes to any criteria	DOES NOT REQUIRE SEA	N/A
		No to all criteria	REQUIRES SEA	
8	Is it likely to have a significant effect on the environment?	Yes	REQUIRES SEA	N/A
		No	DOES NOT REQUIRE SEA	

Conclusions

Under Article 3(3) and 3(4), environmental assessment is required for certain categories of plans and programmes only where they are determined to be likely to have significant environmental effects. Plans and programmes in these categories are:

- Plans and programmes of the types listed in Article 3(2) which determine the use of small areas at local level, or which are minor modifications to plans and programmes;
- Plans and programmes of types which are not listed in Article 3(2), which set the framework for future development consent of projects (not limited to projects listed in the Annexes to the EIA Directive).



The Local Flood Risk Management Strategy does not correspond to either of these types of plan or programme and represents a high level document that sets out the broad responsibilities and activities of the Council's Essex Flood Services team to inform the public.

The content of the Local Flood Risk Management Strategy can therefore be **screened out** for its requirement of Strategic Environmental Assessment in line with the requirements of Directive 2001/42/EC.

This document is issued by:
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