

The England ERDF 2014-20 Operational Programme Modification Strategic Environmental Assessment Screening Statement

Determination under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004

**Final Determination
September 2017**

Introduction

This statement sets out the 2014-2020 England ERDF Programme Managing Authority's determination under European Union Directive 2001/42/EC and Regulation 9(1) of The Environmental Assessment of Plans and Programmes Regulations 2004 on whether or not a Strategic Environmental Assessment (SEA) is required for the Operational Programme modification to be submitted to the European Union in accordance with Article 30 of Regulation 1303/2013.

Background

The current 2014-2020 England ERDF Operational Programme (OP) was formally agreed ("adopted") by the Commission in 2015. As part of the development process the 2014-2020 England ERDF Programme Managing Authority (DCLG) carried out an SEA of the OP in consultation with the bodies responsible for environmental assessment of plans and programmes in England: "the consultation bodies". At that time these were: the Environment Agency, Natural England and English Heritage.

The Managing Authority is now modifying the OP to:

- conduct, in accordance with Article 5(6) of Regulation 215/2014, the revision of milestones and targets where these have been found to be based on incorrect assumptions including amendments resulting from changes in allocations for a number of priorities; and
- incorporate funding arising from the Commission's recalculation of structural funds allocations on the basis of the most recent statistical data, as provided for in the original deal on the Multiannual Financial Framework for 2014-2020 and set out in Article 92(3) of the CPR.

According to The Environmental Assessment of Plans and Programmes Regulations 2004, Regulation 5(6), an environmental assessment need not be carried out "for a minor modification to a plan or programme...unless it has been determined under Regulation 9(1) that the plan, programme or modification, as the case may be, is likely to have significant environmental effects".

Regulation 9(1) states: "The responsible authority shall determine whether or not a plan, programme or modification...is likely to have significant environmental effects."

As Managing Authority of the 2014-2020 England ERDF Programme, DCLG is required to make this determination. Reg 9(2) stipulates that "Before making a determination under paragraph (1) the responsible authority shall—
(a) take into account the criteria specified in Schedule 1 to these Regulations; and
(b) consult the consultation bodies."

The Managing Authority consulted the consultation bodies on the proposed OP modification in August 2017, stipulating that the assessments should take into account the criteria in Schedule 1 of the Regulations. The consultation bodies at this time were: the Environment Agency, Natural England and Historic England.

The Managing Authority took into account the criteria specified in Schedule 1 of the Regulations and comments received from the consultation bodies before making its determination. Its findings are described below.

Findings

Table 1 – Comments Received from the Consultation Bodies

Consultation Body	Comments
Environment Agency	<p>We note the proposed modifications set out in the England ERDF Operational Programme Updates main paper Version 9 29/07/17. We welcome an increase in support for areas of activity that support flood defence works.</p> <p>We observe that the level of funding is being reduced for Priority Axis IP6d 'Protecting and restoring biodiversity and soil and promoting ecosystem services, including through Natura 2000, and green infrastructure'. We note that, in isolation, this may have resulted in a reduction in the delivery of green/blue infrastructure projects with a consequent environmental effect. However, it is our understanding that funding for green/blue infrastructure projects can now be secured through the proposed modifications to Priority Axis 4 'supporting the low carbon economy' and that the previous issue of funding 'demarcation' has been addressed.</p> <p>Furthermore we note that funding has also been moved from IP6d to IP6f "Promoting innovative technologies to improve environmental protection and resource efficiency in the waste sector, water sector and with regard to soil, or to reduce air pollution".</p> <p>On the basis of the above understanding, and in relation only to those issues within</p>

	<p>our remit, we advise that the proposed modifications are not likely to have significant environmental effects.</p> <p>To conclude we advise that the proposed changes are beneficial overall but it is for the Managing Authority (DCLG), as decision maker to satisfy itself that the programme modifications are not likely to have significant environmental effects under the definitions of the SEA Directive.</p>
Natural England	We have reviewed the submitted documents and agree with your summary that the proposed modifications are unlikely to have significant effects on our environmental interests and that the existing assessment will have considered likely significant effects of the programme as modified and will not need updating in order to address our statutory interests.
Historic England	This letter is to confirm that we concur with DCLG's assessment that these proposed modifications do not require a new SEA to be undertaken.

Table 2 – SEA Screening of the OP Modification

Criteria (from Annex II) of SEA Directive and Schedule I of the Regulations)	DCLG Comments
Characteristics of the plan or programme	
a) The degree to which the plan or programme sets a framework for projects and other activities, either with regards to the location, nature, size and operating conditions or by allocating resources.	<p>The framework is set by the current Operational Programme, which was the subject of an SEA in 2015.</p> <p>The modification expands the scope of activity under “Priority Axis 4 – Supporting the Low Carbon Economy” to include: Category of Intervention 069 - Support to environmentally-friendly production processes and resource efficiency in SMEs; and Category of Intervention 085 - Protection and enhancement of biodiversity, nature protection and green infrastructure.</p> <p>These activities are not new to the programme, as they could already be</p>

supported under “Priority Axis 6 – Preserving and Protecting the Environment and Promoting Resource Efficiency”. However, the modification expands the scope of the support available and as such is likely to have positive effects.

The modification expands the scope of what can be supported under Priority Axis 4 “Investment Priority 4c (IP4c) – Supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector” to make it clear that standard retrofit activity can be supported by ERDF where it is done in combination with innovative activity. This activity seeks a reduction in domestic energy consumption per household. The SEA of the current Operational Programme predicted significant positive effects with regards to climatic factors in respect of strong support of activity under this priority axis. The modification expands the scope of the support available and as such is likely to have positive effects.

The modification expands the areas of eligibility for flood defence spending under “Priority Axis 5 – Promoting Climate Change Adaptation, Risk Prevention and Management” so that support is not limited to the East Coast, North West and South West, but is available to other areas where flooding is having a significant impact.

The SEA of the current Operational Programme predicted significant positive effects with regards to water and climatic factors in respect of strong support of activity under this Priority Axis. The modification expands the scope of the support available and as such is likely to have positive effects.

The modification will not set the framework for other activities either with

	<p>regard to the location, nature, size and operating conditions or by allocating resources. The allocation of financial resources is not covered by the SEA Directive.</p>
<p>b) The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.</p>	<p>The modification does not influence other plans and programmes.</p>
<p>c) The relevance of the plan or programme for the integration of environmental considerations, in particular with a view to promoting sustainable development.</p>	<p>Four priority axes under the programme directly support delivery of sustainable development.</p> <p>The expanded scope of activity under IP4c, described above, supports the integration of environmental considerations by seeking to reduce domestic energy consumption.</p> <p>Environmental sustainability will also continue to be embedded into the assessment and delivery of activities across the whole programme.</p>
<p>d) Environmental problems relevant to the plan or programme.</p>	<p>The current Operational Programme helps address specific environmental problems under:</p> <p>Priority Axis 4 - Supporting the Shift Towards A Low Carbon Economy In All Sectors;</p> <p>Priority Axis 5 – Promoting Climate Change Adaptation, Risk Prevention and Management.; and</p> <p>Priority Axis 6: Preserving and Protecting the Environment and Promoting Resource Efficiency.</p> <p>The modification expands the scope of the support available under both priority axis 4 and 5 and as such is likely to have positive effects.</p>
<p>e) The relevance of the plan or programme for the implementation of Community (EU) legislation on the environment (for example plans and programmes linked to waste management or water protection).</p>	<p>The current Operational Programme supports environmental considerations including the waste and water sectors under “Priority Axis 6 – Preserving and Protecting the Environment and Promoting Resource Efficiency.”</p> <p>Activities supported under Priority Axis 6 will continue to be supported following</p>

	the modification. The allocation of financial resources is not covered by the SEA Directive.
Characteristics of the effects and of the area likely to be affected	
a) The probability, duration, frequency and reversibility of the effects.	<p>The expanded scope of activity under Priority Axis 4 IP4c, described above, seeks to contribute towards the reduction of domestic energy consumption. The SEA of the current Operational Programme predicted significant positive effects with regards to climatic factors in respect of strong support of activity under this priority axis. The modification expands the scope of the support available and as such is likely to have positive effects.</p> <p>The expanded scope of activity under Priority Axis 5, described above, seeks to reduce flood risk and support adaptation to climate change.</p> <p>The SEA of the current Operational Programme predicted significant positive effects with regards to water and climatic factors in respect of strong support of activity under this priority axis. The modification expands the scope of the support available and as such is likely to have positive effects.</p> <p>Environmental sustainability continues to be embedded into the assessment and delivery of activities across the whole programme.</p>
b) The cumulative nature of the effects.	As described above, the SEA of the current Operational Programme predicted significant positive effects as a result of strong support under the activities which have been expanded, as outlined above. As such, any cumulative effects resulting from expanded activity are likely to be positive.
c) The transboundary nature of the effects.	The significant transboundary impact of the programme will be on climate change through the reduction of Green House Gas emissions. The modification will see this positive transboundary effect continue.
d) The risks to human health or the	The modification does not introduce

<p>environment (for example, due to accidents).</p>	<p>elements to the programme that will put human health or the environment at risk.</p> <p>Where appropriate projects supported under the programme will be subject to their own environmental impact assessments.</p>
<p>e) The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).</p>	<p>The modification does not seek to make any changes from the current programming area. The only geographical change is the increase in the areas in England where flood defence activity can be carried out. As set out above such investments are seen to have a positive environmental impact.</p>
<p>f) The value and vulnerability of the area likely to be affected due to:</p> <ul style="list-style-type: none"> i) Special natural characteristics or cultural heritage; ii) Exceeding environmental quality standards or limit values; ii) Intensive land-use 	<p>The modification does not in itself give consent for projects and as such presents no risks with regard to special natural characteristics or cultural heritage; exceeding environmental quality standards or limit values or intensive land-use.</p> <p>Projects agreed under the programme will need to illustrate their compliance with the appropriate regulatory frameworks as required by the activity they are undertaking, for example, planning permission.</p>
<p>g) The effects on areas or landscapes which have recognised national, community or international protection status.</p>	<p>The modification does not in itself give consent for projects and as such presents no risks on areas or landscapes which have recognised national, community or international protection status.</p> <p>Projects agreed under the programme will need to illustrate their compliance with the appropriate regulatory frameworks as required by the activity they are undertaking, for example, planning permission.</p>

Conclusions

Further to the criteria above, in making its determination the Managing Authority has considered the following:

- The updates outlined in the Operational Programme modification mainly involve moving funds between the types of activities that can be supported. The Managing Authority notes that according to Directive 2001/42/EC Article 3(8) the allocation of financial resources is not covered by the Directive.
- The modification expands the scope of some already-supported activities; however the potential environmental effects of these activities are explored by the existing SEA of the current Operational Programme.
- These expanded activities – i.e. expanding the potential areas eligible for flooding investment and expanding the eligibility of standard retrofit under IP4c – represent predicted positive effects, taking into account the findings of the existing SEA of the current Operational Programme.
- The modification does not in itself give consent for projects, limiting the potential risks posed to the environment. Projects agreed under the programme will need to illustrate their compliance with the appropriate regulatory frameworks as required by the activity they are undertaking, for example, planning permission.

Determination

Having regard to the considerations above, the Managing Authority considers that the Operational Programme modification is unlikely to have any significant environmental effects and therefore does not require a Strategic Environmental Assessment. This opinion is confirmed by the consultation bodies: the Environment Agency, Natural England and Historic England.

This determination will be published on the programme website at <https://www.gov.uk/guidance/england-2014-to-2020-european-structural-and-investment-funds>

This determination was made on **11 September 2017**.

The ERDF Managing Authority