

A358 Taunton to Southfields Dualling Scheme

Preliminary Environmental Information Report - Appendix 13.3
Water Policy and Legislation

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Table of contents

	Pages
1 Water policy and legislation	i
2 Legislation and policy	i
2.1 National Legislation	i
2.2 National planning policy	iii
2.3 Regional planning policy	iv
2.4 Local policy, strategy and evidence	iv
References	vi

1 Water policy and legislation

1.1 Purpose of this document

- 1.1.1 This report is an appendix to the main Preliminary Environmental Information (PEI) Report for the A358 Taunton to Southfields Dualling Scheme (the 'proposed scheme'). It provides a description of the water legislation and policy framework that has been considered in the PEI Report.

2 Legislation and policy

2.1 National Legislation

Environmental Protection Act 1990

- 2.1.1 The *Environmental Protection Act 1990* makes provision to control pollution arising from industrial and other processes for waste management.

Land Drainage Act 1991 (as amended)

- 2.1.2 The *Land Drainage Act 1991* requires that a watercourse be maintained by its owner. The Act provides functions to internal drainage boards (IDB) and local authorities to manage watercourses and provide consenting powers for proposed works to watercourses associated with development.

Water Resources Act (England and Wales) 1991

- 2.1.3 The *Water Resources Act 1991* sets out the responsibilities of the Environment Agency in relation to water pollution, resource management, flood defence, fisheries and navigation.

Environment Act 1995

- 2.1.4 The *Environment Act 1995* sets new standards for environmental management, such as requiring national strategies for air quality and waste. It also deals with the establishment of the Environment Agency.

Water Act 2003

- 2.1.5 The *Water Act 2003* makes provision with respect to compensation under section 61 of the *Water Resources Act 1991*.

The Water Resources (Abstraction and Impounding) Regulations 2006

- 2.1.6 The *Water Resources (Abstraction and Impounding) Regulations 2006* [1] contain provisions relating to the licensing of abstraction and impounding of water in England and Wales in the light of changes made by the *Water Act 2003* to the *Water Resources Act 1991*. The 2006 regulations have been updated by the *Water Abstraction and Impounding (Exemptions) Regulations 2017*.

The Water Resources Abstraction and Impounding (Exemptions) Regulations 2017

- 2.1.7 The *Water Abstraction and Impounding (Exemptions) Regulations 2017* contain circumstances where water abstractions and impounding works are exempt from licensing requirements.

The Flood Risk Regulations 2009

2.1.8 The *Flood Risk Regulations 2009* transpose the EC Floods Directive (2008/60/EC) on the assessment and management of flood risk into domestic law in England and Wales and implement its provisions. The regulations designate a Local Lead Flood Authority (LLFA) and impose duties on the Environment Agency and LLFAs to prepare a number of documents including:

- Preliminary flood risk assessments
- Flood risk and flood hazard maps
- Flood risk management plans

The Water Supply (Water Quality) Regulations 2018

2.1.9 The *Water Supply (Water Quality) Regulations 2018* provide the framework for drinking water quality in England in respect of public supplies provided by water companies and licensed water suppliers. The Drinking Water Inspectorate, acting on behalf of the Secretary of State, enforces the legislation.

Flood and Water Management Act 2010

2.1.10 The *Flood and Water Management Act 2010* gives the Environment Agency a strategic overview of the management of flood and coastal erosion risk in England. In accordance with the UK government's Response to the Pitt Review, it also gives upper tier local authorities in England responsibility for preparing and putting in place strategies for managing flood risk from groundwater, surface water and ordinary watercourses in their areas.

The Environmental Damage (Prevention and Remediation) (England) Regulations 2015

2.1.11 The *Environmental Damage (Prevention and Remediation) (England) Regulations 2015* are based on the 'polluter pays' principle and impose obligations on operators of economic activities requiring them to prevent, limit or remediate environmental damage. They apply to damage to protected species, natural habitats, sites of Special Scientific Interest (SSSI), water and land and implement directive 2004/35/EC, on environmental liability.

The Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015

2.1.12 The *Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015* present the updated environmental standards to be used in the second cycle of the WFD (2000/60/EC) river basin management planning process in England and Wales. Environmental standards help assess risks to ecological quality of the water environment. The *Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015* implement the requirements of the EU Water Framework Directive (2000/60/EC) and transposes aspects of the EU Priority Substances Directive (2008/105/EC).

The Groundwater (Water Framework Directive) (England) Direction 2016

2.1.13 The *Groundwater (Water Framework Directive) (England) Direction 2016* sets out instructions to the Environment Agency on obligations to protect groundwater, including requirements to monitor and set thresholds for pollutants, add new pollutants to the monitoring list and change the information reported to the

European Commission. The *Groundwater (Water Framework Directive) (England) Direction 2016* implements the requirements of the EU Groundwater Directive (2006/118/EC).

The Environmental Permitting (England and Wales) Regulations 2016 (SI 2010/675)

- 2.1.14 The *Environmental Permitting (England and Wales) Regulations (SI 2010/675)* were updated in order to extend the requirement for an environmental permit to flood risk activities, in addition to polluting activities included under the previous regulations. The permitting requirements for flood risk activities allow the EA (as regulator for England) to concentrate on higher risk activities. The 2010 regulations revoked the 2009 Groundwater Regulations, which originally implemented the Groundwater Directive.

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

- 2.1.15 The EU Water Framework Directive (2000/60/EC) has been transposed into the *Water Environment (Water Framework Directive) (England and Wales) Regulations 2017*. WFD is delivered in England and Wales through a framework of River Basin Management Plans (RBMP). England and Wales are divided into 11 River Basin Districts (RBD), each comprising smaller management units known as water bodies, including all river, lake, groundwater, coastal and transitional waters located within that RBD. The *Water Environment (Water Framework Directive) (England and Wales) Regulations 2017* also transposes aspects of the EU Priority Substances Directive (2008/105/EC).

Urban Waste Water Treatment (England and Wales) Regulations 1994

- 2.1.16 The *Urban Waste Water Treatment (England and Wales) Regulations 1994* outlines measures relating to the collection, treatment and discharge of urban waste water and the treatment and discharge of waste water from certain industrial sectors. It also outlines requirements for the collection of samples, maintenance of records and monitoring. The *Urban Waste Water Treatment (England and Wales) Regulations 1994* transpose aspects of the EU Urban Waste Water Directive (91/271/EEC).

The Conservation of Habitats and Species Regulations 2017

- 2.1.17 The *Conservation of Habitats and Species Regulations 2017* outline the requirements in relation to the conservation of natural habitats and of wild flora and fauna in England and Wales. The 2017 regulations are part of domestic law that transpose the land and marine aspects of the EU Habitats Directive and elements of the EU Wild Birds Directive for England and Wales.

2.2 National planning policy

National Policy Statement for National Networks (2014) (NPSNN)

- 2.2.1 The NPSNN [2] sets out the need and governmental policies for nationally significant rail and road projects for England. Sections 5.90 to 5.115 set out how flood risk impacts should be considered, whilst sections 5.219 to 5.231 cover the assessment of impacts to water quality and resources.

National Planning Policy Framework (2019) (NPPF)

- 2.2.2 The NPPF [3] provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans. Section 14, titled “*Meeting the challenge of climate change, flooding and coastal change*” relates to flooding. The policy states that development should be directed away from areas at highest risk of flooding (both existing and predicted), however, where necessary, the development must be safe, for the lifetime of the development, without increasing flood risk elsewhere.

2.3 Regional planning policy

South West river basin district River Basin Management Plan (RBMP) (Updated: 2015)

- 2.3.1 The proposed scheme is located within the South West River Basin District (RBD). The RBMP [4] provides a framework for protecting and enhancing the benefits provided by the water environment. They also inform decisions on land use planning. Cycle 3 RBMPs are currently being prepared for introduction in 2021.

South West Flood Risk Management Plan (FRMP) 2015-2021

- 2.3.2 The proposed scheme is located within the South West RBD. The FRMP [5] sets out how organisations, stakeholders and communities will work together to manage flood risk.

2.4 Local policy, strategy and evidence

Taunton Deane Borough Council Adopted Core Strategy 2011-2028 (in the process of replacement by the Somerset West and Taunton Local Plan 2040)

- 2.4.1 The *Taunton Deane Borough Council Adopted Core Strategy 2011-2028* [6] is a key planning policy document that sets out the vision for the area covered by the former Taunton Deane Borough Council up to 2028. The Core Strategy includes strategic policies which address flood risk, water quality, water resources and climate change requirements associated with new developments.

Taunton Deane Strategic Flood Risk Assessment (SFRA) (2011)

- 2.4.2 The 2011 version of the Taunton Deane Borough Council SFRA [7] replaces the previous SFRA (2007) to ensure compliance with the latest guidance in the Planning Policy Statement 25 Practice Guide. The report contains information on flood risk from all sources of flooding and provides more detailed information on the nature of flood hazards that exist in the area. In addition, it includes requirements that should be considered in relation to proposed development allocations.

South Somerset Local Plan 2006-2028

- 2.4.3 The *South Somerset Local Plan 2006-2028* [8] outlines the long term planning framework for the district up to the year 2028. The Local Plan represents the starting point for decisions on where development will be located in the district and is designed to help inform decisions on planning applications across South

Somerset. This includes specific requirements on flood risk, water resources, water quality and climate change.

Somerset West & Taunton and South Somerset Councils Joint level 1 Strategic Flood Risk Assessment (SFRA)

- 2.4.4 The *Somerset West & Taunton and South Somerset Councils Joint level 1 SFRA* [9] assesses the risk of flooding to the area from all sources, in present day and in the future, taking into account the impacts of climate change. This includes flood risk from watercourses, the sea, surface water, groundwater, reservoir, sewers and artificial sources. The assessment of flood risk presented provides sufficient detail to enable the Sequential Test to be applied and, where applicable, the Exception Test.

Somerset County Council Preliminary Flood Risk Assessment (PFRA)

- 2.4.5 The Somerset County Council PFRA [10] is a high-level review that consists of mapping and a report that identifies areas of local flood sources, specifically flood risk attributable to surface water, groundwater, ordinary watercourses and canals. The PFRA provides information on historical and future flood risk.

Somerset County Council Local Flood Strategy

- 2.4.6 The Somerset County Council Local Flood Strategy [11] is a key document to enable the understanding and management of flood risk within the county and how to address the specific challenges around flood risk in Somerset. The primary focus is on 'local flooding' from all sources and their interactivity.

Somerset Local Flood Risk Management Strategy Summary

- 2.4.7 The summary [12] of the *Somerset Local Flood Risk Management Strategy* highlights the key parts of the Strategy and provides an overview of the Strategy objectives.

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- [28] Secretary of State, “The Conservation of Habitats and Species Regulations 2017,” 2017.