

SCOTTISH ENVIRONMENT PROTECTION AGENCY	Identifier:	LUPS-GU20
<b>Land Use Planning System</b> <b>SEPA Guidance Note LUPS-GU20</b>  Standing Advice for Planning Authorities on Extractive Waste Management Plan consultations submitted under the Management of Extractive Waste (Scotland) Regulations 2010	Page no:	Page 1 of 3
	Issue No:	Version 1
	Issue date:	29/02/2012
	Originator:	Jim Mackay
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## 1. Purpose and scope

- 1.1 The [Guidance on the Management of Extractive Waste \(Scotland\) Regulations 2010](#) (referred to below as “the Guidance”) explains the need for future mineral planning applications to include a site Waste Management Plan (WMP) exclusively for extractive waste. This requirement was introduced by the [Management of Extractive Waste \(Scotland\) Regulations 2010](#).
- 1.2 SEPA wishes to prioritise, simplify and accelerate its engagement with the planning system in a manner which reinforces the role and responsibilities of planning authorities and developers. We want to focus our advice on consultations where we can add best value to protecting Scotland's environment. In order to help facilitate this we provided input to the Guidance published by the Scottish Government to ensure that all of our standard advice on waste management plans was contained within this document We are also a statutory consultee for all mineral planning applications under the [Town and Country Planning \(Development Management Procedure\) \(Scotland\) Regulations 2008](#). Our input to individual WMP will therefore be minimal.
- 1.3 As a statutory consultee on mineral planning applications we provide comment on the wide range of issues which fall within our remit at the planning application and / or EIA stage. Provided that the WMP submitted to the planning authority addresses these issues in a manner consistent with the Guidance and as set out in the EIA and / or planning submission and in line with any comments we have provided on these issues previously then we do not need to be consulted further. To aid planning authorities in their consideration of these issues we set out below some standing advice.
- 1.4 However, should a planning authority require additional advice on a site specific issue relating to uncertainty on a specific issue, such as effects on the water environment and which has not already been addressed through the above processes then they should formally consult us referring to our previous engagement with the site at the planning and / or EIA stages and clearly identifying the specific issues which have not been resolved.

## 2. Classification of materials

- 2.1 The WMP should classify materials as described in Chapter 2 of the Guidance on the Management of Extractive Waste (Scotland) Regulations 2010 and provided that this is the case the planning authority should not consult us on this issue.
- 2.2 For new sites where an EIA is required the Environmental Statement should clearly set out the classification of materials at the development site. The classification of materials should be undertaken as described in the Guidance on the Management of Extractive Waste (Scotland) Regulations 2010, Chapter 2 Classification of Extractive Waste. Whether or not an EIA is required this information should be set out in the WMP.
- 2.3 The planning authority has the power to waive the Management of Extractive Waste (Scotland) Regulations in relation to soil and peat. This effectively means that no

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further account needs to be taken of such material in a WMP. However as Guidance on the Management of Extractive Waste (Scotland) Regulations 2010 states (Chapter 2, paragraph 15) *“this does not reduce the importance of ensuring that proposals to extract minerals satisfactorily consider soil and peat issues. Indeed, there will likely be particular attention to loss or damage to certain peat resources through EIA.”* Given our engagement in other aspects of the planning and EIA processes we will already have provided comments on soil and peat issues in so far as they are relevant to our remit. We therefore do not require to be consulted on waivers for soil and peat unless the planning authority has *“significant doubts...about meeting the tests for waiver for soil or peat due to risks to water.”*

- 2.4 For a mineral extraction site that requires EIA, the ES should therefore identify any peat and soil that is to be considered under this waiver and set out the proposed handling, storage and reuse / recycling of this material. It will be important that management of peat and soils is addressed through specific planning conditions (as set out in the Guidance on the Management of Extractive Waste (Scotland) Regulations 2010) should the planning authority waive the requirement for this to be dealt with through the WMP.

### 3. Effects on the water environment

- 3.1 Mineral and extraction works and their associated wastes can have significant environmental impacts on groundwater and surface water. Under the [Water Environment and Water Services \(Scotland\) Act 2003 \(Designation of Responsible Authorities and Functions\) Order 2006](#) planning authorities (as responsible authorities) are required to carry out their statutory functions in a manner that secures compliance with the objectives of the Water Framework Directive i.e. (i) preventing deterioration and (ii) promoting improvements in the water environment in order that all water bodies achieve “good” ecological status by 2015 and there is no further deterioration in status; this will require water quality, quantity and morphology (physical form) to be considered.
- 3.2 The Guidance on the Management of Extractive Waste (Scotland) Regulations 2010 states that *“The existing control regime and good practice by operators should ensure the requirements of the MWD are met in respect of the water environment at aggregates quarries, surface coal mining sites and other extraction activities. For new site proposals, or those under statutory review, this can be assumed to be confirmed where SEPA are satisfied with the water aspects of an application.”* SEPA has responsibility for Scotland’s water environment and is a statutory consultee to all mineral planning applications. This is key to protection and improvement of water status within Scotland associated with mineral workings. We will provide advice on site specific effects on the water environment of proposals involving management of extractive waste through our role as statutory consultee on mineral applications. We will confirm through our consultation response on specific planning applications and / or EIAs whether proposals are acceptable to us in terms of effects on the water environment.
- 3.3 Operators should use the WMP to confirm to the planning authority the implementation of good practice in accordance with published advice and identify any existing / previous consents issued by SEPA. In accordance with the Guidance on the Management of Extractive Waste (Scotland) Regulations 2010 the planning

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authority should not need to consult us “*unless there is any reason to suspect that pollution may occur outwith this control.*” Should a planning authority require our advice on this issue then we should be formally consulted. The consultation should specify that advice is required on effects on the water environment and should also clearly identify the precise nature of the problem which the planning authority considers has not been resolved through our engagement in other planning and / or EIA processes.

- 3.4 The [Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011 \(CAR\)](#) includes a requirement that surface water discharges must not result in pollution of the water environment. Engineering activities in the water environment also fall under CAR. Best practice guidance is available within the water engineering section of our website. Compliance with these regulations is the responsibility of SEPA.
- 3.5 For non-exempted materials, the WMP must include the classification of waste as (a) inert (b) non-inert non-hazardous or (c) hazardous. If such waste classifications exist then the planning authority should seek site specific advice from us on the implications of this for the management of the water environment. This is most likely to be the case for sites which have coal overburden or coal washery waste. It is unlikely to be the case for the majority of aggregate, silica sand and other quarries where the waste is likely to be inert and easily identifiable on the “Scottish list of de facto inert waste” which is set out in Box 9 of the Guidance on the Management of Extractive Waste (Scotland) Regulations 2010.

#### **4. Regulatory and pollution prevention advice for applicants**

- 4.1 We regulate a number of matters covered by this standing advice; surface water drainage, water abstraction, waste management, water environment engineering. If the proposal contains these elements, the applicant should be referred to the planning section of the SEPA website ([www.sepa.org.uk/planning/mining\\_and\\_quarrying.aspx](http://www.sepa.org.uk/planning/mining_and_quarrying.aspx)) so that they can ensure that their proposals will meet all relevant regulatory requirements.
- 4.2 Best practice advice in relation to pollution prevention can also be found on our website and our Pollution Prevention Guidelines are available at [www.environment-agency.gov.uk/netregs/links/63875.aspx](http://www.environment-agency.gov.uk/netregs/links/63875.aspx).